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Federal Register

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Monday, July 3, 2006

Presidential Documents

Title 3—

The President

Executive Order 13408 of June 29, 2006

Amending Executive Order 13381, As Amended, To Extend its Duration by One Year

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to extend by 1 year the duration of Executive Order 13381 of June 27, 2005, it is hereby ordered that:

Section 1. Section 6(a) of Executive Order 13381 is amended by striking ''April 1, 2006'' and inserting in lieu thereof ''April 1, 2007''.

Sec. 2. Section 6(b) of Executive Order 13381 is amended by striking ''July 1, 2006'' and inserting in lieu thereof ''July 1, 2007''.

THE WHITE HOUSE,
June 29, 2006.

[FR Doc. 06–5984
Filed 6–30–06; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register

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Monday, July 3, 2006

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 15, 16, 17, 18, 19, 21, and 37

RIN 3038–AC22

Market and Large Trader Reporting

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission is adopting new and amended market and large trader reporting rules. The final rules accomplish the following: Codify a reporting level for contracts based on 3-Year U.S. Treasury Notes; clarify the reporting obligations of registered derivatives transaction execution facilities and their market participants; require designated contract markets to publicly disseminate integrated volume data for each contract that separately identifies the volume generated from block trades; establish a reporting framework for exclusively self-cleared contracts; and implement a number of conforming, clarifying, and technical amendments.

DATES: Effective July 3, 2006.

FOR FURTHER INFORMATION CONTACT: Gary Martinaitis, Associate Deputy Director for Market Information, Market Surveillance Section (telephone 202.418.5209, e-mail *gmartinaitis@cftc.gov*), or Bruce Fekrat, Special Counsel, Office of the Director (telephone 202.418.5578, e-mail *bfekrat@cftc.gov*), Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Market and Large Trader Reporting Rules

The market and large trader reporting rules (reporting rules) are contained in parts 15 through 21 of the Commission's regulations.[1] Collectively, the reporting rules effectuate the Commission's market and financial surveillance programs.[2] The market surveillance programs analyze market data to detect and prevent market disruptions and enforce speculative position limits. The financial surveillance programs use market data to measure the financial risks that large contract positions may pose to Commission registrants and clearing organizations.

The Commission's reporting rules are implemented partly pursuant to the authority of sections 4a, 4c(b), 4g, and 4i of the Commodity Exchange Act (Act or CEA).[3] Section 4a of the Act permits the Commission to set, approve exchange-set, and enforce speculative position limits.[4] Section 4c(b) of the Act gives the Commission plenary authority to regulate transactions involving commodity options.[5] Section 4g of the Act imposes reporting and recordkeeping obligations on registered entities, and obligates futures commission merchants (FCMs), introducing brokers, floor brokers, and floor traders to file such reports as the Commission may require on proprietary and customer positions executed on any board of trade.[6] Lastly, section 4i of the Act requires the filing of such reports as the Commission may require when positions made or obtained on designated contract markets or registered derivatives transaction execution facilities (DTEFs) equal or exceed Commission-set levels.[7]

[1] 17 CFR parts 15 to 21.

[2] *See* 69 FR 76392 (December 21, 2004).

[3] 7 U.S.C. 1 *et seq.*

[4] 7 U.S.C. 6a.

[5] 7 U.S.C. 6c(b).

[6] 7 U.S.C. 6g.

[7] 7 U.S.C. 6i. In addition, CEA section 8a(5) is an enabling provision that grants to the Commission the authority to adopt rules that in its judgment are reasonably necessary to accomplish any of the purposes of the Act. 7 U.S.C. 12a(5). Pursuant to CEA section 3(b), the Act seeks to ensure the financial integrity of regulated transactions and prevent price manipulation and other disruptions to market integrity. 7 U.S.C. 5(b). Together, these purposes warrant the maintenance of an effective and vigorous system of market and financial surveillance.

II. Procedural Background

A. The Proposed Rules

On December 15, 2005, the Commission published a notice of proposed rulemaking in the **Federal Register** for public comment.[8] In that notice, the Commission proposed new and amended reporting rules that addressed recent market developments and clarified the application of the reporting rules to transactions executed on DTEFs. The Commission received one comment letter from the Chicago Mercantile Exchange (CME).[9] In its comment letter, the CME expressed general support for the Commission's proposed rules. With two minor exceptions (a technical amendment to Commission rule 37.2 and a revised definition of an exclusively self-cleared contract), the Commission is adopting the new and amended reporting rules as proposed. For this reason, the CME's comments are discussed below in tandem with an overview of the final reporting rules.

B. Overview of the Final Reporting Rules and CME Comments

The final rules effectuate several substantive changes to the Commission's reporting rules. First, the final rules codify a reporting level for 3-Year U.S. Treasury Note futures and option contracts (3-Year T-Notes). The codification in Commission rule 15.03(b) is in response to a designated contract market's listing of 3-Year T-Notes and the possibility that other designated contract markets will seek to offer 3-Year T-Notes for trading.

Second, the final rules clarify the application of the reporting rules to transactions executed on DTEFs. In the interest of regulatory clarity, the final rules define DTEFs directly into the reporting rules and emphasize the Commission's discretion to exempt DTEFs and their market participants from the reporting rules when necessary and appropriate. In its comment letter, the CME stated that defining DTEFs directly into the reporting rules would ''avert any ambiguity regarding'' the application of the reporting rules to

[8] 70 FR 74246.

[9] Letter from Craig S. Donohue, Chief Executive Officer, Chicago Mercantile Exchange, to Jean A. Webb, Secretary of the Commission (February 13, 2006)(on file with the Commission), available at *http://www.cftc.gov/foia/comment05/foi05—009_1.htm.*

DTEFs. The CME remarked that the lack of regulatory ambiguity would discourage attempts to engage in regulatory arbitrage.

Third, the final reporting rules amend the public dissemination requirement of Commission rule 16.01. The final reporting rules require designated contract markets to present publicly disseminated market information, when required to do so by rule 16.01, in a format that readily enables the consideration of the data. The final reporting rules also require designated contract markets to publicly disseminate, for each contract, integrated volume data that separately identifies the volume generated from block trades. In its comment letter, the CME noted that integrated volume data that separately identifies the volume generated from block trades improves the ability of market participants to assess material variables such as a market's liquidity and the utility of contracts as vehicles for hedging and price basing.

Lastly, the final rules establish a specific reporting framework for contracts that are exclusively self-cleared. The final rules address certain aspects of the reporting rules that do not comport well with un-intermediated market structures. The final rules accomplish this by placing the exchange in the regulatory position of large traders with respect to any obligation to report under part 17 of the Commission's regulations. In its comment letter, the CME emphasized the relevance of large trader data to the protection of market integrity. Furthermore, the CME stated that the Commission's reporting framework struck an appropriate balance between relieving technical compliance burdens and requiring the timely submission of vital trading data.

III. Establishing a Contract Reporting for Level 3-Year U.S. Treasury Notes

The Commission's reporting rules require FCMs, foreign brokers, and clearing members (collectively reporting firms) to identify and provide daily position reports on customer and proprietary accounts that maintain reportable positions.[10] Positions in commodity futures and option contracts become reportable when they equal or exceed the reporting levels codified in Commission rule 15.03(b).[11] Rule 15.03(b) establishes reporting levels for all contracts that are subject to the Commission's reporting rules. Rule 15.03(b) applies specified reporting levels to certain contracts and a standard default reporting level of 25 to all other contracts.[12] Since the default contract reporting level is strictly set at 25, its application to some newly listed contracts is (on occasion) inefficient from a regulatory surveillance perspective.

U.S. Futures Exchange, LLC listed 3-Year T-Notes for trading in January of 2005. As discussed in the proposed rules, rule 15.03(b) did not at that time specify a reporting level for 3-Year T-Notes. In order to employ regulatory resources more efficiently and lessen any undue burden associated with the obligation to report, staff in the Division of Market Oversight (DMO staff) granted no-action relief to reporting firms and traders holding or controlling positions in 3-Year T-Notes that, for the purpose of complying with the Commission's reporting rules, adhered to a reporting level of 750 contracts instead of the otherwise applicable default reporting level of 25.[13] DMO staff premised its grant of relief primarily on the conclusion that historical trading in 2-Year T-Notes served as precedent for trading in 3-Year T-Notes.[14] Based on the Commission's surveillance experience with 2-Year T-Notes, the liquidity of the securities underlying treasury futures and option contracts, and the securities available for delivery against 3-Year T-Notes,[15] the Commission is herein codifying a reporting level of 750 contracts for 3-Year T-Notes.

IV. Registered Derivatives Transaction Execution Facilities

A. Authority To Subject DTEFs to the Reporting Rules

As discussed in the proposed rules, the CEA, as amended by the Commodity Futures Modernization Act of 2000 (CFMA),[16] gives the Commission the statutory authority to subject transactions on DTEFs to the reporting rules.[17] Section 4c(b) of the Act, regardless of the venue of trading, gives the Commission plenary authority to regulate transactions involving commodity options. Sections 4a and 4i of the Act explicitly reference transactions executed on or subject to the rules of DTEFs. Lastly, section 4g of the Act imposes reporting and recordkeeping obligations on registered entities and certain Commission registrants trading on registered entities and boards of trade. The term registered entity is defined by CEA section 1a(29) to include DTEFs.[18] Likewise, section 1a(2) of the Act defines a board of trade to include ''any organized exchange or other trading facility.'' [19]

B. Commission Rule 37.2

In 2001, the Commission adopted a series of DTEF rules in part 37 to effectuate the CFMA.[20] With the exception of a limited grouping of reserved rules, the Commission (in rule 37.2) exempted DTEFs and transactions on DTEFs from all regulations otherwise pertinent to trading facilities. By including parts 15 to 21 in the limited grouping of reserved rules, the Commission, acting pursuant to its statutory authority, unambiguously reserved the applicability of the reporting rules to transactions executed on DTEFs.[21] Although unambiguously reserved, Commission rule 37.2 expressed the applicability of the reporting rules to DTEFs and their market participants through incorporation by reference and without substantial clarity. More specifically, Commission rule 37.2 provided that DTEFs are not, as applicable to the market, exempt from parts 15 to 21, and further provided that parts 15 to 21, when applicable to DTEFs, shall be viewed as though they were set forth in

[10] *See* 17 CFR part 17.

[11] *See* 17 CFR 15.00 and 15.03. The firms that carry accounts that become reportable are required to identify those accounts on Form 102 and report positions in the accounts to the Commission. *See* 17 CFR 17.00 and 17.01. When necessary, the Commission separately calls upon persons that own or control reportable positions (large traders) to verify and supplement the submitted data in accordance with part 18 of the Commission's regulations. *See* 17 CFR part 18.

[12] With respect to liquid contracts, the Commission typically calibrates contract reporting levels to ensure that the aggregate of all positions reported to the Commission represents approximately 70 to 90 percent of the open interest in any given contract. The Commission analyzes factors such as the terms and conditions of a contract, its trading volume, its level of open interest, its typical open position size, and the Commission's regulatory experience with similar contracts prior to revising or codifying new contract reporting levels in Commission rule 15.03(b). *See* 69 FR 76392, 76393 (December 21, 2004).

[13] CFTC Staff Letter 05–03 Comm. Fut. L. Rep. (CCH) ¶ 30,024 (January 26, 2005).

[14] *Id.* The contract reporting level for 2-Year T-Notes is currently 1,000 contracts. 17 CFR 15.03(b).

[15] The deliverable supply for the March 2005 3-Year T-Notes had a value of approximately $95 billion.

[16] CFMA, Appendix E of Public Law 106–554, 114 Stat. 2763.

[17] Although the Commission has received indications of interest from potential DTEF applicants, no board of trade has registered or applied for registration with the Commission as a DTEF.

[18] 7 U.S.C. 1a(29).

[19] 7 U.S.C. 1a(2).

[20] 66 FR 42256 (August 10, 2001).

[21] 17 CFR 37.2.

rule 37.2 and included specific reference to DTEFs.

At the time Commission rule 37.2 was adopted, the incorporation of the reporting rules by reference was necessary because the expressed provisions of parts 15 to 21, with the exception of Commission rule 15.05, applied only to contract markets and did not mention DTEFs.[22] As part of the Commission's continuing effort to better implement the amendments introduced to the Act by the CFMA, the Commission is herein defining DTEFs directly into rules 15.00 to 15.04 and parts 16 through 21.[23] Defining DTEFs directly into the reporting rules clarifies the application of the rules to transactions executed on DTEFs. The final rules are not designed to alter the pre-existing reporting obligations of DTEFs or their market participants in any way.

C. Clarification Through the Replacement of Terms

The final reporting rules define DTEFs directly into rules 15.00 to 15.04 and throughout the provisions of parts 16 through 21. The final rules accomplish this by replacing the term contract market with the new term reporting market throughout the applicable provisions of the reporting rules.[24] New Commission rule 15.00(m) defines reporting market to mean a designated contract market and, unless determined otherwise by the Commission with respect to some or all of the contracts listed by the facility, a DTEF.

The language that defines the term reporting market emphasizes the Commission's authority to exempt transactions on DTEFs from the reporting rules when necessary and appropriate. As discussed in the notice of proposed rulemaking, the discretion embedded within the definition of reporting market reconciles the Commission's responsibility to diligently regulate transactions on DTEFs with the Congressional directive to permit DTEFs to operate more flexibly.[25] In determining whether to consider DTEFs reporting markets with respect to particular contracts, the Commission will consider several factors, including a DTEF's surveillance capabilities and the characteristics of the commodities that underlie DTEF transactions.[26] In all cases, the Commission will remain mindful of the operational flexibility granted to DTEFs.

D. Market Data

Commission rule 16.01 requires the submission of market data to the Commission on a daily basis.[27] Amended rule 16.01 requires reporting markets, as opposed to contract markets, to submit directly to the Commission data on trading volume, open interest, futures delivery notices, exchanges of futures, option deltas, prices, and critical dates on a daily basis. Unless the Commission exercises the discretion embedded within the definition of reporting market to determine otherwise, data associated with contracts on DTEFs is data associated with contracts on reporting markets and therefore subject to inclusion in market reports submitted to the Commission.

Commission rule 16.01 also requires the dissemination of market data to the general public. Section 5(d)(8) of the Act requires designated contract markets to disseminate a specific set of market data publicly for all actively traded contracts on a daily basis.[28] In contrast, section 5a(d)(5) of the Act requires DTEFs to publicly disseminate the same market data only for contracts that perform a significant price discovery function for transactions in the cash market for the commodity underlying the contract.[29] Because of the divergent statutory triggers, the Commission believes that designated contract markets and DTEFs should not of necessity be subject to the same public dissemination requirement. Therefore, amended rule 16.01 only requires designated contract markets, as opposed to reporting markets, to publicly disseminate data on trading volume, open interest, futures delivery notices, exchanges of futures, option deltas, and prices on a daily basis.

As discussed above, section 5a(d)(5) of the Act requires DTEFs to publicly disseminate a specific set of market data for contracts that perform a significant price discovery function for transactions in the cash market for the commodity underlying the contract.[30] Since amended rule 16.01 exempts DTEFs from its public dissemination requirement, the public dissemination requirement for DTEF transactions will be set by section 5a(d)(5) of the Act and implemented pursuant to any regulations adopted thereunder.[31] New paragraph (e) of rule 16.01 emphasizes this by clarifying that DTEFs, although exempt from the public dissemination

[22] Commission rule 15.05 relates to the appointment of an agent for service of process for foreign persons. 17 CFR 15.05. Rule 15.05 is self-effectuating and permits the Commission to expeditiously communicate with foreign persons and entities that trade on the domestic commodity exchanges. *See* 45 FR 30426 (May 8, 1980). The rule was amended in 2001 to explicitly apply to designated contract markets and registered derivatives transaction execution facilities. *See* 66 FR 42256 (August 10, 2001).

[23] The Commission is also implementing technical amendments to Commission rule 37.2 to reconcile that rule with the new and amended reporting rules.

[24] More specifically, the Commission is replacing the term contract market with the term reporting market in the rule 15.00 definition of a reportable position, in rules 15.01(a), 16.06, 18.05, and 21.01, and throughout the subparagraphs of rules 16.00, 16.01, 16.07, 17.00, 17.04, 18.00, 21.02, and 21.03. In addition, the Commission is replacing the term contract market with the term reporting market in the heading of part 16, part 17, and the heading of sections 21.02 and 21.03. Other conforming amendments that reconcile existing rules with the replacement of terms are discussed in Section VII of this notice of rulemaking.

[25] In comparison with designated contract markets, DTEFs are required to comply with a less comprehensive set of Core Principles. *Compare* 7 U.S.C. 7(d) (Core Principles for designated contract markets) *with* 7a(d) (Core Principles for DTEFs). In certain respects, DTEFs have greater operational flexibility than designated contract markets. For example, pursuant to section 5(d)(11) of the Act, transactions on designated contract markets, with the exception of security futures products, must be cleared through Commission registered derivatives clearing organizations. *See* 7 U.S.C. 7(d)(11) and guidance on Core Principle 11 in Appendix B to 17 CFR part 38. In contrast, pursuant to section 5a(c)(4) of the Act, transactions on DTEFs may be cleared through clearing organizations other than Commission registered clearing organizations. *See* 7 U.S.C. 7a(c)(4) and guidance on Registration Criterion 4 in Appendix A to 17 CFR part 37.

[26] When the Commission adopted rule 37.2 in August of 2001, it specifically determined to defer the extension of routine large trader reporting requirements to DTEF transactions involving Treasury instruments. *See* 66 FR 42256, 42261 (August 10, 2001). When the Commission adopted rule 41.25 in November of 2001, it specifically determined to require part 16 reports from all DTEFs listing security futures products. *See* 66 FR 55078 (November 1, 2001). Under the new and amended reporting rules, the Commission will, without exception, deem such DTEFs to be part 16 reporting markets for security futures products.

[27] 17 CFR 16.01.

[28] 7 U.S.C. 7(d)(8).

[29] *Compare* 7 U.S.C. 7(d)(8) (designated contract market Core Principle 8), *with* 7 U.S.C. 7a(d)(5) (DTEF Core Principle 5). The language triggering the DTEF public dissemination requirement is similar to the language triggering the same requirement for exempt boards of trade (7 U.S.C. 7a–3(d)) and exempt commercial markets (7 U.S.C. 2(h)(4)(D)). Aside from the requirement to comply with minimal notice and reporting obligations, exempt boards of trade and exempt commercial markets are generally not subject to Commission oversight. *See* 17 CFR part 36.

[30] 30 The Commission recently applied to DTEFs and exempt boards of trade the same standard that currently applies to exempt commercial markets for determining whether a contract performs a significant price discovery function for transactions in the cash market for an underlying commodity. 71 FR 1953, 1958 (January 12, 2006). More specifically, in making such a determination with respect to DTEFs and exempt boards of trades, the Commission will consider (1) whether cash market bids, offers or transactions are directly based on, or quoted at a differential to, the prices generated on the market on a more than occasional basis; or (2) whether market prices are routinely disseminated in a widely distributed industry publication and are routinely consulted by industry participants in pricing cash market transactions. *Id.*

[31] *See* Commission guidance on DTEF Core Principle 5 in Appendix B to part 37 of the Commission's regulations. 17 CFR part 37 Appendix B.

requirement of Commission rule 16.01, must nonetheless comply with section 5a(d)(5) of the Act and any regulation adopted thereunder.

V. Block Trade Volume and the Publication of Market Data

The passage of the CFMA facilitated the availability of transactions, including block trades, that are subject to the rules of an exchange, but lawfully negotiated and executed away from the centralized marketplace.[32] Block trades are typically subject to exchange rules that establish minimum size thresholds, participant eligibility requirements, pricing limits, and trade reporting parameters.[33] It is generally believed that market participants trade within the constraints established by block trade rules to counter potential price and execution risks associated with the execution of larger sized orders in a centralized market.

Commission rule 1.38(b) currently requires designated contract markets to separately identify and mark all block trades and other off-centralized market transactions.[34] In December of 2004, the Commission recognized the growing importance and use of off-centralized market transactions by adopting final rules that required designated contract markets to separately identify, report, and publish for each contract the volume generated from exchanges of futures for commodities or for derivatives positions.[35] To more comprehensively recognize the growing importance and use of off-centralized market transactions, the Commission is now amending rule 16.01 to require designated contract markets to record and make readily available to the news media and the general public, as part of the total mix of market data publicly disseminated for each contract pursuant to rule 16.01, the volume generated from block trades.

As indicated in the proposed rules, several designated contract markets do disseminate public reports that separately account for the volume generated from block trades.[36] The final amendments to rule 16.01 codify this industry practice, and require all designated contract markets to record the volume generated from block trades for each contract, and make that information readily available to the news media and the general public as a part of the total mix of market data publicly disseminated daily pursuant to rule 16.01.[37] However, final rule 16.01 does not separately require designated contract markets to submit a contract's block trade volume on a daily basis to the Commission. The Commission has assessed the cost of integrating separate block trade volume data into its information systems and has determined that cost to be considerable. The Commission will therefore independently derive and compile such data as necessary to fulfill its market and financial surveillance responsibilities.

The Commission believes that designated contract markets must generally satisfy their obligation to publicly disseminate market data on a daily basis by making such information readily available to the news media and the general public through the internet and on web pages that are conveniently accessed and easily navigable. Final rule 16.01(e), through two additional requirements, emphasizes the obligation to disseminate market data in a manner that is both useful and accessible. First, final rule 16.01(e) specifically requires designated contract markets to publish integrated volume data for each contract. Second, final rule 16.01(e) requires designated contract markets to present market data in a format that readily enables members of the news media and the general public to consider the data. The publication of a contract's total volume of trading, alongside the volume generated from exchanges of futures and block trades, will enhance the ability of market participants and the general public to effectively analyze the determinants of market prices, the depth of market liquidity, and the utility of contracts as hedging and pricing tools. The expressed requirement to present market data in a format that readily enables members of the news media and the general public to consider the data will make designated contract markets fully aware of their present obligation to publicly disseminate market data in a format that is readily accessible and user friendly.

VI. Exclusively Self-Cleared Contracts

A. Market Structure

In February of 2004, the Commission designated HedgeStreet, Inc. (HedgeStreet or Exchange) as a contract market pursuant to sections 5 and 6(a) of the Act.[38] HedgeStreet initially offered, and continues to offer, small sized contracts to retail traders in a market structure that is substantially different from the structure of other active designated contract markets.[39] For example, HedgeStreet offers small sized and fully collateralized European style binary options on various commodities in a market structure that permits no intermediary to handle the orders or funds of traders.[40]

As discussed in the proposed rules and in more detail in the subsections below, market structures without clearing intermediation, in certain respects, do not comport well with the reporting rules. The reporting rules were designed to collect information from markets that hosted a select group of well-capitalized clearing intermediaries with direct access to the exchange.[41] The Commission is therefore establishing an alternative reporting framework for contracts that are cleared only by traders to rectify this inconsistency. For ease of reference, the term exclusively self-cleared contract is used herein to refer to such contracts, and defined by new Commission rule 15.00(f) to mean a contract for which no person, other than a reporting market and its clearing organization, is permitted to accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trade.

In its prior notice of rulemaking, the Commission proposed to define the term exclusively self-cleared contract as a contract that did not involve an intermediary's handling of customer

[32] For example, the CFMA specifically permitted designated contract markets to establish trading rules that authorize the exchange of futures for swaps, or allow a futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of a designated contract market or DTEF. *See* 7 U.S.C. 7(b)(3).

[33] *See* 69 FR 39880, 39882 (July 1, 2004).

[34] 17 CFR 1.38(b).

[35] 69 FR 76392, 76394 (December 21, 2004).

[36] For example, the Chicago Board of Trade publicly disseminates daily block trade volume data for eligible contracts in a category of volume termed Wholesale Trades. *See* CBOT Delayed Charts, *available at http://cbt.com/cbot/pub/page/0,3181,801,00.html*. The CME also disseminates daily volume data through its Web site that separately accounts for the volume generated from block trades.

[37] As previously discussed, the final rules do not subject DTEFs to the public dissemination requirement of rule 16.01.

[38] 7 U.S.C. 7 and 8(a); Order of Designation as a Contract Market (February 18, 2004).

[39] *See* Order of Registration as a Derivatives Clearing Organization (February 18, 2004); *see also* Staff Designation Memorandum from the Division of Market Oversight (Staff Memorandum) at 47 (February 10, 2004).

[40] Staff Memorandum at 29. In December of 2005, the Commission amended HedgeStreet's Order of Designation to permit the Exchange to offer larger sized contracts that could be cleared by members of The Clearing Corporation. *See* HedgeStreet's Amended Order of Designation as a Contract Market, paragraph B (December 5, 2005) (on file with the Commission), *available at http://www.cftc.gov/dea/deahedgestreet_submissions_comments.htm*.

[41] *See* 17 CFR parts 16 to 18.

funds.[42] Final Commission rule 15.00(f), however, adopts a narrowly worded definition that focuses only on the absence of certain intermediaries. More specifically, the definition hinges on the absence of clearing intermediaries that accept collateral or extend credit in lieu thereof to secure trades. The final definition clarifies that the presence of executing intermediaries will have no bearing on whether a contract comes within the regulatory definition of an exclusively self-cleared contract.[43]

B. Commission Rules 17.00 and 17.01 and Exclusively Self-Cleared Contracts

Pursuant to Commission rule 17.00, FCMs, foreign brokers, and clearing members file daily reports with the Commission particularizing futures and option positions when the accounts that they carry acquire positions that are at or above the contract reporting levels delineated in rule 15.03(b).[44] An FCM, by definition, is a person that accepts the property of customers to ''margin, guarantee, or secure'' customer trades.[45] Likewise, a foreign broker is a person located outside the United States or its territories ''who carries an account'' for any other person.[46] With respect to transactions in exclusively self-cleared contracts, there are no intermediaries that secure customer trades or carry customer accounts and therefore, there are no FCMs or foreign brokers with reporting obligations under part 17 of the Commission's regulations. In contrast, the term clearing member is defined by Commission rule 1.3(c) to include ''any person who is a member of, or enjoys the privileges of clearing trades in his own name through, the clearing organization of a contract market.'' [47] As a result, all traders of exclusively self-cleared contracts squarely fit within the regulatory definition of a clearing member, and consequently, can have routine reporting obligations under part 17 of the Commission's regulations.

As mentioned previously, the reporting rules were not designed to impose routine position and identifying reporting obligations on traders.[48] In 1981, the Commission explicitly disposed of routine trader reporting obligations in order to ''substantially decrease certain paperwork burdens on large traders and on the Commission itself.'' [49] Instead, the Commission looked to intermediaries and well capitalized clearing members to ''facilitate the Commission's market surveillance efforts'' in the absence of routine trader reporting.[50] Since 1981, the design of the reporting rules has been to place the burden of reporting large position and identifying data in the first instance on market intermediaries and well capitalized persons that clear customer or proprietary positions.[51]

Intermediaries and clearing members typically are Commission registrants with vigorous internal controls, substantial resources, and extensive experience with regulatory compliance. With respect to exclusively self-cleared contracts, and in particular with respect to retail oriented exclusively self-cleared contracts, traders in general may not have the requisite resources or regulatory experience to comply with part 17 of the Commission's regulations. In order to not place any daily reporting burden on traders, the Commission is herein adopting final rules that place reporting markets in the regulatory position of market participants that trade in exclusively self-cleared contracts.[52] As discussed above, all traders in exclusively self-cleared contracts are effectively clearing members. Pursuant to the final reporting rules, reporting markets, a term which includes designated contract markets and DTEFs, with respect to exclusively self-cleared contracts, are obligated to submit reportable position and identifying data on behalf of all traders.[53]

The Commission believes that this is a desirable result since reporting markets, by virtue of their regulated status, substantial resources, internal controls, and lines of communication with the Commission, are better able to submit position and identifying data to the Commission on a daily basis.[54] Therefore, under final Commission rules 17.00(i) and 17.01(h), reporting markets listing exclusively self-cleared contracts must, unless determined otherwise by the Commission, provide the data required by Commission rules 17.00(a) through (h) and 17.01(a) through (g), to the Commission on behalf of all market participants trading in exclusively self-cleared contracts. Individual traders remain subject to the special call provisions of part 18 of the Commission's regulations.

C. Clearing Member Reports

Designated contract markets, on a daily basis, report each clearing member's open long and short positions, purchases and sales, exchanges of futures, and futures delivery notices.[55] The data is reported separately by proprietary and customer accounts by futures month and, for options, by puts and calls by expiration date and strike price.[56] As previously discussed, all traders holding positions in exclusively self-cleared contracts on reporting markets are clearing members. In the absence of regulatory action, reporting markets listing such contracts would be required by Commission rule 16.00(a) to submit position data for every single trader on a daily basis regardless of the number of contracts that individual traders hold.

The Commission generally believes that the submission of voluminous and disaggregated clearing member reports for transactions in exclusively self-cleared contracts can place an undue burden on reporting markets without substantially furthering the Commission's market or financial surveillance efforts. The Commission typically uses clearing member reports to spot account aggregation issues and audit the filings of reporting firms. The submission of clearing member reports for every trader that takes a position in an exclusively self-cleared contract will not typically facilitate the Commission's aggregation of large positions. For exclusively self-cleared contracts, issuing appropriately worded special calls directly to traders under part 18 of the Commission's regulations will better facilitate the Commission's analysis of potential aggregation issues.

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[42] *See* Proposed Commission rule 15.00(f), 70 FR 74246, 74254 (December 15, 2005).

[43] The definition of the term exclusively self-cleared contract is devised for use in parts 15 through 21 only and is not meant to give meaning to the terms intermediary, intermediation, principle-to-principle trading, or trading for one's own account (or any variant of those terms) in any way as used by the Commission, in the Act, or in Commission regulations promulgated under the Act.

[44] *See* 17 CFR 15.00, 15.03 and 17.00.

[45] 7 U.S.C. 1a(20).

[46] 17 CFR 15.00.

[47] 17 CFR 1.3(h). The Commission is amending the regulatory definition of a clearing member in rule 1.3 to explicitly extend the definition to members of DTEFs.

[48] *See* 17 CFR parts 16 to 18.

[49] 46 FR 59960 (December 8, 1981).

[50] *Id.*

[51] *See Id.*

[52] The Commission, through an order, applied this reporting framework to HedgeStreet. *See* Order of Designation as a Contract Market, paragraph 5 (February 18, 2004).

[53] The reporting framework for exclusively self-cleared contracts is narrowly tailored to be contract specific. In other words, a reporting market may list both exclusively self-cleared and other contracts. The alternative reporting approach, however, would only apply to exclusively self-cleared contracts.

[54] The Commission may, at some future date, consider amending the reporting obligations of clearing members with respect to contracts with low notional values that are not exclusively self-cleared. The Commission would consider amending these reporting obligations when retail market participants that self-clear are responsible for a substantial proportion of a contract's trading volume.

[55] 17 CFR 16.00(a).

[56] *Id.*

Furthermore, since clearing member and large trader reports for exclusively self-cleared contracts (in the absence of regulatory action) would be submitted by the same person, clearing member reports for exclusively self-cleared contracts would not typically facilitate the Commission's review of large trader reports. Based upon the foregoing, final rule 16.00 does not by default require clearing member reports for contracts that are exclusively self-cleared.

VII. Conforming, Clarifying and Technical Amendments

The Commission is amending several other provisions to reconcile them with the substantive rules adopted herein, to update and better organize the layout of the reporting rules, and to correct certain non-substantive errors. These amendments are categorized below by their respective parts.

A. Part 1 of the Commission's Regulations

Prior Commission rule 1.3(c) defined clearing member in terms of a member of a contract market. Prior Commission rule 1.3(d) defined a clearing organization in terms of an entity associated with a contract market. In conformity with the intent of this notice of final rulemaking, the Commission is amending rules 1.3(c) and 1.3(d) to make specific reference to DTEFs.

B. Part 15 of the Commission's Regulations

The Commission is further amending rule 15.00, the definitional section for parts 15 through 21, to present the definitions contained in that section alphabetically. The Commission is also re-ordering the contract reporting levels and categories delineated in rule 15.03(b), for certain reporting levels and categories, in alphabetical order. The Commission is amending final paragraph (a) of rule 15.05 to clarify that the provisions of that rule apply to all regulated transactions executed on or subject to the rules of DTEFs.[57] Since the thrust of rule 15.05 relates to the appointment of an agent for service of process on foreign brokers and foreign customers, the term foreign broker is amended by final rule 15.00(g) to explicitly extend to transactions on DTEFs.

Commission rule 15.01 provides a list of persons that may be required to report pursuant to parts 15 through 21 of the Commission's regulations. Final paragraph (a) of rule 15.01 clarifies that both designated contract markets, and when applicable DTEFs, are required to provide reports to the Commission pursuant to part 16, and that pursuant to this final notice of rulemaking, reporting markets may be required to provide reports under part 17 if they list exclusively self-cleared contracts. Final paragraph (b) of rule 15.01 clarifies that part 17 applies to all clearing members and that part 21 may require reports from introducing brokers and traders in addition to FCMs, clearing members, and foreign brokers. Final paragraph (b) of rule 15.01 deletes the reference to part 20 since that part remains reserved and contains no operative provisions.

C. Part 16 of the Commission's Regulations

The prior heading to part 16 only referenced contract markets. The final heading to part 16 specifically refers to reporting markets. Prior rule 16.07(b) incorrectly referenced rule 16.00(d)(1) as a provision that gives the Commission the authority to approve the form and manner of filing reports with the Commission. The correct reference, as provided in final rule 16.07(b), is to Commission rule 16.01(d)(1). Paragraph (a) of prior rule 16.01 referred to the total quantity of futures exchanged for commodities or for derivatives positions. Since exchanges of futures generate trading volume, final rule 16.01(a)(5) now refers to the total volume of futures exchanged for commodities or for derivatives positions.

D. Part 17 of the Commission's Regulations

The Commission is conforming the capitalization format of rule 17.00(b)(2) and 17.00(g)(2)(iv) with the format used in the other paragraphs of rule 17.00. The Commission is capitalizing the word form when used to refer to Form 102 throughout the provisions of rules 17.01, 17.02, and 17.03. Final rule 17.01(f) clarifies that Form 102 is alternately referred to as a report. Final rules 17.01(a), 17.01(b), and 17.01(d) provide the appropriate italicization format for each rule's introductory phrase. The final heading to part 17 and rule 17.02 reflect the possibility that under the alternative reporting approach for exclusively self-cleared contracts, reporting markets may be required to file reports with the Commission on behalf of their clearing members. Final rule 17.01(a) also replaces the second instance of the term identifier with the term designator. Lastly, the Commission is amending the introductory text of rule 17.03 to correctly refer to paragraph (d) of that section.

E. Part 19 of the Commission's Regulations

As a result of the alphabetization of definitions, the Commission is amending paragraph (a) of rule 19.00 to correctly refer to the re-ordered sections defining the term reportable position in rule 15.00. A final amendment to rule 19.00(b) correctly refers to rule 19.01 instead of rule 19.10, which is inoperative and reserved. Lastly, final paragraph (a) of rule 19.01 capitalizes the word form when used to refer to Form 204.

F. Part 21 of the Commission's Regulations

A final amendment to Commission rule 21.01, which was last updated in 1983, extends the rule's requirement that each FCM and introducing broker file with the Commission upon special call the names and addresses of all persons who exercise trading control over a customer's account in commodity futures to all persons who also exercise trading control over a customer's account in commodity options. An amendment to paragraph (d) of rule 21.03 replaces the phrase ''by telex or a similarly expeditious means of communication'' with the phrase ''by email or a similarly expeditious means of communication.''

G. Part 37

The limited grouping of reserved rules in rule 37.2 is amended to indicate that the final rules define DTEFs directly into parts 15 through 21 of the Commission's regulations.

VIII. Related Matters

A. Cost Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its actions before issuing new regulations under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of new regulations or to determine whether the benefits of the proposed regulations outweigh their costs. Rather, section 15(a) requires the Commission to ''consider the cost and benefits'' of the subject rules. As discussed in the notice of proposed rulemaking, the new and amended reporting rules tend to reduce the aggregate burden associated with the reporting requirements of parts 15 through 21 of the Commissions regulations.[58] The reporting level of 750 contracts for 3-Year T-Notes, for example, is significantly higher than the default reporting level that would be

[57] *See* note 22, *supra.*

[58] 70 FR 74246, 74251.

applicable in the absence of regulatory action. Contract reporting levels trigger reporting obligations that permit the Commission to be aware of significant positions that may affect the integrity and efficiency of the commodity derivatives markets. The information collected develops the Commission's understanding of market power, and gives the Commission the opportunity to prevent the occurrence, and contain the effects, of financial disturbances. Based upon the Commission's surveillance experience with 2-Year T-Notes, the liquidity of the securities underlying treasury futures and option contracts, and the securities available for delivery against 3-Year T-Notes, the Commission believes that a reporting level of 750 contracts will allow it to adequately protect market participants and the integrity of regulated markets, while limiting the regulatory burden of reporting.

With respect to transactions executed on or subject to the rules of DTEFs, the new and amended reporting rules merely clarify the reporting obligations of registered entities, intermediaries, and traders and are not designed to alter their pre-existing reporting obligations. The prior language of Commission rule 37.2 reserved the applicability of parts 15 to 21 to DTEFs, but did so through incorporation by reference and without clarity. As part of the Commission's continuing effort to better implement the amendments introduced to the Act by the CFMA, the new and amended reporting rules define DTEFs directly into rules 15.00 to 15.04 and parts 16 through 21 of the Commission's regulations. The Commission believes that the new and amended reporting rules will serve the public's interest by enhancing regulatory clarity.

The final amendments to Commission rule 16.01 relating to block trades and contract volume recognize the growing importance and use of off-centralized market transactions. The new and amended reporting rules require all reporting markets to record the volume generated from block trades for each contract, and require designated contract markets to make that information readily available to the news media and the general public. In order to emphasize the obligation to disseminate market data in a manner that is both useful and accessible, the new and amended reporting rules require designated contract markets to publish integrated volume data, and present all market data in a format that would readily enable members of the news media and the general public to consider the data. The Commission believes that the format requirement will ensure that designated contract markets are fully aware of their present obligation to publicly disseminate market data in a user friendly manner. In addition, the integrated publication of volume, along with the public dissemination of block trade volume data, will benefit market participants and the general public by facilitating their ability to effectively analyze the key determinants of prices and market depth.

The new and amended reporting rules also establish a distinct reporting framework for exclusively self-cleared contracts. The new and amended reporting rules protect market participants and strengthen the financial integrity of the regulated markets by shifting the reporting responsibilities of traders onto reporting markets that are able to comply with routine reporting obligations. The reporting rules, prior to their amendment by this notice of rulemaking, were designed to collect information from heavily intermediated markets that permitted un-intermediated trading and clearing access only to well capitalized members. Intermediaries and clearing members typically are Commission registrants with vigorous internal controls, substantial resources, and extensive experience with regulatory compliance. Traders of exclusively self-cleared contracts, and in particular traders of retail oriented exclusively self-cleared contracts, do not in general have the resources or regulatory experience to comply with routine large trader reporting obligations. In the absence of Commission action, reporting obligations for exclusively self-cleared contracts would be placed on individual traders that do not have the ability to comply with technical requirements. The Commission's new and amended reporting rules address this deficiency and ensure that the Commission will receive the trading data it needs to protect market participants, the public, and the integrity of registered entities.

The Commission's notice of proposed rulemaking analyzed the aforementioned costs and benefits and solicited comment thereon.[59] No relevant comments were received with respect to the Commission's analysis. After considering these factors, the Commission has determined to amend parts 15, 16, 17, 18, 19, 21, and 37 as set forth below.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies consider the impact of their rules on small businesses. The Commission has previously determined that exchanges, futures commission merchants and large traders are not "small entities" for the purposes of the RFA.[60] The requirements related to the new and amended reporting rules fall mainly on exchanges and FCMs. Similarly, foreign brokers and traders report only if holding large positions. In addition, the new and amended reporting rules tend to relieve regulatory burdens. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the actions adopted herein will not have a significant economic impact on a substantial number of small entities.

C. The Paperwork Reduction Act

When publicizing notices of rulemaking, the Paperwork Reduction Act (PRA)[61] imposes certain requirements on Federal agencies, including the Commission, in connection with conducting or sponsoring any collection of information as defined by the PRA. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The revision of collections of information contained in this final notice of rulemaking have been reviewed and approved by the Office of Management and Budget pursuant to the PRA, under control numbers 3038–0009 and 3038–0012. In the notice of proposed rulemaking, the Commission estimated the paperwork burden that would be imposed by these rules and solicited comments on the estimates. The Commission received no relevant comments.[62] The Commission continually invites comment on the accuracy of burden estimates and suggestions on how to further reduce these burdens. Comments should be directed to Gary Martinaitis, Associate Deputy Director for Market Information, Market Surveillance Section, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 (telephone 202–418–5209, e-mail *gmartinaitis@cftc.gov*).

List of Subjects

17 CFR Part 1

Brokers, Commodities futures, Consumer protection, Reporting and recordkeeping requirements.

[59] *Id.*

[60] 47 FR 18618 (April 30, 1982).

[61] Public Law 104–13 (May 13, 1995).

[62] 70 FR 74246, 74253.

17 CFR Part 15

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 16

Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 17

Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 18

Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 19

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 21

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 37

Commodity futures, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, and pursuant to the authority contained in the Act, and, in particular, sections 4a, 4c, 4g, 4i, 5, 5a and 8a of the Act, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Public Law 106–554, 114 Stat. 2763 (2000).

■ 2. Revise paragraphs (c) and (d) of § 1.3 to read as follows:

§ 1.3 Definitions

* * * * *

(c) *Clearing member.* This term means any person who is a member of, or enjoys the privilege of clearing trades in his own name through, the clearing organization of a designated contract market or registered derivatives transaction execution facility.

(d) *Clearing organization.* This term means the person or organization which acts as a medium for clearing transactions in commodities for future delivery or commodity option transactions, or for effecting settlements of contracts for future delivery or commodity option transactions, for and between members of any designated contract market or registered derivatives transaction execution facility.

* * * * *

PART 15—REPORTS—GENERAL PROVISIONS

■ 3. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 6, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 9, 12a, 19 and 21, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000); 5 U.S.C. 552 and 552(b).

■ 4. Revise § 15.00 to read as follows:

§ 15.00 Definitions of terms used in parts 15 to 21 of this chapter.

As used in parts 15 to 21 of this chapter:

(a) *Cash or Spot,* when used in connection with any commodity, means the actual commodity as distinguished from a futures or option contract in such commodity.

(b) *Compatible data processing media* means data processing media approved by the Commission or its designee. The Commission hereby delegates, until the Commission orders otherwise, the authority to approve data processing media for data submissions to the Executive Director to be exercised by such Director or by such other employee or employees of such Director as designated from time to time by the Director. The Executive Director may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph.

(c) *Customer* means ''customer'' (as defined in § 1.3(k)) and ''option customer'' (as defined in § 1.3(jj)).

(d) *Customer trading program* means any system of trading offered, sponsored, promoted, managed or in any other way supported by, or affiliated with, a futures commission merchant, an introducing broker, a commodity trading advisor, a commodity pool operator, or other trader, or any of its officers, partners or employees, and which by agreement, recommendations, advice or otherwise, directly or indirectly controls trading done and positions held by any other person. The term includes, but is not limited to, arrangements where a program participant enters into an expressed or implied agreement not obtained from other customers and makes a minimum deposit in excess of that required of other customers for the purpose of receiving specific advice or recommendations which are not made available to other customers. The term includes any program which is of the character of, or is commonly known to the trade as, a managed account, guided account, discretionary account, commodity pool or partnership account.

(e) *Discretionary account* means a commodity futures or commodity option trading account for which buying or selling orders can be placed or originated, or for which transactions can be effected, under a general authorization and without the specific consent of the customer, whether the general authorization for such orders or transactions is pursuant to a written agreement, power of attorney, or otherwise.

(f) *Exclusively self-cleared contract* means a contract for which no persons, other than a reporting market and its clearing organization, are permitted to accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trade.

(g) *Foreign broker* means any person located outside the United States or its territories that carries an account in commodity futures or commodity options on any designated contract market or registered derivatives transaction execution facility for any other person.

(h) *Foreign trader* means any trader (as defined in paragraph (o) of this section) who resides or is domiciled outside of the United States, its territories or possessions.

(i) *Guided account program* means any customer trading program which limits trading to the purchase or sale of a particular contract for future delivery of a commodity or a particular commodity option that is advised or recommended to the participant in the program.

(j) *Managed Account Program* means a customer trading program which includes two or more discretionary accounts traded pursuant to a common plan, advice or recommendations.

(k) *Open contracts* means ''open contracts'' (as defined in § 1.3(t)) and commodity option positions held by any person on or subject to the rules of a designated contract market or registered derivatives transaction execution facility which have not expired, been exercised, or offset.

(l) *Reportable position* means:

(1) For reports specified in parts 17, 18 and § 19.00(a)(2) and (a)(3) of this chapter any open contract position that at the close of the market on any

business day equals or exceeds the quantity specified in § 15.03 of this part in either:

(i) Any one future of any commodity on any one reporting market, excluding future contracts against which notices of delivery have been stopped by a trader or issued by the clearing organization of a reporting market; or

(ii) Long or short put or call options that exercise into the same future of any commodity, or long or short put or call options for options on physicals that have identical expirations and exercise into the same physical, on any one reporting market.

(2) For the purposes of reports specified in § 19.00(a)(1) of this chapter, any combined futures and futures-equivalent option open contract position as defined in part 150 of this chapter in any one month or in all months combined, either net long or net short in any commodity on any one reporting market, excluding futures positions against which notices of delivery have been stopped by a trader or issued by the clearing organization of a reporting market, which at the close of the market on the last business day of the week exceeds the net quantity limit in spot, single or in all-months fixed in § 150.2 of this chapter for the particular commodity and reporting market.

(m) *Reporting market* means a designated contract market and, unless determined otherwise by the Commission with respect to the facility or a specific contract listed by the facility, a registered derivatives transaction execution facility.

(n) *Special account* means any commodity futures or option account in which there is a reportable position.

(o) *Trader* means a person who, for his own account or for an account which he controls, makes transactions in commodity futures or options, or has such transactions made.

■ 5. Revise paragraphs (a) and (b) in § 15.01 to read as follows:

§ 15.01 Persons required to report.

* * * * *

(a) Reporting markets—as specified in part 16, 17, and 21 of this chapter.

(b) Futures commission merchants, clearing members, foreign brokers, introducing brokers, and traders—as specified in parts 17 and 21 of this chapter.

* * * * *

■ 6. Revise paragraph (b) in § 15.03 to read as follows:

§ 15.03 Reporting levels.

* * * * *

(b) The quantities for the purpose of reports filed under parts 17 and 18 of this chapter are as follows:

Commodity	Number of contracts
Agricultural:	
Cocoa	100
Coffee	50
Corn	250
Cotton	100
Feeder Cattle	50
Frozen Concentrated Orange Juice	50
Lean Hogs	100
Live Cattle	100
Milk, Class III	50
Oats	60
Rough Rice	50
Soybeans	150
Soybean Meal	200
Soybean Oil	200
Sugar No. 11	500
Sugar No. 14	100
Wheat	150
Broad-Based Security Indexes:	
Municipal Bond Index	300
S&P 500 Stock Price Index	1,000
Other Broad-Based Securities Indexes	200
Financial:	
30-Day Fed Funds	600
3-Month (13-Week) U.S. Treasury Bills	150
2-Year U.S. Treasury Notes	1,000
3-Year U.S. Treasury Notes	750
5-Year U.S. Treasury Notes	2,000
10-Year U.S. Treasury Notes	2,000
30-Year U.S. Treasury Bonds	1,500
1-Month LIBOR Rates	600
3-Month Eurodollar Time Deposit Rates	3,000
3-Month Euroyen	100
2-Year German Federal Government Debt	500
5-Year German Federal Government Debt	800
10-Year German Federal Government Debt	1,000
Goldman Sachs Commodity Index	100
Major Foreign Currencies	400
Other Foreign Currencies	100
U.S. Dollar Index	50
Natural Resources:	
Copper	100
Crude Oil, Sweet	350
Crude Oil, Sweet—No. 2 Heating Oil Crack Spread	250
Crude Oil, Sweet—Unleaded Gasoline Crack Spread	150
Gold	200

Commodity	Number of contracts
Natural Gas	200
No. 2 Heating Oil	250
Platinum	50
Silver Bullion	150
Unleaded Gasoline	150
Unleaded Gasoline—No. 2 Heating Oil Spread Swap	150
Security Futures Products:	
Individual Equity Security	1,000
Narrow-Based Security Index	200
Hedge Street Products	[1] 125,000
TRAKRS	[1] 50,000
All Other Commodities	25

[1] For purposes of part 17, positions in HedgeStreet Products and TRAKRS should be reported by rounding down to the nearest 1,000 contracts and dividing by 1,000.

■ 7. Revise paragraphs (a) and (h) in § 15.05 to read as follows:

§ 15.05 Designation of agent for foreign brokers, customers of a foreign broker and foreign traders.

(a) For purposes of this section, the term ''futures contract'' means any contract for the purchase or sale of any commodity for future delivery traded or executed on or subject to the rules of any designated contract market or registered derivatives transaction execution facility; the term ''option contract'' means any contract for the purchase or sale of a commodity option, or as applicable, any other instrument subject to the Act pursuant to section 5a(g) of the Act, traded or executed on or subject to the rules of any designated contract market or registered derivatives transaction execution facility; the term ''customer'' means any person for whose benefit a foreign broker makes or causes to be made any futures contract or option contract; and the term ''communication'' means any summons, complaint, order, subpoena, special call, request for information, or notice, as well as any other written document or correspondence.

* * * * *

(h) The provisions of paragraphs (e), (f) and (g) of this section shall not apply to a designated contract market or registered derivatives transaction execution facility on which all transactions of foreign brokers, their customers or foreign traders in futures or option contracts are executed through, or the resulting transactions are maintained in, accounts carried by a registered futures commission merchant or introduced by a registered introducing broker subject to the provisions of paragraphs (a), (b), (c) and (d) of this section.

* * * * *

PART 16—REPORTS BY REPORTING MARKETS

■ 8. Revise the heading of part 16 as set forth above.

■ 9. The authority citation for part 16 is revised to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6g, 6i, 7, 7a and 12a, unless otherwise noted.

■ 10. In § 16.00, revise paragraphs (a) introductory text, (a)(1), (a)(5), and (b) introductory text; and add paragraph (c) to read as follows:

§ 16.00 Clearing member reports.

(a) *Information to be provided.* Each reporting market shall submit to the Commission, in accordance with paragraph (b) of this section, a report for each business day, showing for each clearing member, by proprietary and customer account, the following information separately for futures by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

(1) The total of all long open contracts and the total of all short open contracts carried at the end of the day covered by the report, excluding from open futures contracts the number of contracts against which delivery notices have been stopped or against which delivery notices have been issued by the clearing organization of the reporting market;

* * * * *

(5) For futures, the quantity of the commodity for which delivery notices have been issued by the clearing organization of the reporting market and the quantity for which notices have been stopped during the day covered by the report.

(b) *Form, manner and time of filing reports.* Unless otherwise approved by the Commission or its designee, reporting markets shall submit the information required by paragraph (a) of this section as follows:

* * * * *

(c) *Exclusively self-cleared contracts.* Unless determined otherwise by the Commission, paragraph (a) of this section shall not apply to transactions involving exclusively self-cleared contracts.

* * * * *

■ 11. In § 16.01 revise paragraphs (a), (b), (c), and (d) introductory text; and delete the Note to paragraph (a); and add paragraph (e) to read as follows:

§ 16.01 Trading volume, open contracts, prices, and critical dates.

(a) *Trading volume and open contracts.* Each reporting market shall record for each business day the following information separately for futures by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

(1) The option delta, where a delta system is used;

(2) The total gross open contracts, excluding from futures those contracts against which notices have been stopped;

(3) For futures, open contracts against which delivery notices have been stopped on that business day;

(4) The total volume of trading, excluding transfer trades or office trades;

(5) The total volume of futures exchanged for commodities or for derivatives positions which are included in the total volume of trading;

(6) The total volume of block trades which are included in the total volume of trading.

(b) *Prices.* Each reporting market shall record the following information separately for futures, by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

(1) For the trading session and for the opening and closing periods of trading as determined by each reporting market:

(i) The lowest price of a sale or offer, whichever is lower, and the highest price of a sale or bid, whichever is higher, that the reporting market reasonably determines accurately reflect market conditions. If vacated or withdrawn, bids and offers shall not be used in making this determination. A bid is vacated if followed by a higher bid or price and an offer is vacated if followed by a lower offer or price.

(ii) If there are no transactions, bids, or offers during the opening or closing periods, the reporting market may record as appropriate:

(A) The first price (in lieu of opening price data) or the last price (in lieu of closing price data) occurring during the trading session, clearly indicating that such prices are the first and the last price; or

(B) Nominal opening or nominal closing prices which the reporting market reasonably determines accurately reflect market conditions, clearly indicating that such prices are nominal.

(2) The settlement price established by each reporting market or its clearing organization.

(3) *Additional information.* Each reporting market shall record the following information with respect to transactions in commodity futures and commodity options on that reporting market:

(i) The method used by the reporting market in determining nominal prices and settlement prices; and

(ii) If discretion is used by the reporting market in determining the opening and closing ranges or the settlement prices, an explanation that certain discretion may be employed by the reporting market and a description of the manner in which that discretion may be employed.

(c) *Critical dates.* Each reporting market shall report to the Commission for each futures contract the first notice date and the last trading date and for each option contract the expiration date in accordance with paragraph (d) of this section.

(d) *Form, manner and time of filing reports.* Unless otherwise approved by the Commission or its designee, reporting markets shall submit to the Commission the information specified in paragraphs (a)(1) through (a)(5), (b) and (c) of this section as follows:

* * * * *

(e) *Publication of recorded information.* (1) Designated contract markets shall make the information in paragraph (a) of this section readily available to the news media and the general public without charge, in a format that readily enables the consideration of such data, no later than the business day following the day to which the information pertains. The information in paragraphs (a)(4) through (a)(6) of this section shall be made readily available in a format that presents the information together.

(2) Designated contract markets shall make the information in paragraphs (b)(1) and (b)(2) of this section readily available to the news media and the general public, and the information in paragraph (b)(3) of this section readily available to the general public, in a format that readily enables the consideration of such data, no later than the business day following the day to which the information pertains.

(3) Registered derivatives transaction execution facilities shall comply with the publication of trading information requirement of section 5a(d)(5) of the Act and any Commission regulation adopted thereunder.

* * * * *

■ 12. Revise § 16.06 to read as follows:

§ 16.06 Errors or omissions.

Unless otherwise approved by the Commission or its designee, reporting markets shall file corrections to errors or omissions in data previously filed with the Commission pursuant to § § 16.00 and 16.01 in the format and using the coding structure and electronic data submission procedures approved in writing by the Commission or its designee.

■ 13. In § 16.07, revise paragraphs (a) and (b) to read as follows:

§ 16.07 Delegation of authority to the Director of the Division of Market Oversight and the Executive Director.

* * * * *

(a) Pursuant to §§ 16.00(b) and 16.01(d), as applicable, the authority to determine whether reporting markets must submit data in hard copy, and the time that such data may be submitted where the Director determines that a reporting market is unable to meet the requirements set forth in the regulations;

(b) Pursuant to §§ 16.00(b)(1), 16.01(d)(1), and 16.06, the authority to approve the format, coding structure and electronic data transmission procedures used by reporting markets.

PART 17—REPORTS BY REPORTING MARKETS, FUTURES COMMISSION MERCHANTS, MEMBERS OF REPORTING MARKETS, AND FOREIGN BROKERS

■ 14. Revise the heading of part 17 as set forth above.

■ 15. The authority citation for part 17 is revised to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6d, 6f, 6g, 6i, 7, 7a and 12a, unless otherwise noted.

■ 16. In § 17.00, revise paragraphs (a)(1), (b)(2), and (g)(2)(iv); and add paragraph (i) to read as follows:

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

(a) * * *

(1) Each futures commission merchant, clearing member and foreign broker shall submit a report to the Commission for each business day with respect to all special accounts carried by the futures commission merchant, clearing member or foreign broker, except for accounts carried on the books of another futures commission merchant on a fully-disclosed basis. Except as otherwise authorized by the Commission or its designee, such report shall be made in accordance with the format and coding provisions set forth in paragraph (g) of this section. The report shall show each futures position, separately for each reporting market and for each future, and each put and call options position separately for each reporting market, expiration and strike price in each special account as of the close of market on the day covered by the report and, in addition, the quantity of exchanges of futures for commodities or for derivatives positions and the number of delivery notices issued for each such account by the clearing organization of a reporting market and the number stopped by the account. The report shall also show all positions in all futures months and option expirations of that same commodity on the same reporting market for which the special account is reportable.

* * * * *

(b) * * *

(2) *Accounts controlled by two or more persons*—Accounts that are subject to day-to-day trading control by two or more persons shall, together with other accounts subject to control by exactly the same persons, be considered a single account.

* * * * *

(g) * * *

(2) * * *

(iv) *Report date.* The format is YYYYMMDD, where YYYY is the year, MM is the month, and DD is the day of the month.

* * * * *

(i) *Exclusively self-cleared contracts.* Unless determined otherwise by the Commission, reporting markets that list exclusively self-cleared contracts shall meet the requirements of paragraphs (a) through (h) of this section, as they apply to trading in such contracts by all clearing members, on behalf of all clearing members.

■ 17. In § 17.01, revise the introductory text and paragraphs (a), (b) introductory text, (d), (f) and (g); and add paragraph (h) to read as follows:

§ 17.01 Special account designation and identification.

When a special account is reported for the first time, the futures commission merchant, clearing member, or foreign broker shall identify the account to the Commission on Form 102, in the form and manner specified in § 17.02, showing the information in paragraphs (a) through (f) of this section.

(a) *Special account designator.* A unique identifier for the account, *provided*, that the same designator is assigned for option and futures reporting, and the designator is not changed or assigned to another account without prior approval of the Commission or its designee.

(b) *Special account identification.* The name, address, business phone, and for individuals, the person's job title and employer for the following:

* * * * *

(d) *Commercial use.* For futures or options, commodities in which positions or transactions in the account are associated with a commercial activity of the account owner in a related cash commodity or activity (*i.e.*, those considered as hedging, risk-reducing, or otherwise off-setting with respect to the cash commodity or activity).

* * * * *

(f) *Reporting firms.* The name and address of the futures commission merchant, clearing member, or foreign broker carrying the account, and the name, title and business phone of the authorized representative of the firm filing the Form 102 and the date of the Form 102. The authorized representative shall sign the Form 102 or satisfy such other requirements for authenticating the report as instructed in writing by the Commission or its designee.

(g) *Form 102 updates.* If, at the time an account is in special account status and a Form 102 filed by a futures commission merchant, clearing member, or foreign broker is then no longer accurate because there has been a change in the information required under paragraph (b) of this section since the previous filing, the futures commission merchant, clearing member, or foreign broker shall file an updated Form 102 with the Commission within three business days after such change occurs.

(h) *Exclusively self-cleared contracts.* Unless determined otherwise by the Commission, reporting markets that list exclusively self-cleared contracts shall meet the requirements of paragraphs (a) through (g) of this section, as they apply to trading in such contracts by all clearing members, on behalf of all clearing members.

■ 18. Revise § 17.02 to read as follows:

§ 17.02 Form, manner and time of filing reports.

Unless otherwise instructed by the Commission or its designee, the reports required to be filed by reporting markets, futures commission merchants, clearing members and foreign brokers under §§ 17.00 and 17.01 shall be filed as specified in paragraphs (a) and (b) of this section.

(a) *Section 17.00(a) reports.* Reports filed under § 17.00(a) shall be submitted through electronic data transmission procedures approved in writing by the Commission or its designee not later than 9 a.m. on the business day following that to which the information pertains. Unless otherwise specified by the Commission or its designee, the stated time is eastern time for information concerning markets located in that time zone, and central time for information concerning all other markets.

(b) *Section 17.01 reports.* For data submitted pursuant to § 17.01 on Form 102:

(1) On call by the Commission or its designee, identify the type of special account specified by items 1(a), 1(b), or 1(c) of Form 102, and the name and location of the person to be identified in item 1(d) on the Form 102, and submit such information by facsimile or telephone, in accordance with instructions by the Commission or its designee, on the same day that the special account in question is first reported to the Commission; and

(2) Submit a completed Form 102 within three business days of the first day that the special account in question is reported to the Commission in accordance with instructions by the Commission or its designee.

■ 19. In § 17.03, revise the introductory text and paragraph (c) to read as follows:

§ 17.03 Delegation of authority to the Director of the Division of Market Oversight and to the Executive Director.

The Commission hereby delegates, until the Commission orders otherwise, the authority set forth in paragraphs (a) and (b) of this section to the Director of the Division of Market Oversight and the authority set forth in paragraphs (c) and (d) of this section to the Executive Director to be exercised by such Director or by such other employee or employees of such Director as designated from time to time by the Director. The Director of the Division of Market Oversight or the Executive Director may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph.

* * * * *

(c) Pursuant to § 17.01(f), the authority to determine whether to permit an authorized representative of a firm filing the Form 102 to use a means of authenticating the report other than by signing the Form 102 and, if so, to determine the alternative means of authentication that shall be used.

* * * * *

■ 20. In § 17.04, revise paragraphs (a), (b)(1)(i), and (b)(2) to read as follows:

§ 17.04 Reporting omnibus accounts to the carrying futures commission merchant or foreign broker.

(a) Any futures commission merchant, clearing member or foreign broker who establishes an omnibus account with another futures commission merchant or foreign broker shall report to that futures commission merchant or foreign broker the total open long positions and the total open short positions in each future of a commodity and, for commodity options transactions, the total open long put options, the total open short put options, the total open long call options, and the total open short call options for each commodity options expiration date and each strike price in such account at the close of trading each day. The information required by this section shall be reported in sufficient time to enable the futures commission merchant or foreign broker with whom the omnibus account is established to comply with part 17 of these regulations and reporting requirements established by the reporting markets.

(b) * * *

(1) * * *

(i) The positions represent transactions on a reporting market which requires long and short positions in the same future or option held in accounts for the same trader to be recorded and reported on a gross basis; or

* * * * *

(2) Include only the net long or net short positions of the trader if the positions represent transactions on a reporting market which does not require long and short positions in the same future or option held in accounts for the same trader to be recorded and reported on a gross basis.

* * * * *

PART 18—REPORTS BY TRADERS

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

Authority: 7 U.S.C. 2, 4, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 12a and 19; 5 U.S.C. 552 and 552(b), unless otherwise noted.

■ 22. In § 18.00 revise the introductory text to read as follows:

§ 18.00 Information to be furnished by traders.

Every trader who owns, holds or controls, or has held, owned or controlled, a reportable futures or options position in a commodity shall within one business day after a special call upon such trader by the Commission or its designee file reports to the Commission concerning transactions and positions in such futures or options. Reports shall be filed for the period of time that the trader held or controlled a reportable position and shall be prepared and submitted as instructed in the call. The report shall show for each day covered by the report the following information, as specified in the call, separately for each future or option and for each reporting market:

* * * * *

■ 23. Revise § 18.05 to read as follows:

§ 18.05 Maintenance of books and records.

Every trader who holds or controls a reportable futures or option position shall keep books and records showing all details concerning all positions and transactions for future delivery in the commodity on all reporting markets, all positions and transactions in the commodity option, and all positions and transactions in the cash commodity, its products and byproducts and, in addition, commercial activities that the trader hedges in the commodity underlying the futures contract in which the trader is reportable, and shall upon request furnish to the Commission any pertinent information concerning such positions, transactions or activities.

(Approved by the Office of Management and Budget under control number 3038–0007)

PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE POSITIONS PURSUANT TO § 1.3(Z) OF THIS CHAPTER AND BY MERCHANTS AND DEALERS IN COTTON

■ 24. The authority citation for part 19 continues to read as follows:

Authority: 7 U.S.C. 6g(a), 6i and 12a(5), unless otherwise noted.

■ 25. In § 19.00, revise paragraphs (a) and (b) introductory text to read as follows:

§ 19.00 General provisions.

(a) *Who must file series '04 reports.* The following persons are required to file series '04 reports:

(1) All persons holding or controlling futures and option positions that are reportable pursuant to § 15.00(l)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter;

(2) Merchants and dealers of cotton holding or controlling positions for futures delivery in cotton that are reportable pursuant to § 15.00(l)(1)(i) of this chapter, or

(3) All persons holding or controlling positions for future delivery that are reportable pursuant to § 15.00(l)(1) of this chapter who have received a special call for series '04 reports from the Commission or its designee. Filings in response to a special call shall be made within one business day of receipt of the special call unless otherwise specified in the call. For the purposes of this paragraph, the Commission hereby delegates to the Director of the Division of Market Oversight, or to such other person designated by the Director, authority to issue calls for series '04 reports.

(b) *Manner of reporting.* The manner of reporting the information required in § 19.01 is subject to the following:

* * * * *

■ 26. In § 19.01, revise paragraph (a) introductory text to read as follows:

§ 19.01 Reports on stocks and fixed price purchases and sales pertaining to futures positions in wheat, corn, oats, soybeans, soybean oil, soybean meal or cotton.

(a) *Information required.* Persons required to file '04 reports under § 19.00(a)(1) or § 19.00(a)(3) of this chapter shall file CFTC Form 304 reports for cotton and Form 204 reports for other commodities showing the composition of the fixed price cash position of each commodity hedged including:

* * * * *

PART 21—SPECIAL CALLS

■ 27. The authority for part 21 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 2a, 4, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 12a, 19 and 21; 5 U.S.C. 552 and 552(b), unless otherwise noted.

■ 28. Revise § 21.01 to read as follows:

§ 21.01 Special calls for information on controlled accounts from futures commission merchants and introducing brokers.

Upon call by the Commission, each futures commission merchant and introducing broker shall file with the Commission the names and addresses of all persons who, by power of attorney or otherwise, exercise trading control over any customer's account in commodity futures or commodity options on any reporting market.

(Approved by the Office of Management and Budget under control number 3038–0009)

■ 29. Revise the heading and introductory text of § 21.02 to read as follows:

§ 21.02 Special calls for information on open contracts in accounts carried or introduced by futures commission merchants, members of reporting markets, introducing brokers, and foreign brokers.

Upon special call by the Commission for information relating to futures or option positions held or introduced on the dates specified in the call, each futures commission merchant, member of a reporting market, introducing broker, or foreign broker, and, in addition, for option information, each reporting market, shall furnish to the Commission the following information concerning accounts of traders owning or controlling such futures or option positions, except for accounts carried on a fully disclosed basis by another futures commission merchant, as may be specified in the call:

* * * * *

■ 30. Revise the heading and paragraphs (c), (d), (e) introductory text, and (f) of § 21.03 to read as follows:

§ 21.03 Selected special calls—duties of foreign brokers, domestic and foreign traders, futures commission merchants, introducing brokers, and reporting markets.

* * * * *

(c) Upon a determination by the Commission that information concerning accounts may be relevant information in enabling the Commission to determine whether the threat of a market manipulation, corner, squeeze, or other market disorder exists on any reporting market, the Commission may issue a call for information from a futures commission merchant or customer pursuant to the provisions of this section.

(d) In the event the call is issued to a foreign broker or foreign trader, its agent, designated pursuant to § 15.05 of this chapter, shall, if directed, promptly transmit calls made by the Commission pursuant to this section by electronic mail or a similarly expeditious means of communication.

(e) The futures commission merchant, introducing broker, or customer to whom the special call is issued must provide to the Commission the information specified below for the commodity, reporting market and delivery months or option expiration dates named in the call. Such information shall be filed at the place and within the time specified by the Commission.

* * * * *

(f) If the Commission has reason to believe that a futures commission merchant or customer has not responded as required to a call made pursuant to this section, the Commission in writing may inform the reporting market specified in the call and that reporting market shall prohibit the execution of, and no futures commission merchant, introducing broker, or foreign broker shall accept an order for, trades on the reporting market and in the months or expiration dates specified in the call for or on behalf of the futures commission merchant or customer named in the call, unless such trades offset existing open contracts of such futures commission merchant or customer.

* * * * *

PART 37—DERIVATIVES TRANSACTION EXECUTION FACILITIES

■ 31. The authority for part 37 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 6, 6c, 6(c), 7a and 12a, as amended by Appendix E of Public Law 106–554, 114 Stat. 2763A–365.

■ 32. Revise § 37.2 to read as follows:

§ 37.2 Exemption.

Contracts, agreements or transactions traded on a derivatives transaction execution facility registered as such with the Commission under section 5a of the Act, the facility and the facility's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 37 and:

(a) Parts 15 through 21, part 40 and part 41 of this chapter, including any related definitions and cross-referenced sections; and

(b) Sections 1.3, 1.31, 1.59(d), 1.60, 1.63(c), 33.10, and part 190 of this chapter, including any related definitions and cross-referenced sections, which are applicable as though they were set forth in this part 37 and included specific reference to derivatives transaction execution facilities.

Issued in Washington, DC, on June 28, 2006, by the Commission.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. E6–10383 Filed 6–30–06; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–080]

RIN 1625–AA00

Safety Zone; 4th of July Fireworks Display, Kenosha, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the 4th of July Fireworks Display in Kenosha, Wisconsin. This safety zone is necessary to safeguard vessels and spectators from hazards associated with fireworks displays. This rule is intended to restrict vessel traffic from a portion of Lake Michigan and Kenosha Harbor.

DATES: This safety zone is effective from 8:15 p.m. (local) to 10:30 p.m. on July 4, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CGD09–06–080] and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan between 7 a.m. and 3:30 p.m. (local), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, U.S. Coast Guard Sector Lake Michigan, at (414) 747–7154.

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

This safety zone is necessary to protect the public from the hazards associated with fireworks displays. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port, Sector Lake Michigan, has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. As such, the COTP is proposing to implement a safety zone to ensure the safety of both participants and spectators in these areas.

The likely combination of large numbers of recreation 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 location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

The Coast Guard is establishing a safety zone on the waters of Lake Michigan near Kenosha, Wisconsin. The safety zone will include all waters of Lake Michigan surrounding the fireworks launch platform bounded by the arc of a circle with a 560-foot radius with its center in the approximate position 42°35.17′ N, 087°48.27′ W (NAD 83). Vessels assisting in the enforcement of the Safety Zone may be contacted on VHF–FM channels 16 or 23A.

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 upon the size and location of the safety zone within the waterway. Recreational vessels may transit through the safety zone with permission from the Captain of the Port Lake Michigan or his designated on-scene patrol commander.

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 safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone will be enforced for only a few hours per day on each day of the event and vessel traffic can safely pass outside of the safety zone during the event. Before the effective period, we would issue maritime advisories widely available to users of the lake.

If you think your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Sector Lake Michigan (see **ADDRESSES**). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule 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 effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this rule might impact tribal government, even if that impact may not constitute a ''tribal implication'' under that Order.

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, 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.

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. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5, Department of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T09–080 is added to read as follows:

§ 165.T09–080 Safety Zone; 4th of July Fireworks Display Kenosha, Wisconsin.

(a) *Location.* The following area is a Safety Zone:

(1) The safety zone will include all waters of Lake Michigan surrounding the fireworks launch platform bounded by the arc of a circle with a 560-foot radius with its center in the approximate position 42°35.17′ N, 087°48.27′ W (NAD 83).

(b) *Effective Dates and Times.* This safety zone is effective from 8:15 p.m. (local) to 10:30 p.m. on July 4th, 2006. The Captain of the Port, Sector Lake Michigan, or the on scene Patrol Commander may terminate this event at anytime.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port or his duly appointed representative.

(2) The ''duly appointed 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 Lake Michigan, to act on his behalf. The representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the Safety Zone shall contact the Captain of the Port or his 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 or his representative.

(4) The Captain of the Port may be contacted by telephone via the Sector Lake Michigan Operations Center at (414) 747–7182 during working hours. Vessels assisting in the enforcement of the Safety Zone may be contacted on VHF–FM channels 16 or 23A. Vessel operators may determine the restrictions in effect for the safety zone by coming alongside a vessel patrolling the perimeter of the Safety Zone.

(5) Coast Guard Sector Lake Michigan will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the Safety Zone and restriction imposed.

Dated: June 22, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6–10392 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–076]

Safety Zone: Captain of the Port Sector Lake Michigan 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 Sector Lake Michigan 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 Sector Lake Michigan Zone.

DATES: *Effective 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: Chief Warrant Officer Brad Hinken, Sector Lake Michigan, (414) 747 7154.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the permanent safety zones in 33 CFR 100.901 (published July 1, 2005), for fireworks displays in the Captain of the Port Sector Lake Michigan Zone during July 2006. The following safety zones are in effect for fireworks displays occurring in the month of July 2006:

(1) *Venetian Festival Fireworks Display*, St. Joseph River, Michigan. Location: St. Joseph River, within a 1,000-foot radius of the fireworks launching site, located at the St. Joseph South Pier, in approximate position 42°06′48″ N 086°29′15″ W.

Enforcement Date: The Venetian Festival Fireworks Display safety zone will be enforced from 9 p.m. (local) to 11:30 p.m. (local) on July 15, 2006.

(2) *South Haven 4th of July Fireworks*, South Haven, Michigan.

Location: Lake Michigan, Black River, South Haven, MI within a 1000 foot radius of the fireworks launching site located on the North Pier, in approximate position 42°24′08″ N 086°17′03″ W. (NAD 1902).

Enforcement Date: The South Haven 4th of July Fireworks safety zone will be enforced from 9 p.m. (local) to 11 p.m. (local) on July 5, 2006.

(3) *Van Andel Fireworks Show*, Holland, MI.

Location: Lake Michigan, Holland Harbor, MI, South Pier, within a 1000 foot radius of the fireworks launching site located in approximate position 42°46′21″ N 086°12′48″ W.

Enforcement Dates: The Van Andel Fireworks Show safety zone will be enforced from 9 p.m. (local) to 11 p.m. (local) on July 3, 2006 and from 9 p.m. (local) to 11 p.m. (local) on July 4, 2006.

(4) *City Fireworks*, Frankfort, MI.

Location: Lake Michigan, Frankfort, MI within a 1000 foot radius of the fireworks launching site located on Lake Michigan Beach in approximate position 44°38′ N 086°14′50″ W.

Enforcement Dates: The City Fireworks safety zone will be enforced from 9 p.m. (local) to 11 p.m. (local) on July 4, 2006.

(5) *4th of July Fireworks,* St. Joseph, MI.

Location: St. Joseph River, within a 1000 foot radius of the fireworks launching site, located at the St. Joseph South Pier, in approximate position 42°06′48″ N 086°29′15″ W.

Enforcement Dates: The 4th of July Fireworks safety zone will be enforced from 7 p.m. (local) to 9 p.m. (local) on July 3, 2006.

(6) *Grand Haven Area Jaycees Annual 4th of July Fireworks Display*, Grand Haven, MI.

Location: That portion of the Grand River, Grand Haven, MI from the pier heads (mile 0.0) to the U.S. 31 Bascule Bridge (mile 2.89).

Enforcement Dates: The Grand Haven Area Jaycees Annual 4th of July Fireworks Display safety zone will be enforced from 7 p.m. (local) to 11 p.m. (local) on July 4, 2006.

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, Sector Lake Michigan 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 Lake Michigan on channel 16, VHF–FM. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

Dated: June 22, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6–10365 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Charleston 06–111]

RIN 1625–AA00

Safety Zone; 4th July Fireworks, Cooper River, Patriots Point, Mount Pleasant, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of the Cooper River for a Fourth of July fireworks display. The safety zone extends 1000 feet in all directions from USS Yorktown located at Patriots Point, Mt. Pleasant, SC, in approximate position 32°47′27″ N 079°54′34″ W. The rule prohibits entry, anchoring, mooring or transiting within the safety zone without the permission of the Captain of the Port Charleston or his designated representative. This regulation is necessary to protect life and property on the navigable waters of the Cooper River from the hazards associated with the launching of fireworks.

DATES: This rule is effective from 6 p.m. on July 4 until 12:01 a.m on July 5, 2006.

ADDRESSES: You may mail comments and related material to Commander Coast Guard Sector Charleston (WWM), 196 Tradd Street, Charleston, South Carolina 29401. This Office maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Waterways Management Division 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer James J. McHugh, Sector Charleston office of Waterways Management, at (843) 724–7647.

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 a NPRM. The exact location and time of the event was not provided with sufficient time for public comment. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued and delay the rule's effective date, is contrary to public interest because immediate action is necessary to protect the public and waters of the United States.

For the same reasons, 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 Coast Guard will issue a broadcast notice to mariners and will place Coast Guard vessels in the vicinity of this zone to advise mariners of the restriction.

Background and Purpose

This rule allows the Coast Guard Captain of the Port Charleston, South Carolina, to establish a safety zone in order to provide for a minimum separation set back area for the Patriots Point July Fourth Fireworks event, as recommended by the National Fire Protection Association for firework displays. The safety zone is necessary to protect the participants and spectators, and to ensure no unsafe conditions exist.

Discussion of Rule

The safety zone will be in effect and enforced in an area extending 1000 feet in any direction from USS Yorktown located at Patriots Point, Mt. Pleasant, SC in approximate position 32°47′27″ N, 079°54′34″ W. The safety zone will be enforced from 6:00 p.m. until 12:01 a.m. for the Fireworks display. The safety zone will be activated by a local Broadcast to Mariners and a Marine Safety Information Bulletin. Persons and vessels will be prohibited from entering, anchoring, mooring or transiting within the safety zone without the permission of the Captain Of the Port Charleston or his designated representative. Any concerned traffic may request permission to pass through the safety zone from the COTP or his designated representative on VHF–FM channel 16 or via phone at (843) 720–3240.

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 the order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS) because these regulations will only be in effect for a short period of time and the impact on routine navigation is expected to be minimal.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule is for a highly publicized event and will only be in effect for a limited time and for a limited area. The Coast Guard Patrol Commander can authorize transits through the regulated area on a as needed basis.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please contact Chief Warrant Officer James J. McHugh, Sector

Charleston Office of Waterways Management, at 843 724–7647. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Checklist'' 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07–111 to read as follows:

§ 165.T07–111 Safety Zone; Cooper River, Patriots Point, Mt. Pleasant, SC.

(a) *Location.* The Coast Guard is establishing a safety zone for a fireworks display. The safety zone extends 1000 feet in all directions from USS Yorktown located at Patriots Point, Mt. Pleasant, SC, in approximate position 32°47′27″ N 079°54′34″ W. These coordinates are based upon the North American datum of 1983 (NAD83).

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

Designated representative means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers or other officers operating Coast Guard vessel and a Federal, State, and local officers designated by or assisting the Captain of the Port Charleston (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP, Charleston, South Carolina or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by thee COTP or the COTP's designated representative.

(d) *Effective period.* This rule is effective from 6 p.m. on July 4 until 12:01 a.m on July 5, 2006.

Dated: June 21, 2006.

J.E. Cameron,

Captain, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. E6–10366 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–072]

RIN 1625–AA00

Safety Zone; Lake Michigan: Michigan City Independence Day Fireworks, Dunes Acres, Michigan City, IN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Lake Michigan near Dunes Acres, Michigan City, IN, for the Michigan City Independence Day Fireworks on July 1, 2006. This safety zone is needed to protect participants and spectators from the hazards associated with fireworks displays. Entry into this zone is prohibited unless authorized by the Captain of the Port or his designated on scene representative.

DATES: This rule is effective from 9 p.m. (local) on July 1, 2006 through 11 p.m. (local) on July 1, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CGD09–06–072] and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, Sector Lake Michigan, (414) 747–7154.

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 submitted in time to allow for publication of an NPRM followed by a temporary final rule before the effective date.

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 from the date of publication in the **Federal Register**. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation 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 location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks. This safety zone is necessary to ensure the safety of the public and boating traffic in the Dunes Acres area during this event. This safety zone is intended to restrict vessel traffic from a portion of Lake Michigan. The size of the zone was determined by fireworks shell size and previous experiences in the Captain of the Port Lake Michigan zone and local knowledge about wind, waves, and currents in this particular area.

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 Michigan City Independence Day fireworks display. The fireworks display will occur between 9 p.m. (local) and 11 p.m. (local) on July 1, 2006. The safety zone will encompass all waters of Lake Michigan from within a 500-foot radius of the fireworks launching site located in approximate position 41°–39.24′N and 086°–04.98′W.

All persons and vessels shall comply with the instructions of the Captain of the Port Lake Michigan or his designated on scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on scene representative. The Captain of the Port Lake Michigan 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.

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 upon the size and location of the safety zone within the waterway. Vessels will only be restricted from the safety zone for a short period of time. Vessels may transit through the safety zone with permission from the Captain of the Port Lake Michigan or his designated on scene representative.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 or operators of vessels intending to transit or anchor near Dunes Acres, Michigan City, IN, within the safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be in effect for two hours. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Lake Michigan or his designated on scene representative. Before the effective period, we will issue maritime advisories and ensure they are widely available to users of Lake Michigan.

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 can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please contact Coast Guard Sector Lake Michigan (See **ADDRESSES**).

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 government 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 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

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 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. 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 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.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 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, and 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–072 is added to read as follows:

§ 165.T09–072 Safety Zone; Michigan City Independence Day Fireworks, Dunes Acres, Michigan City, Indiana.

(a) *Location.* The following area is a safety zone: all water of Lake Michigan within a 500-foot radius of the fireworks launching site located in approximate position 41°–39.24′ N and 086°–04.98′ W.

(b) *Effective period.* This rule is effective from 9 p.m. (local) on July 1, 2006 through 11 p.m. (local) on July 1, 2006.

(c) *Regulations.* In accordance with the general regulations in 33 CFR 165.23 of this part, entry into this zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port or his duly appointed representative.

(2) The ''designated 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 Lake Michigan to act on his behalf. The designated on scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port or his 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 or his designated on scene representative.

(4) The Captain of the Port may be contacted by telephone via the Sector Lake Michigan Operations Center at (414) 747–7182. Vessels assisting in the enforcement of the safety zone may be contacted on VHF–FM channel 16. Vessel operators may determine the restrictions in effect for the safety zone by coming alongside a vessel patrolling the perimeter of the safety zone.

(5) Coast Guard Sector Lake Michigan will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and restriction imposed.

Dated: June 22, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6–10330 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–075]

RIN 1625–AA00

Safety Zone; Independence Day Fireworks, Heart Island, Alexandria Bay, 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 Independence Fireworks on July 3, 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 the St. Lawrence River, Heart Island, New York.

DATES: This rule will be effective from 9 p.m. (local) until 10 p.m. (local) on July 3, 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 [CGD09–06–075] 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 Independence Day Fireworks Celebration. The fireworks display will occur between 9 p.m. (local) until 10 p.m. (local) on July 3, 2006.

The safety zone consists of all navigable waters of the St. Lawrence River in a 500-foot radius around a point at approximate position 44°20′39″ N, 075°55′16″ W. 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 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 St Lawrence River 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 p.m. (local) until 10 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 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. A new temporary § 165.T09–075 is added to read as follows:

§ 165.T09–075 Safety Zone; Independence Day Fireworks, Heart Island, Alexandria Bay, NY.

(a) *Location.* The following area is a temporary safety zone: all navigable waters of the St. Lawrence River in a 500-foot radius around a point at approximate position 44°20′39″ N, 075°55′16″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective time and date.* This section is effective from 9 p.m. (local) until 10 p.m. (local) on July 3rd, 2006.

(c) *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 20, 2006.

S.J. Ferguson,

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

[FR Doc. E6–10320 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–078]

RIN 1625–AA00

Safety Zone; Pentwater July 3rd Fireworks, Pentwater, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Pentwater, MI, for the Pentwater July 3rd Fireworks. This safety zone is needed to protect participants and spectators from the hazards associated with fireworks displays. Entry into this zone is prohibited unless authorized by the Captain of the Port or his duly appointed representative.

DATES: This rule is effective from 9 p.m. (local) on July 3, 2006 through 11 p.m. (local) on July 3, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–06–078 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, Sector Lake Michigan, (414) 747–7154.

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 submitted in time to allow for publication of an NPRM followed by a temporary final rule. 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 from the date of publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays.

Background and Purpose

This safety zone is necessary to ensure the safety of the public and boating traffic in the Pentwater area during this event. This safety zone is intended to restrict vessel traffic from a portion of Lake Michigan in Pentwater. The size of the zone was determined by fireworks shell size and previous experiences in the Captain of the Port Lake Michigan zone and local knowledge about wind, waves, and currents in this particular area.

Discussion of Rule

The safety zone will encompass all waters of Lake Michigan within a 1000-foot radius of the fireworks launching site located on the north breakwater in approximate position 43°46.56′ N and 086°26.38′ W (NAD 83).

All persons and vessels shall comply with the instructions of the Captain of the Port Lake Michigan or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on scene representative. The Captain of the Port Lake Michigan 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.

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 upon the size and location of the safety zone within the waterway. Vessels will only be restricted from the safety zone for a short period of time. Vessels may transit through the safety zone with permission from the Captain of the Port Lake

Michigan or his designated on-scene patrol commander.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 or operators of vessels intending to transit or anchor near Pentwater, MI, within the safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be in effect for two hours. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Lake Michigan or his designated on-scene representative. Before the effective period, we will issue maritime advisories and ensure they are widely available to users of Lake Michigan.

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 can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please contact Coast Guard Sector Lake Michigan (See **ADDRESSES**).

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 government 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 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

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 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. 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 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.lD, 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 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, and 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–078 is added to read as follows:

§ 165.T09–078 Safety Zone; Pentwater July 3rd Fireworks, Pentwater, Michigan.

(a) *Location.* The following area is a safety zone: All waters of Lake Michigan within a 1000-foot radius of the fireworks launching site located on the north breakwater in approximate position 43° − 46.56′ N and 086° − 26.38′ W (NAD 83).

(b) *Effective period.* This rule is effective from 9 p.m. (local) on July 3, 2006 until 11 p.m. (local) on July 3, 2006.

(c) *Regulations.* In accordance with the general regulations in 33 CFR 165.23 of this part, entry into this zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port or his duly appointed representative.

(2) The ''duly appointed 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 Lake Michigan to act on his behalf. The representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port or his 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 or his duly appointed representative.

(4) The Captain of the Port may be contacted by telephone via the Sector Lake Michigan Operations Center at (414) 747–7182. Vessels assisting in the enforcement of the safety zone may be contacted on VHF–FM channel 16. Vessel operators may determine the restrictions in effect for the safety zone by coming alongside a vessel patrolling the perimeter of the safety zone.

(5) Coast Guard Sector Lake Michigan will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and restriction imposed.

Dated: June 22, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6–10321 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–071]

RIN 1625–AA00

Safety Zone; Mineola Bay Fireworks, Fox Lake, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Mineola Bay Fireworks Display in Fox Lake, IL on July 1, 2006. The safety zone is necessary to protect vessels and spectators from potential airborne hazards during a planned fireworks display. This safety zone is intended to restrict vessels from a portion of Mineola Bay, Fox Lake, IL.

DATES: This temporary final rule is effective from 9:30 p.m. (local) until 10 p.m. (local) on July 1, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CDG09–06–071] and are available for inspection or copying at Marine Safety Unit Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60527, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST1 Franklin Spedoske, U.S. Coast Guard Marine Safety Unit Chicago, at (630) 986–2155.

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

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks display. Based on the explosive hazard of fireworks, the Captain of the Port Lake Michigan has determined firework 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, 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 location of the launch platform will help ensure the safety of persons and property of these events and help minimize the associated risks. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on-scene representative and may be contacted via VHF radio Channel 16.

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 Mineola Bay Fireworks display. The fireworks display will occur between 9:30 p.m. (local) and 10 p.m. (local) on July 1, 2006.

The safety zone will encompass all waters and adjacent shoreline of Mineola Bay bounded by the arc of a circle with a radius of 600-feet with its center in the approximate position 42°23′45″ N; 088°10′05″ W. These coordinates are based upon North American Datum 1983 (NAD 1983). 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. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan 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 temporary rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 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) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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 safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect from 9:30 p.m. (local) until 10 p.m. (local) on July 1, 2006 for one event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

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 the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

This rule contains no information collection requirements 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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 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 from paragraph (34)(g) because it establishes a safety zone.

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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. A new temporary safety zone § 165.T09–071 is added to read as follows:

§ 165.T09–071 Safety Zone; Mineola Bay Fireworks, Fox Lake, IL.

(a) *Location*. The following is a safety zone: all waters and adjacent shoreline of Mineola Bay bounded by the arc of a circle with a radius of 600-feet with its center in the approximate position 42°23′45″ N, 088°10′05″ W (NAD 1983).

(b) *Definitions*. The following definitions apply to this section: *Designated on-scene representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Buffalo, New York, in the enforcement of regulated navigation areas and safety and security zones.

(c) *Effective time and date*. This rule is effective from 9:30 p.m. (local) until 10 p.m. (local) on July 1, 2006.

(d) *Regulations*. In accordance with § 165.23, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Lake Michigan, or the designated on scene representative. Section 165.23 also contains other general requirements.

Dated: June 22, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6–10319 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–070]

RIN 1625–AA00

Safety Zone; Ship and Shore Festival Fireworks, Lake Michigan, New Buffalo, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Lake Michigan, New Buffalo, MI, for the Ship and Shore Festival Fireworks on July 2, 2006. This safety zone is needed to protect participants and spectators from the hazards associated with fireworks displays. Entry into this zone is prohibited unless authorized by the Captain of the Port or his duly appointed representative.

DATES: This rule is effective from 9 p.m. (local) on July 2, 2006 through 11 p.m. (local) on July 2, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–06–070 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, Sector Lake Michigan, (414) 747–7154.

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 submitted in time to allow for publication of an NPRM followed by a temporary final rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days from the date of publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation 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 location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks. This safety zone is necessary to ensure the safety of the public and boating traffic in the New Buffalo area during this event. The size of the zone was determined by fireworks shell size and previous experiences in the Captain of the Port Lake Michigan zone and local knowledge about wind, waves, and currents in this particular area.

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 Ship and Shore Festival Fireworks display. The fireworks display will occur between 9 p.m. (local) and 11 p.m. (local) on July 2, 2006. The safety zone will encompass all waters of Lake Michigan and New Buffalo Harbor within a 1000-foot radius of the fireworks launching site located approximately 600-feet north of the north pier in position 41–48.15′ N and 086–44.81′ W (NAD 83).

All persons and vessels shall comply with the instructions of the Captain of the Port Lake Michigan or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on scene representative. The Captain of the Port Lake Michigan 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This determination is based upon the size and location of the safety zone within the waterway. Vessels will only be restricted from the safety zone for a short period of time. Vessels may transit through the safety zone with permission from the Captain of the Port Lake Michigan or his designated on-scene patrol commander.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 or operators of vessels intending to transit or anchor near New Buffalo, MI, within the safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be in effect for two hours. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Lake Michigan or his designated on-scene representative. Before the effective period, we will issue maritime advisories and ensure they are widely available to users of New Buffalo Harbor.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please contact Coast Guard Sector Lake Michigan (See **ADDRESSES**.)

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

Under figure 2–1, paragraph 34(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–070 is added to read as follows:

§ 165.T09–070 Safety Zone; Ship and Shore Festival Fireworks New Buffalo, Michigan.

(a) *Location.* The following area is a safety zone: All waters of Lake Michigan and New Buffalo Harbor within a 1000-foot radius of the fireworks launching site located approximately 600-feet north of the north pier in position 41°–48.15′ N and 086°–44.81′ W (NAD 83).

(b) *Effective period.* This rule is effective from 9 p.m. (local) on July 2, 2006 until 11 p.m. (local) on July 2, 2006.

(c) *Regulations.* In accordance with the general regulations in 33 CFR 165.23 of this part, entry into this zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port or his duly appointed representative.

(2) The ''duly appointed 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 Lake Michigan to act on his behalf. The representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port or his 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 or his representative.

(4) The Captain of the Port may be contacted by telephone via the Sector Lake Michigan Operations Center at (414) 747–7182. Vessels assisting in the enforcement of the safety zone may be contacted on VHF–FM channel 16. Vessel operators may determine the restrictions in effect for the safety zone by coming alongside a vessel patrolling the perimeter of the safety zone.

(5) Coast Guard Sector Lake Michigan will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and restriction imposed.

Dated: June 22, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6–10317 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–074]

RIN 1625–AA00

Safety Zone; Celebration Freedom Fireworks, Lake Macatawa, Holland, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Lake Macatawa, Holland, MI, on July 1, 2006 for the Celebration Freedom Fireworks. This safety zone is needed to protect participants and spectators from the hazards associated with fireworks Displays. Entry into this zone is prohibited unless authorized by the Captain of the Port or his duly appointed representative.

DATES: This rule is effective from 9 p.m. (local) on July 1, 2006 through 11:30 p.m. (local) on July 3, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–06–074 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, Sector Lake Michigan, (414) 747–7154.

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 submitted in time to allow for publication of an NPRM followed by a temporary final rule before the effective date.

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 from the date of publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation 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 location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks. This safety zone is necessary to ensure the safety of the public and boating traffic in the Holland, Michigan area during this event. This safety zone is intended to restrict vessel traffic from a portion of the Lake Macatawa in Holland, Michigan. The size of the zone was determined by fireworks shell size and previous experiences in the Captain of the Port Lake Michigan zone and local knowledge about wind, waves, and currents in this particular area.

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 Celebration Fireworks display. The fireworks display will occur between 9 p.m.

(local) and 11:30 p.m. (local) on July 1, 2006 with alternate rain date of July 3, 2006.

The safety zone will encompass all waters of Lake Macatawa, Holland, MI. within a 1000′ radius of the fireworks launching site located at Kollen Park, in position 42°–47′20″ N and 086°–07′12″ W (NAD 83).

All persons and vessels shall comply with the instructions of the Captain of the Port Lake Michigan or his designated on-scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on scene representative. The Captain of the Port Lake Michigan may be contacted via VHF Channel 16 or via telephone 414–474–7182.

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.

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 upon the size and location of the safety zone within the waterway. Vessels will only be restricted from the safety zone for a short period of time. Vessels may transit through the safety zone with permission from the Captain of the Port Lake Michigan or his designated on-scene patrol commander.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 or operators of vessels intending to transit or anchor near Holland, MI, within the safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be in effect for two and one-half hours. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Lake Michigan or his designated on scene representative. Before the effective period, we will issue maritime advisories and ensure they are widely available to users of Lake Macatawa.

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 can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please contact Coast Guard Sector Lake Michigan (See **ADDRESSES**).

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 government 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 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

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 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. 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 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.lD, 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 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, and 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–074 is added to read as follows:

§ 165.T09–074 Safety Zone; Celebration Freedom Fireworks, Lake Macatawa, Holland, Michigan.

(a) *Location.* The following area is a safety zone: all waters of Lake Macatawa, Holland, MI. within a 1000′ radius of the fireworks launching site located at Kollen Park, in position 42°47′20″ N and 086°07′12″ W (NAD 83).

(b) *Effective period.* This rule is effective from 9:00 p.m. (local) on July 1, 2006 through 11:30 p.m. (local) on July 3, 2006.

(c) *Enforcement period.* This rule will be enforced from 9 p.m. (local) on July 1, 2006 until 11:30 p.m. (local) on July 1, 2006. The alternate rain date for enforcement of this rule is from 9 p.m. (local) on July 3, 2006 through 11:30 p.m. (local) on July 3, 2006.

(d) *Regulations.* In accordance with the general regulations in 33 CFR 165.23 of this part, entry into this zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port or his duly appointed representative.

(2) The ''duly appointed 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 Lake Michigan to act on his behalf. The representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port or his 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 or his representative.

(4) The Captain of the Port may be contacted by telephone via the Sector Lake Michigan Operations Center at (414) 747–7182. Vessels assisting in the enforcement of the safety zone may be contacted on VHF–FM channel 16. Vessel operators may determine the restrictions in effect for the safety zone by coming alongside a vessel patrolling the perimeter of the safety zone.

(5) Coast Guard Sector Lake Michigan will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and restriction imposed.

Dated: June 22, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6–10326 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No.051014263–6028–03; I.D. 062706B]

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments

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

ACTION: Inseason adjustments to groundfish management measures; request for comments.

SUMMARY: NMFS announces changes to management measures in the commercial and recreational Pacific Coast groundfish fisheries. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), are intended to allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: Effective 0001 hours (local time) July 1, 2006. Comments on this rule will be accepted through August 2, 2006.

ADDRESSES: You may submit comments, identified by I.D. 062706B, by any of the following methods:

- E-mail: *GroundfishInseason9.nwr@noaa.gov*. Include I.D. 062706B in the subject line of the message.
- Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, Attn: Jamie Goen, 7600 Sand Point Way NE, Seattle, WA 98115–0070.
- Fax: 206–526–6736, Attn: Jamie Goen.

FOR FURTHER INFORMATION CONTACT: Jamie Goen (Northwest Region, NMFS), phone: 206–526–6150; fax: 206–526–6736; or e-mail: *jamie.goen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available on the Government Printing Office's website at: *www.gpoaccess.gov/fr/index.html*.

Background information and documents are available at the Pacific Fishery Management Council's (Pacific Council's) website at: *www.pcouncil.org*.

Background

The Pacific Coast Groundfish FMP and its implementing regulations at Title 50 in the Code of Federal Regulations (CFR), part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Council, and are implemented by NMFS. The specifications and management measures for 2005–2006 were codified in the CFR (50 CFR part 660, subpart G). They were published in the **Federal Register** as a proposed rule on September 21, 2004 (69 FR 56550), and as a final rule on December 23, 2004 (69 FR 77012). The final rule was subsequently amended on March 18, 2005 (70 FR 13118); March 30, 2005 (70 FR 16145); April 19, 2005 (70 FR 20304); May 3, 2005 (70 FR 22808); May 4, 2005 (70 FR 23040); May 5, 2005 (70 FR 23804); May 16, 2005 (70 FR 25789); May 19, 2005 (70 FR 28852); July 5, 2005 (70 FR 38596); August 22, 2005 (70 FR 48897); August 31, 2005 (70 FR 51682); October 5, 2005 (70 FR 58066); October 20, 2005 (70 FR 61063); October 24, 2005 (70 FR 61393); November 1, 2005 (70 FR 65861); and December 5, 2005 (70 FR 723850). Longer-term changes to the 2006 specifications and management measures were published in the **Federal Register** as a proposed rule on December 19, 2005 (70 FR 75115) and as a final rule on February 17, 2006 (71 FR 8489). The final rule was subsequently amended on March 27, 2006 (71 FR 10545), April 11, 2006 (71 FR 18227), April 26, 2006 (71 FR 24601), May 11, 2006 (71 FR 27408), May 22, 2006 (71 FR 29257), and June 1, 2006 (71 FR 31104).

The changes to current groundfish management measures implemented by this action were recommended by the Pacific Council, in consultation with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, at its June 12–16, 2006, meeting in Foster City, CA. At that meeting, the Pacific Council recommended: (1) allowing the lingcod commercial harvest guideline to be exceeded while staying within the OY; (2) implementing a darkblotched rockfish bycatch limit for the commercial limited entry primary whiting fishery; (3) modifying the limited entry trawl rockfish conservation areas (RCAs) and trip limits north of 38° N. lat. and the non-groundfish trawl RCA between 40°10′ N. lat. and 38° N. lat. to protect darkblotched rockfish; (4) announcing triggers for the catch of canary rockfish and petrale sole in the limited entry trawl fishery that would prompt NMFS to implement an inseason action between the June and September Pacific Council meetings; (5) increasing the limited entry fixed gear and open access trip limit for deeper nearshore rockfish during September through October between 40°10′ N. lat. and 34°27′ N. lat.; (6) modifying the recreational RCA boundaries south of 40°10′ N. lat.; (7) increasing the recreational fishing season for the (rockfish, cabezon, and greenling complex)(RCG complex), lingcod and California scorpionfish between 36° N. lat. and 34°27′ N. lat. through October; (8) increasing the recreational fishing season for California scorpionfish south of 34°27′ N. lat. to July-December; (9) allowing the tribal fisheries to test gear modifications; and (10) implementing tribal harvest targets for Dover sole and arrowtooth flounder that combine trip limits from July through December. Pacific Coast groundfish landings will be monitored throughout the year and further adjustments to trip limits or management measures will be made as necessary to allow achievement of, or to avoid exceeding, optimum yields (OYs).

Lingcod Commercial Harvest Guidelines

The 2006 commercial harvest guideline for lingcod of 214.7 mt is projected to be exceeded before the end of the year by approximately 135.3 mt. However, the anticipated total catch, 487 mt north of 42° N. lat. and 405.1 mt south of 42° N. lat, is not expected to exceed either of the lingcod OYs (1,801 mt north of 42° N. lat. and 612 mt south of 42° N. lat), or the coastwide ABC (2,716 mt). Allowing the lingcod commercial harvest guideline to be exceeded will prevent the commercial fishery from being unnecessarily constrained. Therefore, NMFS will not take action to constrain lingcod fisheries at this time, but will continue to monitor the fisheries to avoid risk of exceeding the lingcod OYs for the remainder of the year.

Limited Entry Trawl Whiting Fishery Bycatch Limits for Darkblotched Rockfish

Prior to the start of the 2006 whiting season, the projected catch of darkblotched rockfish by the non-tribal sectors of the whiting fishery (catcher-processors, motherships, and vessels delivering shoreside) was 16.2 mt. Since the start of the 2006 primary whiting season, higher than anticipated darkblotched rockfish catch has occurred in the shore-based and at-sea whiting fisheries. Data available on June 9, 2006, indicates that 30 mt of darkblotched rockfish could be taken by the non-tribal whiting sectors if the current catch rates continue throughout the season. The Pacific Council recommended a 25–mt darkblotched rockfish bycatch limit for the non-tribal whiting sectors to reduce the likelihood of the darkblotched rockfish OY being exceeded, and to reduce the risk of the whiting fishery affecting the seasons for other groundfish fisheries that encounter darkblotched rockfish. In the non-tribal sectors of the limited entry trawl whiting fishery, overfished species bycatch limits are currently in place for canary (4.7 mt) and widow rockfish (200 mt). A 25–mt bycatch limit for darkblotched rockfish in the non-tribal whiting fishery is not equivalent to a bycatch allocation. The non-tribal whiting fishery may not have the full 25 mt available to achieve the whiting OY if the catch of darkblotched rockfish in other fisheries is higher than projected.

In addition to the non-tribal whiting fishery, higher than anticipated darkblotched rockfish catch has occurred in the limited entry bottom trawl fishery. Even with restrictions to the bottom trawl fishery to reduce darkblotched rockfish catch, there is still a risk that the darkblotched rockfish OY may be exceeded if the current darkblotched bycatch rate in the whiting fishery continues without a bycatch limit.

Previously, the Pacific Council considered a bycatch limit for darkblotched rockfish at its March and April 2006 meetings. However, a limit was not adopted at that time for the following reasons: the need for whiting vessels to have flexibility to change fishing locations to avoid Chinook salmon, canary and widow rockfish; darkblotched rockfish encounters could increase if the fishery chose to operate in deeper waters to avoid Chinook salmon or overfished shelf species; the increased abundance of darkblotched rockfish as it nears the rebuilt stock level could also result in an increased bycatch rate for darkblotched rockfish;

and, the past success of whiting fishery participants to modify their fishing behavior to avoid all species of concern. However, current catch of darkblotched rockfish in both the whiting and non-whiting fisheries is such that action should be taken to slow the catch of darkblotched rockfish.

Therefore, the Pacific Council recommended and NMFS is implementing, a darkblotched rockfish bycatch limit of 25 mt for the non-tribal limited entry trawl whiting fishery.

Limited Entry Trawl RCAs and Trip Limits North of 38° N.

Higher than expected darkblotched rockfish catch early in the year is projected to result in the darkblotched rockfish OY being exceeded by late summer unless the non-whiting limited entry trawl fishery north of 38° N. lat. is constrained. Darkblotched rockfish catch is approximately 40–50 percent higher than what was projected at the start of the fishing year. Preseason projections in January 2006 had indicated that 80–90 mt of darkblotched rockfish would be taken by the end of June. However, current Pacific Fisheries Information Network (PacFIN) data indicates that 122 mt will be taken by the end of June 2006. If measures are not taken to constrain the non-whiting limited entry trawl fishery, the groundfish fishery as a whole (including the whiting fishery) is projected to take 284.1 mt of darkblotched rockfish through the end of the year, exceeding the 200 mt OY. Approximately 20–30 mt are needed for the period 6 (November-December) petrale fishery to occur. With an OY of 200 mt and a projected catch of 122 mt through the end of June, the total catch of darkblotched rockfish needs to be less than 170 mt through the end of October for the period 6 petrale fishery to occur.

To slow the catch rate of darkblotched rockfish in the non-whiting limited entry trawl fishery, the Pacific Council recommended increasing the size of the RCA north of 38° N. lat. for July through December, and reducing cumulative limits for slope rockfish and splitnose rockfish, species that co-occur with darkblotched rockfish. The Pacific Council estimates that 165.6 mt of darkblotched rockfish will be caught through the end of the year by the non-whiting portions of the groundfish fishery as a result of these inseason actions, including the darkblotched rockfish that would be associated with a petrale sole fishery in period 6. However, if darkblotched rockfish mortality continues to be higher than projected or approaches the OY even with these inseason actions, there will not be an opportunity for a period 6 petrale fishery.

In addition to increasing the size of the trawl RCAs, the Pacific Council recommended reducing trip limits for slope, darkblotched, and splitnose rockfish. Reducing these slope rockfish limits is intended to eliminate any incentive to target slope species and to reduce darkblotched rockfish catch. Even though slope species tend to be sparse seaward of 250–fm (457–m), some vessels are currently targeting the slope, darkblotched and splitnose rockfish trip limits and may continue to do so even with the seaward boundary of the trawl RCA extended out to a boundary line approximating 250 fm (457 m). Reducing the slope, darkblotched, and splitnose rockfish trip limits to 1,000 lb (454 kg) per 2 months is expected to eliminate the incentive to target these species, while allowing incidentally-caught amounts of these species to be retained. In addition, it should ensure an opportunity for a period 6 petrale sole fishery by reducing the mortality of darkblotched rockfish.

The management measures affecting darkblotched rockfish are more restrictive north of 40°10′ N. lat. and less restrictive south of 38° N. lat., because darkblotched rockfish are less abundant in this southern portion of their range. Generally, the area between of 40°10′ N. lat. and 38° N. lat. is subject to transitional slope rockfish management measures, somewhere between the management measures north and south of this area. Inseason data for 2006 shows that darkblotched rockfish landings off California are approximately 6.7 mt south of 40°10′ N. lat. and approximately 8 mt north of 40°10′ N. lat. to the CA/OR border. Data provided by the California Department of Fish and Game (CDFG) for the area between 40°10′ N. lat and 38° N. lat indicate that in 2005, 79 percent of darkblotched rockfish came from shallower than 200 fm (366 m), while the remaining amount came from 200–250 fm (366–457 m) (none deeper than 250 fm (457 m)). However, over a longer period of time, data indicated that 9 percent of the darkblotched rockfish catch was from waters deeper than 250 fm (457 m), approximately 20 percent was from 200–250 fm (366–457 m), and approximately 70 percent was from waters shallower than 200–fm (366–m). Because of the clear need to reduce darkblotched rockfish mortality to as low as possible, the Pacific Council decided against transitional management in this area for slope rockfish trip limits. The Pacific Council recommended that the slope rockfish trip limit reductions be applied to the area between 40°10′ N. lat and 38° N. lat.

Moving the seaward line of the trawl RCA to deeper depths is predicted to result in an increase in trawl fishing effort in the areas shoreward of the RCA, potentially affecting other overfished species such as canary rockfish. The Pacific Council considered moving the shoreward trawl RCA boundary to protect overfished species, but this option generated a number of concerns from state management agencies, the coastal tribes, and coastal fishers. Among these concerns are Dungeness crab impacts in nearshore habitat, particularly during the summer when trawl mortality of soft-shelled molting crab is likely high. Additionally, the nearshore area is a nursery ground for juvenile flatfish and other groundfish species. Concentrating trawl effort in this area could increase mortalities on juvenile and unmarketable fish. Therefore, the Pacific Council recommended that the shoreward boundary of the RCA remain as previously scheduled, a boundary line approximating 100 fm (183 m) in July-August and 75 fm (137 m) in September-December north of 40°10′ N. lat., and a boundary line approximating 100 fm (183 m) in July-October and 75 fm (137 m) in November-December between 40°10′ N. lat. and 38° N. lat.

Because of concerns that the catch of canary rockfish could increase over current projections and in order to try to accommodate the petrale fishery in period 6, the Pacific Council recommended inseason triggers for canary rockfish and petrale sole for NMFS to take action before the September 2006 Pacific Council meeting. (See next section for more detail on triggers.)

Because the Dover sole, thornyheads, and sablefish (DTS) fishery is projected to shift into deeper waters to protect darkblotched rockfish, raising the shortspine thornyhead trip limit is expected to reduce regulatory discards while still keeping the total catch of shortspine thornyhead within the 1,011–mt shortspine thornyhead commercial harvest guideline.

NMFS will make the same changes to the seaward boundary of the open access non-groundfish trawl RCA south of 40°10′ N. lat. that it is making to the trawl RCA. Historically, the limited entry and open access trawl RCAs have been similar, except that the shoreward boundary of the open access non-groundfish trawl RCA for ridgeback prawn trawl does not move shoreward of a boundary line approximating 100 fm (183 m) south of 34°27′ N. lat. These RCAs are similar because trawl gear, whether limited entry groundfish trawl or open access non-groundfish trawl, tends to intercept overfished groundfish species.

Therefore, the Pacific Council recommended, and NMFS is implementing the following RCA and trip limit changes for the limited entry trawl fishery: (1) North of 40°10′ N. lat., move the seaward boundary of the trawl RCA from 200 fm (366 m) in July-December (with petrale sole modifications for the November-December period) to 250 fm (457 m) from July-December (with petrale sole modifications for the November-December period); (2) north of 40°10′ N. lat., reduce minor slope and darkblotched rockfish trawl trip limits (large, small, and selective flatfish trawl) from 4,000 lb (1,814 kg) per 2 months to 1,000 lb (454 kg) per 2 months for July-December; (3) north of 40°10′ N. lat., increase the shortspine thornyhead trip limit for large and small footrope trawl from 5,800 lb (2,631 kg) per 2 months to 7,500 lb (3,402 kg) per 2 months for July-October; (4) between 38° N. lat and 40°10′ N. lat., move the seaward boundary of the trawl RCA (both limited entry trawl RCA and non-groundfish trawl RCA) from 150 fm (274 m) in July-December to 200 fm (366 m) in July-August, and to 250 fm (457 m) in September-December (with petrale sole modifications for the November-December period); (5) between 38° N. lat and 40°10′ N. lat., reduce minor slope and darkblotched rockfish trawl trip limits from 8,000 lb (3,629 kg) per 2 months to 1,000 lb (454 kg) per 2 months for July-December; (6) between 38° N. lat and 40°10′ N. lat., reduce splitnose rockfish trawl trip limits from 8,000 lb (3,629 kg) per 2 months to 1,000 lb (454 kg) per 2 months for July-December; and (7) between 38° N. lat and 40°10′ N. lat., increase shortspine thornyhead trip limits from 4,900 lb (2,223 kg) per 2 months to 7,500 lb (3,402 kg) per 2 months for July-October.

Inseason Triggers for the Limited Entry Trawl Fishery

In recent years, there has been limited ability to respond to unexpected undesirable changes in harvest trends between the June and September Pacific Council meetings. By the September Pacific Council meeting, the Pacific Council must often recommend more drastic management measure changes to reverse higher than expected catch trends from the summer fisheries. Recommendations from the September Pacific Council meeting are implemented by NMFS via an inseason action effective at the beginning of October. As a mechanism to take action between meetings, if necessary in 2006, the Pacific Council recommended routine management measures that it would like NMFS to take if a specific undesirable harvest trends occur in the fishery between Pacific Council meetings. For example, if higher than projected catch rates of key species reach a pre-specified threshold, NMFS could respond by reducing trip limits or shifting RCA boundaries in keeping with recommendations made by the Pacific Council at its previous meeting. At its June 2006 meeting, the Pacific Council recommended this mechanism for addressing concern for the potential loss of the period 6 petrale fishery, and concern over potential effects on canary rockfish if trawl effort increases in areas shoreward of the RCA.

Therefore, The Pacific Council recommended the following triggers and inseason actions: (1) If the catch of canary rockfish in the limited entry bottom trawl sector is projected to reach 7.75 mt by the end of a month, NMFS will move the shoreward boundary of the RCA in to the shore north of 40°10′ N. lat. at the end of that month; and (2) if the catch of petrale sole in the LE bottom trawl sector is projected to reach 2,000 mt (72 percent of the OY) by August 31, NMFS will reduce cumulative trip limits for petrale sole, ‘‘other flatfish’’ and English sole, and arrowtooth flounder for period 5 (September-October). Petrale sole trip limits for each type of bottom trawl gear and each area will be reduced by 8,000 lb (3,629 kg) per 2 months coastwide, and trip limits of ‘‘Other Flatfish’’ and English sole and arrowtooth flounder will also be reduced to 4 times the petrale sole limit if those limits are more than 4 times the petrale sole limit (e.g., the petrale sole limit could be 2,000 lb (907 kg), and the ‘‘other flatfish’’ and English sole limit 8,000 lb (3,629 kg).). NMFS will track landings and intends to implement these management measures if the triggers are met.

Limited Entry Fixed Gear and Open Access Deeper Nearshore Rockfish Trip Limits

California Department of Fish and Game (CDFG) recommended, that the trip limit for deeper nearshore rockfish between 40°10′ N. lat. and 34°27′ N. lat. be increased to 500 lb (227 kg) per 2 months during September-October, which matches the trip limit for all other open periods in that area. CDFG manages its nearshore fishery with State harvest targets that are more conservative than Federal limits. A review of landings indicate that the deeper nearshore rockfish state harvest target is behind projections for this year. With this inseason adjustment, the deeper nearshore rockfish state harvest target is projected to be achieved by the end of December 2006. This fishery will continue to be monitored and further changes made, if necessary. Because catch of deeper nearshore rockfish is currently behind projections and there are not expected to be increased impacts on overfished species as a result of this action, the Pacific Council recommended increasing the deeper nearshore rockfish trip limit in this area.

Therefore, the Pacific Council recommended and NMFS is implementing, an increase in the deeper nearshore rockfish trip limits for limited entry fixed gear and open access fisheries between 40°10′ N. lat. and 34°27′ N. lat. from 400 lb (181 kg) per 2 months to 500 lb (227 kg) per 2 months during September-October.

California Recreational RCAs and Seasons

In 2005, NMFS implemented inseason changes to California's recreational RCAs and seasons. These changes were based on 2004 California Recreational Fisheries Survey (CRFS) data showing: (1) that recreational harvest of overfished species was below California's recreational harvest targets; and (2) that CRFS improved California's ability to monitor recreational fisheries inseason. The inseason action published in the **Federal Register** on May 4, 2005 (70 FR 23040), provided more recreational fishing opportunity while keeping projected impacts within recreational harvest targets.

In March 2006, CRFS estimates on the recreational take for 2005 became available. These estimates indicated that even under the revised recreational management measures implemented through the March 2005 inseason action, California recreational harvest targets for overfished species were not exceeded and, for some species, catch was well below projected impacts. However, due to the shallow depth restrictions of 20 fm (37 m) between 40°10′ N. lat. and 36° N. lat., fishing pressure increased on nearshore groundfish species resulting in take that met or exceeded these species OYs or harvest targets. These results suggest that the 2006 recreational management measures could be further revised to allow for additional fishing opportunity for shelf species, such as vermillion rockfish, while reducing fishing pressure on nearshore groundfish species, such as nearshore rockfish and cabezon.

In order to provide this additional opportunity while remaining within recreational harvest targets, CDFG recommended liberalizing RCAs south of 40°10′ N. lat. and liberalizing seasons for the RCG complex, lingcod, and California scorpionfish between 36° N. lat. and 34°27′ N. lat. Under CDFG's proposal, their recreational model projects impacts on overfished species to be: 65 mt of bocaccio, 7.7 mt of canary rockfish, 7.7 mt of widow rockfish, 0.3 mt of cowcod, 262 mt of lingcod, and 1.5 mt of yelloweye rockfish. All projected catch estimates continue to remain within harvest targets, allocations and/or California harvest guidelines.

In addition, CDFG recommended that NMFS take action to conform Federal regulations to state regulations for California scorpionfish in state waters. The seasons for California scorpionfish were changed in California State regulations on March 20, 2006, to make the seasons for California scorpionfish match those for the RCG complex and the recreational RCAs in state waters. The 2005 season was only 3 months long and resulted in landings well under the state harvest target. This action extends the 2006 season by 3 months. The additional projected take of California scorpionfish as a result of this action is expected to stay within the state harvest target. Therefore, CDFG recommended that NMFS take action to conform Federal regulations to state regulations for Federal waters to change the California scorpionfish season south of 34°27′ N. lat. from open October-December to open July-December.

California's ability to track the fishery in a timely and accurate manner using CRFS and to take prompt inseason action later in the year to close the fishery if expected harvests exceed projections should minimize any risk to overfished species that may be associated with liberalizing the fishery. Therefore, the Pacific Council recommended, and NMFS is implementing, the following recreational RCA and season changes: (1between 40°10′ N. lat. and 36° N. lat., move the shoreward boundary of the recreational RCA from the 20–fm (37–m) depth contour to a boundary line approximating 30 fm (55 m) in July-December; (2) between 36° N. lat. and 34°27′ N. lat., open the area shoreward of the recreational RCA through the month of October (i.e., the recreational RCA extends from a boundary line approximating the 40–fm (73–m) depth contour to the exclusive economic zone (EEZ) from May-October); (3) south of 34°27′ N. lat., move the shoreward boundary of the recreational RCA from a boundary line approximating 30–fm (55–m) depth contour to a boundary line approximating 60 fm (110 m) in September-October (i.e., closed between 60 fm (110 m) and the EEZ in March-December); (4) between 36° N. lat. and 34°27′ N. lat., extend the open season for RCG complex, lingcod, and California scorpionfish through the month of October; and (5) south of 34°27′ N. lat., extend the open season for California scorpionfish from October-December to July-December.

Tribal Trawl Fisheries

The Makah Tribe proposed examining the effectiveness of different trawl gear configurations combined with area management to reduce impacts on overfished species and Pacific halibut. The Makah Tribe proposed testing small footrope trawl gear compared to pineapple - cutback headrope trawl gear (aka: selective flatfish trawl gear) for differences in bycatch and plans to provide a report on its efforts to the Pacific Council in November 2006. To complete this work the Makah Tribe would create combined harvest targets for its trawl fleet for Dover sole and arrowtooth flounder that are equivalent to the limited entry cumulative limits specified for periods 4, 5, and 6 (July-December) which were in place at the beginning of the year. When multiplied by the number of vessels in the fleet, 10, this represents a total fleet harvest target of 476.3 mt (1,050,000 lb) for Dover sole and 1360.8 mt (3,000,000 lb) for arrowtooth flounder. This proposal would give the Makah Tribe more flexibility to harvest more abundant species, such as Dover sole and arrowtooth flounder, while keeping incidental catch of overfished species low, namely Pacific ocean perch, canary rockfish, widow rockfish and darkblotched rockfish. These changes are not expected to result in any OYs being exceeded.

Therefore, the Pacific Council recommended and NMFS is implementing a tribal harvest target of 1360.8 mt for Dover sole and 476.3 mt for arrowtooth flounder for the remainder of 2006 to replace the vessel specific trip limits for these species.

Classification

These actions are taken under the authority of 50 CFR 660.370(c) and are exempt from review under Executive Order 12866.

These actions are authorized by the Pacific Coast groundfish FMP and its implementing regulations, and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see **ADDRESSES**) during business hours.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable. The data upon which these recommendations were based was provided to the Pacific Council, and the Pacific Council made its recommendations at its June 12–16, 2006, meeting in Foster City, CA. There was not sufficient time after that meeting to draft this notice and undergo proposed and final rulemaking before these actions need to be in effect at the start of the next cumulative limit period, July 1, 2006, as explained below. For the actions to be implemented in this notice, prior notice and opportunity for comment would be impracticable because affording the time necessary for prior notice and opportunity for public comment would impede the Agency's function of managing fisheries using the best available science to approach without exceeding the OYs for federally managed species. The adjustments to management measures in this document affect commercial and recreational groundfish fisheries. Changes to the limited entry trawl fishery must be implemented in a timely manner by July 1, 2006, to reduce mortality of darkblotched rockfish, an overfished species. Changes to the recreational fishery must be implemented by July 1, 2006, in order to provide opportunities for anglers to catch groundfish within harvest targets while reducing the effects on nearshore stocks. Changes to the tribal trawl fisheries must be implemented in a timely manner by July 1, 2006, in order to allow the Makah Tribe to provide an opportunity for fishers to test gear modifications to reduce catch of overfished species in 2006. Delaying any of these changes would keep management measures in place that are not based on the best available data and which could lead to early closures of the fishery if harvest of groundfish exceeds levels projected for 2006 and that deny fishermen access to available harvest. This would impair achievement of one of the Pacific Coast Groundfish FMP objectives of providing for year-round harvest opportunities or extending fishing opportunities as long as practicable during the fishing year.

For these reasons, good cause also exists to waive the 30 day delay in effectiveness requirement under 5 U.S.C. 553 (d)(3).

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: June 27, 2006.

James P. Burgess,

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

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.373, paragraph (b)(4) is revised to read as follows:

§ 660.373 Pacific whiting (whiting) fishery management.

* * * * *

(b) * * *

(4) 2005 2006 bycatch limits in the whiting fishery. The bycatch limits for the whiting fishery may be used inseason to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at § 660.370 (c)(1)(ii). These limits are routine management measures under § 660.370 (c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. For 2005, the whiting fishery bycatch limits for the sectors identified § 660.323(a) are 4.7 mt of canary rockfish and 212 mt of widow rockfish. For 2006, the whiting fishery bycatch limits are 4.7 mt of canary rockfish, 200 mt of widow rockfish, and 25 mt of darkblotched rockfish.

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■ 3. In § 660.384, paragraphs (c)(3)(i)(A)(2) through (4), (c)(3)(ii)(A)(3), (c)(3)(iii)(A)(3), and (c)(3)(v)(A)(2) are revised to read as follows:

§ 660.384 Recreational fishery management measures.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(A) * * *

(*2*) Between 40°10′ N. lat. and 36° N. lat., recreational fishing for all groundfish (except ''other flatfish'') is prohibited seaward of the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from July 1 through December 31; and is closed entirely from January 1 through June 30 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 30 fm (55 m) depth contour are specified in § 660.391. Closures around the Farallon Islands (see paragraph (c)(3)(i)(C) of this section) and Cordell Banks (see paragraph (c)(3)(i)(D) of this section) also apply in this area.

(*3*) Between 36° N. lat. and 34°27′ N. lat., recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through October 31; and is closed entirely from January 1 through April 30 and from November 1 through December 31 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are specified in § 660.391.

(*4*) South of 34°27′ N. lat., recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (v) and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 60 fm (110 m) depth contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts; except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Recreational fishing for all groundfish (except ''other flatfish'') is closed entirely from January 1 through February 28 (i.e., prohibited seaward of the shoreline). Recreational fishing for California scorpionfish south of 34°27′ N. lat. is prohibited seaward of a boundary line approximating the 60 fm (110 m) depth contour from July 1 through December 31, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open. Recreational fishing for California scorpionfish south of 34°27′ N. lat. is closed entirely from January 1 through June 30 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 60 fm (110 m) depth contour are specified in § 660.392.

* * * * *

(ii) * * *

(A) * * *

(*3*) Between 36° N. lat. and 34°27′ N. lat., recreational fishing for the RCG Complex is open from May 1 through October 31 (i.e., it's closed from January 1 through April 30 and from November 1 through December 31).

* * * * *

(iii) * * *

(A) * * *

(*3*) Between 36° N. lat. and 34°27′ N. lat., recreational fishing for lingcod is open from May 1 through October 31 (i.e., it's closed from January 1 through April 30 and from November 1 through December 31).

* * * * *

(v) * * *

(A) * * *

(*2*) Between 36° N. lat. and 34°27′ N. lat., recreational fishing for California scorpionfish is open from May 1 through October 31 (i.e., it's closed from January 1 through April 30 and from November 1 through December 31).

(*3*) South of 34°27.00′ N. lat., recreational fishing for California scorpionfish is open from July 1 through December 31 (i.e., it's closed from January 1 through June 30).

* * * * *

■ 4. In § 660.385, paragraph (d) is revised to read as follows:

§ 660.385 Washington coastal tribal fisheries management measures.

* * * * *

(d) *Flatfish and other fish.* Treaty fishing vessels using bottom trawl gear are subject to the limits applicable to the non-tribal limited entry trawl fishery for English sole, rex sole, and other flatfish that are published at the beginning of the year. For Dover sole and arrowtooth flounder from July-December 2006, the Makah Tribe will manage its fishery to a harvest target of 476.3 mt for Dover sole and 1360.8 mt for arrowtooth flounder. Treaty fishing vessels are restricted to a 50,000 lb (22,680 kg) per 2 month limit for petrale sole for the entire year.

* * * * *

■ 5. In part 660, subpart G, Table 3 (North and South), Table 4 (South), and Table 5 (South) are revised to read as follows:

BILLING CODE 3510–22–S

Table 3 (North) to Part 660, Subpart G -- 2006 Trip Limits for Limited Entry Trawl Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table

62006

		JAN	FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]: North of 40°10' N. lat.	75 fm - modified 200 fm [7/]		75 - 200 fm		100 - 250 fm	75 fm - 250 fm	75 fm - modified 250 fm [7/]
	Selective flatfish trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season.							
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).							
	State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.							
1	**Minor slope rockfish[2/] & Darkblotched rockfish**	2,000 lb/ month		4,000 lb/ 2 months		1,000 lb/ 2 months		
2	**Pacific ocean perch**	1,500 lb/ month		3,000 lb/ 2 months				
3	**DTS complex**							
4	Sablefish							
5	large & small footrope gear	7,000 lb/ month		14,000 lb/ 2 months	20,000 lb/ 2 months			14,000 lb/ 2 months
6	selective flatfish trawl gear	2,500 lb/ month		7,000 lb/ 2 months	13,500 lb/ 2 months		7,000 lb/ 2 months	5,000 lb/ 2 months
7	multiple bottom trawl gear [8/]	2,500 lb/ month		7,000 lb/ 2 months	13,500 lb/ 2 months		7,000 lb/ 2 months	5,000 lb/ 2 months
8	Longspine thornyhead							
9	large & small footrope gear	7,500 lb/ month		15,000 lb/ 2 months	23,000 lb/ 2 months			15,000 lb/ 2 months
10	selective flatfish trawl gear	1,500 lb/ month		3,000 lb/ 2 months				
11	multiple bottom trawl gear [8/]	1,500 lb/ month		3,000 lb/ 2 months				
12	Shortspine thornyhead							
13	large & small footrope gear	2,000 lb/ month		4,000 lb/ 2 months	5,800 lb/ 2 months	7,500 lb / 2 months		4,000 lb/ 2 months
14	selective flatfish trawl gear	1,500 lb/ month		3,000 lb/ 2 months				
15	multiple bottom trawl gear [8/]	1,500 lb/ month		3,000 lb/ 2 months				
16	Dover sole							
17	large & small footrope gear	25,000 lb/ month		50,000 lb/ 2 months	35,000 lb/ 2 months			
18	selective flatfish trawl gear	10,000 lb/ month		28,000 lb/ 2 months				20,000 lb/ 2 months
19	multiple bottom trawl gear [8/]	10,000 lb/ month		28,000 lb/ 2 months				20,000 lb/ 2 months

TABLE 3 (North)

Table 3 (North). Continued

20	**Flatfish** (except Dover sole)				
21	Other flatfish 3/, English sole & Petrale sole				
22	large & small footrope gear for Other flatfish 3/ & English sole	55,000 lb/ month	110,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole.		110,000 lb/ 2 months
23	large & small footrope gear for Petrale sole	30,000 lb/ month			60,000 lb/ 2 months
24	selective flatfish trawl gear for Other flatfish 3/ & English sole	45,000 lb/ month	90,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 28,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.
25	selective flatfish trawl gear for Petrale sole	12,500 lb/ month			
26	multiple bottom trawl gear 8/	Other flatfish 3/ and English sole: 45,000 lb/ month Petrale sole: 12,500 lb/ month	90,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 28,000 lb/ 2 months of which may be petrale sole.	Other flatfish 3/ and English sole: 90,000 lb/ 2 months Petrale sole: 25,000 lb/ 2 months
27	Arrowtooth flounder				
28	large & small footrope gear	50,000 lb/ month	100,000 lb/ 2 months		
29	selective flatfish trawl gear	40,000 lb/ month	80,000 lb/ 2 months		
30	multiple bottom trawl gear 8/	40,000 lb/ month	80,000 lb/ 2 months		
31	**Whiting**				
32	midwater trawl	Before the primary whiting season: CLOSED -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED			
33	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip -- During the primary season: 10,000 lb/trip -- After the primary whiting season: 10,000 lb/trip			
34	**Minor shelf rockfish 1/, Shortbelly, Widow & Yelloweye rockfish**				
35	midwater trawl for Widow rockfish	Before the primary whiting season: CLOSED -- During primary whiting season: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED			
36	large & small footrope gear	150 lb/ month	300 lb/ 2 months		
37	selective flatfish trawl gear	300 lb/ month		1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish	300 lb/ month
38	multiple bottom trawl gear 8/	300 lb/ month		300 lb/ 2 months, no more than 200 lb/ month of which may be yelloweye rockfish	300 lb/ month

TABLE 3 (North) con't

Table 3 (North). Continued

39	**Canary rockfish**						
40	large & small footrope gear	CLOSED					
41	selective flatfish trawl gear	100 lb/ month		300 lb/ month		100 lb/ month	
42	multiple bottom trawl gear 8/	CLOSED					
43	**Yellowtail**						
44	midwater trawl	Before the primary whiting season: CLOSED -- During primary whiting season: In trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED					
45	large & small footrope gear	150 lb/ month	300 lb/ 2 months				
46	selective flatfish trawl gear	1,000 lb/ month	2,000 lb/ 2 months				
47	multiple bottom trawl gear 8/	150 lb/ month	300 lb/ 2 months				
48	**Minor nearshore rockfish & Black rockfish**						
49	large & small footrope gear	CLOSED					
50	selective flatfish trawl gear	300 lb/ month					
51	multiple bottom trawl gear 8/	CLOSED					
52	**Lingcod 4/**						
53	large & small footrope gear	600 lb/ month	1,200 lb/ 2 months				
54	selective flatfish trawl gear						
55	multiple bottom trawl gear 8/						
56	**Pacific cod**	Not limited	30,000 lb/ 2 months	70,000 lb/ 2 months			30,000 lb/ 2 months
57	**Spiny dogfish**	Not limited	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months		
58	**Other Fish 5/**	Not limited					

TABLE 3 (North) con't

1/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish.
2/ Splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
7/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
8/ If a vessel has both selective flatfish gear and large or small footrope gear on board during a cumulative limit period (either simultaneously or successively), the most restrictive cumulative limit for any gear on board during the cumulative limit period applies for the entire cumulative limit period.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart G -- 2006 Trip Limits for Limited Entry Trawl Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table

62006

		JAN	FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]**:**							
	40°10' - 38° N. lat.	75 fm - 150 fm		100 fm - 150 fm		100 fm - 200 fm	100 fm - 250 fm	75 fm - modified 250 fm [7/]
	38° - 34°27' N. lat.	75 fm - 150 fm		100 fm - 150 fm				75 fm - 150 fm
	South of 34°27' N. lat.	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands		100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands				75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands
	Small footrope gear is required shoreward of the RCA; all trawl gear (large footrope, midwater trawl, and small footrope gear) is permitted seaward of the RCA.							
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).							
	State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.							
1	**Minor slope rockfish**[2/] **& Darkblotched rockfish**							
2	40°10' - 38° N. lat.	4,000 lb/ month		8,000 lb/ 2 months		1,000 lb/ 2 months		
3	South of 38° N. lat.	20,000 lb/ month		40,000 lb/ 2 months				
4	**Splitnose**							
5	40°10' - 38° N. lat.	4,000 lb/ month		8,000 lb/ 2 months		1,000 lb/ 2 months		
6	South of 38° N. lat.	20,000 lb/ month		40,000 lb/ 2 months				
7	**DTS complex**							
8	Sablefish	8,500 lb/ month		17,000 lb/ 2 months				
9	Longspine thornyhead	9,500 lb / month		19,000 lb/ 2 months				
10	Shortspine thornyhead							
	40°10' - 38° N. lat.	2,450 lb/ month		4,900 lb/ 2 months		7,500 lb/ 2 months		4,900 lb/ 2 months
	South of 38° N. lat.					4,900 lb/ 2 months		
11	Dover sole	25,000 lb/ month		50,000 lb/ 2 months	35,000 lb/ 2 months			
12	**Flatfish** (except Dover sole)							
13	Other flatfish[3/] & English sole							
14	40°10' - 38° N. lat.	55,000 lb/ month		Other flatfish, English sole & Petrale sole: 110,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole.				110,000 lb/ 2 months
15	South of 38° N. lat.							
16	Petrale sole	30,000 lb/ month						60,000 lb/ 2 months

TABLE 3 (South)

Table 3 (South). Continued

17	Arrowtooth flounder						
18	40°10' - 38° N. lat.	5,000 lb/ month	10,000 lb/ 2 months				
19	South of 38° N. lat.	5,000 lb/ month	10,000 lb/ 2 months				
20	**Whiting**						
21	midwater trawl	Before the primary whiting season: CLOSED -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED					
22	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip -- During the primary season: 10,000 lb/trip -- After the primary whiting season: 10,000 lb/trip					
23	**Minor shelf rockfish[1/], Chilipepper, Shortbelly, Widow, & Yelloweye rockfish**						
24	large footrope or midwater trawl for Minor shelf rockfish & Shortbelly	300 lb/ month					
25	large footrope or midwater trawl for Chilipepper	1,000 lb/ months	2,000 lb/ 2 months	12,000 lb/ 2 months		8,000 lb/ 2 months	
26	large footrope or midwater trawl for Widow & Yelloweye	CLOSED					
27	small footrope trawl for Minor Shelf, Shortbelly, Widow & Yelloweye	300 lb/ month		300 lb/ month			
28	small footrope trawl for Chilipepper	300 lb/ month		500 lb/ month			
29	**Bocaccio**						
30	large footrope or midwater trawl	150 lb/ month	300 lb/ 2 months				
31	small footrope trawl	CLOSED					
32	**Canary rockfish**						
33	large footrope or midwater trawl	CLOSED					
34	small footrope trawl	100 lb/ month		300 lb/ month		100 lb/ month	
35	**Cowcod**	CLOSED					
36	**Minor nearshore rockfish & Black rockfish**						
37	large footrope or midwater trawl	CLOSED					
38	small footrope trawl	300 lb/ month					
39	**Lingcod[4/]**						
40	large footrope or midwater trawl	600 lb/ month	1,200 lb/ 2 months				
41	small footrope trawl	600 lb/ month	1,200 lb/ 2 months				
42	**Pacific cod**	Not limited	30,000 lb/ 2 months	70,000 lb/ 2 months			30,000 lb/ 2 months
43	**Spiny dogfish**	Not limited	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months		
44	**Other Fish[5/] & Cabezon**	Not limited					

TABLE 3 (South) con't

1/ Yellowtail is included in the trip limits for minor shelf rockfish.
2/ POP is included in the trip limits for minor slope rockfish
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ Other fish are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling.
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
7/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4 (South) to Part 660, Subpart G -- 2006 Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 62006

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
	40°10' - 34°27' N. lat.	30 fm - 150 fm		20 fm - 150 fm		30 fm - 150 fm	
	South of 34°27' N. lat.	60 fm - 150 fm (also applies around islands)					

See § 660.370 and § 660.382 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).

State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months					
2	**Splitnose**	40,000 lb/ 2 months					
3	**Sablefish**						
4	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months					
5	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
6	**Longspine thornyhead**	10,000 lb / 2 months					
7	**Shortspine thornyhead**	2,000 lb/ 2 months					
8	**Dover sole**	5,000 lb/ month South of 42o N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.		5,000 lb/ month South of 42o N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.			
9	**Arrowtooth flounder**						
10	**Petrale sole**						
11	**English sole**						
12	**Other flatfish[1/]**						
13	**Whiting**	10,000 lb/ trip					
14	**Minor shelf rockfish[2/], Shortbelly, & Widow rockfish**						
15	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
16	South of 34°27' N. lat.	3,000 lb/ 2 months					
17	**Chilipepper rockfish**	2,000 lb/ 2 months, this opportunity only available seaward of the nontrawl RCA					
18	**Canary rockfish**	CLOSED					
19	**Yelloweye rockfish**	CLOSED					
20	**Cowcod**	CLOSED					
21	**Bocaccio**						
22	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months	300 lb/ 2 months		
23	South of 34°27' N. lat.	300 lb/ 2 months		300 lb/ 2 months			
24	**Minor nearshore rockfish & Black rockfish**						
25	Shallow nearshore	300 lb/ 2 months	CLOSED	500 lb/ 2 months	600 lb/ 2 months	500 lb/ 2 months	300 lb/ 2 months
26	Deeper nearshore						
27	40°10' - 34°27' N. lat.	500 lb/ 2 months	CLOSED	500 lb/ 2 months			
28	South of 34°27' N. lat.			600 lb/ 2 months			400 lb/ 2 months
29	California scorpionfish	300 lb/ 2 months	CLOSED	300 lb/ 2 months	400 lb/ 2 months		300 lb/ 2 months

TABLE 4 (South)

Table 4 (South). Continued

30	**Lingcod**[3/]	CLOSED		800 lb/ 2 months			CLOSED
31	**Pacific cod**	Not limited	1,000 lb/ 2 months				
32	**Spiny dogfish**	Not limited	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months		
33	**Other fish**[4/] **& Cabezon**	Not limited					

TABLE 4 (South) con't

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.

2/ POP is included in the trip limits for minor slope rockfish. Yellowtail is included in the trip limits for minor shelf rockfish.

3/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

4/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling.

5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 5 (South) to Part 660, Subpart G -- 2006 Trip Limits for Open Access Gears South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table

62006

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
	40°10' - 34°27' N. lat.	30 fm - 150 fm		20 fm - 150 fm		30 fm - 150 fm	
	South of 34°27' N. lat.	60 fm - 150 fm (also applies around islands)					

See § 660.370 and § 660.383 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).

State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish[1/] & Darkblotched rockfish**						
2	40°10' - 38° N. lat.	Per trip, no more than 25% of weight of the sablefish landed					
3	South of 38° N. lat.	10,000 lb/ 2 months					
4	**Splitnose**	200 lb/ month					
5	**Sablefish**						
6	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months		300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 3,000 lb/ 2 months			
7	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
8	**Thornyheads**						
9	40°10' - 34°27' N. lat.	CLOSED					
10	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42o N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.		3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42o N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.			
12	**Arrowtooth flounder**						
13	**Petrale sole**						
14	**English sole**						
15	**Other flatfish[2/]**						
16	**Whiting**	300 lb/ month					
17	**Minor shelf rockfish[1/], Shortbelly, Widow & Chilipepper rockfish**						
18	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
19	South of 34°27' N. lat.	750 lb/ 2 months					
20	**Canary rockfish**	CLOSED					
21	**Yelloweye rockfish**	CLOSED					
22	**Cowcod**	CLOSED					
23	**Bocaccio**						
24	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months		200 lb/ 2 months	
25	South of 34°27' N. lat.	100 lb/ 2 months	CLOSED	100 lb/ 2 months			

TABLE 5 (South)

Table 5 (South). Continued

26	**Minor nearshore rockfish & Black rockfish**						
27	Shallow nearshore	300 lb/ 2 months	CLOSED	500 lb/ 2 months	600 lb/ 2 months	500 lb/ 2 months	300 lb/ 2 months
28	Deeper nearshore						
29	40°10' - 34°27' N. lat.	500 lb/ 2 months	CLOSED	500 lb/ 2 months			
30	South of 34°27' N. lat.			600 lb/ 2 months			400 lb/ 2 months
31	California scorpionfish	300 lb/ 2 months	CLOSED	300 lb/ 2 months	400 lb/ 2 months		300 lb/ 2 months
32	**Lingcod**[3/]	CLOSED		300 lb/ month, when nearshore open			CLOSED
33	**Pacific cod**	Not limited	1,000 lb/ 2 months				
34	**Spiny dogfish**	Not limited	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months		
35	**Other Fish**[4/] **& Cabezon**	Not limited					
36	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**						
37	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut and Sea Cucumber:**						
38	40°10' - 38° N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm	100 fm - 150 fm	100 fm - 200 fm	100 fm - 250 fm	75 fm - modified 250 fm [7/]
39	38° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm				75 fm - 150 fm
40	South of 34°27' N. lat.	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands				75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands
41	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for Ridgeback Prawn:**						
42	40°10' - 38° N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm	100 fm - 150 fm	100 fm - 200 fm	100 fm - 250 fm	75 fm - modified 250 fm [7/]
43	38° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm				75 fm - 150 fm
44	South of 34°27' N. lat.	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands					
45		Groundfish 300 lb/trip. Trip limits in this table also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57'30" N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).					
46	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*						
47	South	**Effective April 1 - October 31:** Groundfish 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

TABLE 5 (South) con't

1/ Yellowtail rockfish is included in the trip limits for minor shelf rockfish and POP is included in the trip limits for minor slope rockfish.
2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
3/ The size limit for lingcod is 24 inches (61 cm) total length.
4/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling.
5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
6/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[FR Doc. 06–5957 Filed 6–30–06; 8:45 am]

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Proposed Rules

Federal Register

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Monday, July 3, 2006

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket Number TM–06–04]

RIN 0581–AC61

National Organic Program (NOP); Proposed Amendments to the National List of Allowed and Prohibited Substances (Crops and Livestock)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) regulations to reflect recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) on August 17, 2005. Consistent with the recommendations from the NOSB, this proposed rule would add two substances, along with any restrictive annotations, to the National List.

DATES: Comments must be received by August 2, 2006.

ADDRESSES: Interested persons may comment on this proposed rule using the following procedures:

- *Mail:* Comments may be submitted by mail to: Bob Pooler, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–TMP–NOP, 1400 Independence Ave., SW., Room 4008–So., Ag Stop 0268, Washington, DC 20250.
- *E-mail:* Comments may be submitted via the internet to: *National.List@usda.gov*.
- *Internet: http://www.regulations.gov*.
- *Fax:* Comments may be submitted by fax to: (202) 205–7808.
- Written comments on this proposed rule should be identified with the docket number TM–06–04. Commenters should identify the topic and section number of this proposed rule to which the comment refers.
- Clearly indicate if you are for or against the proposed rule or some portion of it and your reason for it. Include recommended language changes as appropriate.
- Include a copy of articles or other references that support your comments. Only relevant material should be submitted.

It is our intention to have all comments to this proposed rule, whether submitted by mail, e-mail, or fax, available for viewing on the NOP homepage. Comments submitted in response to this proposed rule will also be available for viewing in person at USDA–AMS, Transportation and Marketing, Room 4008—South Building, 1400 Independence Ave., SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this proposed rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Bob Pooler, Agricultural Marketing Specialist, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Secretary established, within the NOP [7 CFR part 205], the National List regulations (§§ 205.600 through 205.607). The National List regulations identify synthetic substances and ingredients that are allowed and nonsynthetic (natural) substances and ingredients that are prohibited for use in organic production and handling. Under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended, (7 U.S.C. 6501 *et seq.*), the National List can be amended by the Secretary based on proposed amendments developed by the NOSB. Since established, the National List has been amended three times, October 31, 2003 (68 FR 61987), November 3, 2003 (68 FR 62215), and October 21, 2005 (70 FR 61217). Additionally, an amendment to the National List, proposed on September 16, 2005 (70 FR 54660), is currently pending.

This proposed rule would amend the National List to reflect recommendations submitted to the Secretary by the NOSB on August 17, 2005. On August 17, 2005, the NOSB recommended that the Secretary add one substance to § 205.601 and one substance to § 205.603 of the National List regulations.

II. Overview of Proposed Amendments

The following provides an overview of the proposed amendments to designated sections of the National List regulations:

This proposed rule would amend paragraph (e) of § 205.601 of the National List regulations by adding the following substance:

Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4). Sucrose octanoate esters (SOE) were petitioned for use in organic crop production as an insecticide/miticide. SOE exist as an amber-colored liquid. The mixture of esters is manufactured from two biochemicals—sucrose (table sugar) and an octanoic acid ester (commonly found in plants and animals). Sucrose esters were isolated when researchers investigated the insecticidal properties of the leaf hairs on tobacco leaves. The active ingredient acts by dissolving the waxy protective coating (cuticle) of target pests, causing the insect or mite to dry out and die.

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA has registered SOE as a biochemical that targets mites and certain soft-bodied insects (*e.g.*, aphids) at three distinct commercial sites: Food and non-food crops, including certain ornamentals; media for growing mushrooms; and adult honey bees (*http://www.epa.gov/oppbppd1/biopesticides/ingredients/factsheets/factsheet_035300.htm*). In assessing risks to human health, the EPA has concluded that no risks to humans are expected from the use of SOE as a pesticide active ingredient. SOE are not toxic to mammals, but in high concentrations, they are corrosive to the eye. To avoid irreversible eye damage, exposed workers are required to wear appropriate protective clothing. In assessing risks to the environment, the EPA determined that no risks to the environment are expected from the use of SOE in pesticide products because: (a) The esters biodegrade rapidly and therefore do not persist in the environment, (b) the esters are not toxic to mammals or other non-target organisms, (c) organisms are already exposed because these sucrose esters are found in plants, and (d) the tiny amounts used in pesticide products are not expected to substantially increase the amount of these esters in the environment.

At its August 17, 2005, meeting in Washington, DC, the NOSB recommended adding SOE to the National List for use in organic crop production as an insecticide/miticide. In this open meeting, the NOSB evaluated SOE against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that SOE is consistent with the OFPA evaluation criteria.

The NOP consulted with the EPA and Food and Drug Administration (FDA) to ensure that the NOSB recommendation for the use of SOE in organic crop production would be consistent with Federal regulations governing the use of the substance. The EPA informed the NOP that the recommended use of SOE in organic crop production is consistent with EPA regulations. The FDA confirmed that the referenced sucrose octanoate ester product is appropriately licensed by the EPA for its use. Therefore, after consultation with the EPA and FDA concerning the NOSB's recommendation to permit the use of SOE in organic crop production, the Secretary is proposing to accept the NOSB's recommendation and amend § 205.601(e) of the National List by adding SOE as an insecticide as follows:

Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4)—in accordance with approved labeling.

This proposed rule would amend paragraph (b) of § 205.603 of the National List regulations by adding the following substance:

Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4). Sucrose octanote esters (SOE) were petitioned for use in organic livestock production as an insecticide/miticide for honeybees. Sucrose octanoate esters exist as an amber-colored liquid. The mixture of esters is manufactured from two biochemicals-sucrose (table sugar) and an octanoic acid ester (commonly found in plants and animals). Sucrose esters were isolated when researchers investigated the insecticidal properties of the leaf hairs on tobacco leaves. The active ingredient acts by dissolving the waxy protective coating (cuticle) of target pests, causing the insect or mite to dry out and die.

Under FIFRA, the EPA has registered SOE as a biochemical that targets mites and certain soft-bodied insects (e.g., aphids) at three distinct commercial sites: food and non-food crops, including certain ornamentals; media for growing mushrooms; and adult honey bees (*http://www.epa.gov/oppbppd1/biopesticides/ingredients/factsheets/factsheet_035300.htm*). In assessing risks to human health, the EPA has concluded that no risks to humans are expected from the use of SOE as a pesticide active ingredient. SOE are not toxic to mammals, but in high concentrations are corrosive to the eye. To avoid irreversible eye damage, exposed workers are required to wear appropriate protective clothing. In assessing risks to the environment, the EPA determined that no risks to the environment are expected from the use of SOE in pesticide products because: (a) The esters biodegrade rapidly and therefore do not persist in the environment, (b) the esters are not toxic to mammals or other non-target organisms, (c) organisms are already exposed because these sucrose esters are found in plants, and (d) the tiny amounts used in pesticide products are not expected to substantially increase the amount of these esters in the environment.

At its August 17, 2005, meeting in Washington, DC, the NOSB recommended adding SOE to the National List for use in organic livestock production as an insecticide/miticide. In this open meeting, the NOSB evaluated SOE against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that SOE is consistent with the OFPA evaluation criteria.

The NOP consulted with the EPA and FDA to ensure that the NOSB recommendation for the use of SOE in organic livestock production would be consistent with Federal regulations governing the use of the substance. The EPA informed the NOP that the recommended use of SOE in organic livestock production is consistent with EPA regulations. The FDA confirmed that the referenced sucrose octanoate ester product is appropriately licensed by the EPA for such use. Therefore, after consultation with the EPA and FDA concerning the NOSB's recommendation to permit the use of SOE in organic livestock production, the Secretary is proposing to accept the NOSB's recommendation and amend § 205.603(b) of the National List by adding SOE as an external parasiticide as follows:

Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4)—in accordance with approved labeling.

Recommendation Not Accepted

Chitosan (Poly-D Glucosamine) (CAS #—9012–76–04). Chitosan was petitioned for use in organic crop production as an adhesive adjuvant to be used with fungicides approved for use under the NOP regulations. Chitosan is a polymer of glucosamine sugars, specifically glucosamine and N-acetyl-glucosamine. Its structure and composition are similar to both cellulose (i.e., the primary structural component of plant fiber) and chitin. Like chitin, chitosan is found naturally in the shells of all crustaceans and insects, as well as certain other organisms such as many fungi, algae, and yeast. Chitosan is a chemically stable, white to pale yellow powder or flake. It has a strong positive charge, which is the basis of its use as a ''sticking'' agent (i.e., an adhesive adjuvant). The positively charged molecules adhere to negatively charged pesticides and plant surfaces. In the petition for the use of chitosan, as an adjuvant, the proposed rate of application is 0.011 pounds of chitosan per 20 gallons of water; it is adequate to apply on 1 acre.

Under the FIFRA, the EPA has registered chitosan as a biopesticide that is used primarily as a plant growth enhancer, and as a substance that boosts the ability of plants to defend against fungal infections, including early and late blight, downy and powdery mildew, and gray mold. The EPA has approved its use outdoors and indoors on many plants grown commercially and by consumers. Chitosan is normally sprayed on leaves of plants throughout growing season, with applications every one to two weeks as needed. In assessing risks to human health, the EPA has concluded that no risks to humans are expected when products containing chitosan are used according to label directions. In assessing risks to the environment, the EPA determined that no risks to the environment are expected because chitosan has not shown toxicity in mammals, it is abundant in nature, and it is used in tiny amounts.

At its August 17, 2005, meeting in Washington, DC, the NOSB recommended adding chitosan to the National List for use in organic crop production as an insecticide, with the restriction that it only be used as an adjuvant. In this open meeting, the NOSB evaluated chitosan against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that chitosan is consistent with the OFPA evaluation criteria.

The NOSB restricted the use of chitosan to an adjuvant only, due to the fact that chitosan could also be used as a plant defense booster and plant growth enhancer. As a plant growth enhancer, the mode of action is believed to be that chitosan is taken up by plant cells where it enters the cell nucleus and stimulates messenger ribonucleic acid and enzyme production. This action stimulates the plant to produce more lignin in the stems, resulting in stronger stems. However, as an adjuvant, the application rate of chitosan would be approximately 0.011 pounds per 20 gallons of water. At such a rate, chitosan would be unlikely to act as a defense booster and plant growth enhancer. It is also unlikely that it would create unacceptable changes in soil temperature, water availability, pH levels, nutrient availability, or salt concentration.

The NOP consulted with the EPA concerning the NOSB's recommendation to include chitosan on the National List. The EPA informed the NOP that for the petitioned use of chitosan, as an adjuvant, the substance would not be considered an active ingredient, but an inert ingredient. The EPA further stated that, in addition to chitosan being registered as an active ingredient, it is also approved as an EPA List 4B inert ingredient. The NOP regulations, at § 205.601(m), permits the use of EPA List 4 inert ingredients with nonsynthetic substances or synthetic substances approved for use under the NOP regulations as an active pesticide ingredient. As a result, the NOP will not propose to specifically add chitosan to the National List as an adjuvant; it is already permitted for use at § 205.601(m) of the National List regulations.

III. Related Documents

One notice was published regarding the meeting of the NOSB and its deliberations on recommendations and substances petitioned for amending the National List. Substances and recommendations included in this proposed rule were announced for NOSB deliberation in **Federal Register** Notice 70 FR 43116, July 26, 2005.

IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (65 FR 43259) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop.*

A. Executive Order 12866

This action has been determined not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This proposed rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under section 2115 of the OFPA (7 U.S.C. 6514) from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in section 2115(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under sections 2104 through 2108 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to section 2108(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to section 2120(f) of the OFPA (7 U.S.C. 6519(f)), this proposed rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspections Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 2121 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, the Agricultural Marketing Service (AMS) performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). The AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this proposed rule would not be significant. The effect of this proposed rule would be to allow the use of additional substances in agricultural production and handling. This action would relax the regulations published in the final rule and would provide small entities with more tools to use in day-to-day operations. The AMS concludes that the economic impact of this addition of allowed substances, if any, would be minimal and entirely beneficial to small agricultural service firms. Accordingly, USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000 and small agricultural producers are defined as those having annual receipts of less than $750,000. This proposed rule would have an impact on a substantial number of small entities.

The U.S. organic industry at the end of 2001 included nearly 6,949 certified organic crop and livestock operations. These operations reported certified acreage totaling more than 2.09 million acres of organic farm production. Data on the numbers of certified organic handling operations (any operation that transforms raw product into processed products using organic ingredients) were not available at the time of survey in 2001; but they were estimated to be in the thousands. By the end of 2004, the number of certified organic crop, livestock, and handling operations totaled nearly 11,400 operations. Based on 2003 data, certified organic acreage increased to 2.2 million acres.

U.S. sales of organic food and beverages have grown from $1 billion in 1990 to an estimated $12.2 billion in 2004. Organic food sales are projected to reach $14.5 billion for 2005; total U.S. organic sales, including nonfood uses, are expected to reach $15 billion in 2005. The organic industry is viewed as the fasting growing sector of agriculture, representing 2 percent of overall food and beverage sales. Since 1990, organic retail sales have historically demonstrated a growth rate between 20 to 24 percent each year. This growth rate is projected to decline and fall to a rate of 5 to 10 percent in the future.

In addition, USDA has accredited 94 certifying agents who have applied to USDA to be accredited in order to provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP Web site, at *http://www.ams.usda.gov/nop.* AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

D. Paperwork Reduction Act

No additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulations at 5 CFR part 1320.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

E. General Notice of Public Rulemaking

This proposed rule reflects recommendations submitted to the Secretary by the NOSB. The 2 substances proposed to be added to the National List were based on petitions from the industry. The NOSB evaluated each petition using criteria in the OFPA. Because these substances are critical to organic production and handling operations, producers and handlers should be able to use them in their operations as soon as possible. A 30 day period for interested persons to comment on this rule is provided.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, subpart G is proposed to be amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

2. In § 205.601 a new paragraph (e)(9) is added to read as follows:

§ 205.601 Synthetic substances allowed for use in organic crop production.

* * * * *

(e) * * *

(9) Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4)—in accordance with approved labeling.

* * * * *

3. In § 205.603 a new paragraph (b)(7) is added to read as follows:

§ 205.603 Synthetic substances allowed for use in organic livestock production.

* * * * *

(b) * * *

(7) Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4)—in accordance with approved labeling.

* * * * *

Dated: June 26, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–10393 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

RIN 0560–AH52

Storage Requirements for Grain Security for Marketing Assistance Loans

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes changes to the regulations governing the Marketing Assistance Loan Programs of the Commodity Credit Corporation (CCC) that are authorized by the Farm Security and Rural Investment Act of 2002 (2002 Act). CCC is proposing to no longer require a Federally-licensed warehouse operator, or in a State with a warehouse licensing programs, a State-licensed warehouse operator to execute a CCC storage agreement. Nothing in this proposed rule will affect the administration of the United States Warehouse Act by USDA.

DATES: Comments should be received on or before August 2, 2006.

ADDRESSES: CCC invites interested persons to submit comments on this proposed rule and on the collection of information required to administer the affected regulations. Comments may be submitted by any of the following methods:

- *E-Mail:* Send comments to: *kimberly.graham@wdc.usda.gov.*
- *Fax:* Submit comments by facsimile transmission to: (202) 690–1536.
- *Mail:* Send comments to: Director, Price Support Division, Farm Service Agency, United States Department of Agriculture (USDA), Room 4095–S, 1400 Independence Avenue, SW., Washington, DC 20250–0512.
- *Hand Delivery or Courier:* Deliver comments to the above address.
- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

All written comments will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham; phone: (202) 720–9154; e-mail: *kimberly.graham@wdc.usda.gov*, or fax: (202) 690–1536.

SUPPLEMENTARY INFORMATION:

Background

Since the enactment of the Agricultural Act of 1949, the major activity of CCC has been the administration and implementation of nonrecourse marketing assistance loans to producers of major agricultural commodities. Generally, Congress established loan rates for certain commodities, *e.g.* $1.95 per bushel for corn, for the 2004 through 2007 crop years. Under nonrecourse loan provisions, the producer may satisfy the loan obligation through forfeiture to CCC of the commodity pledged as collateral for the loan.

Since 1949, the commodities pledged as collateral for these loans could be stored on the producer's farm or in approved warehouses. Historically, approved warehouses have been warehouse operators who entered into storage agreements with CCC that set forth terms and conditions regarding: (1) Financial aspects of the warehouse; (2) rates that are applicable to the storage of CCC owned inventory and CCC loan collateral; (3) handling and delivery charges with respect to these commodities; and (4) related storage issues.

Most States, as well as the Department of Agriculture (USDA), have a warehouse licensing regime for the storage of agricultural commodities. In these States, generally, an entity must have a State or Federal license to engage in storing these commodities. These licensed entities issue warehouse receipts that evidence ownership of commingled commodities. In general, those non-licensed entities in States with licensing programs may not store agricultural commodities on behalf of producers but are free to purchase commodities from producers. Accordingly, in such States, commercial feed lots, ethanol plants, wool pools, and other entities that are the ''end users'' of the commodity are not licensed warehouses and, therefore, may not store commodities on behalf of producers. In those States that do not have such a licensing regime, warehouses must still follow State laws relating to bailment and storage. The State laws relating to bailment and storage may vary from State to State.

As a result of the accumulation of large quantities of commodities forfeited under nonrecourse loans, in the mid-1980's Congress instituted a fundamental change to CCC loan programs when market prices are below the CCC loan rate. The change allows producers the opportunity to repay the nonrecourse loan at a price determined by CCC and to retain any difference between the amount of the loan value and the repayment value. Under these ''marketing assistance loans (MAL),'' the producer still has the option of forfeiting the loan collateral to CCC. MAL's accomplish two objectives. First, they provide producers with interim financing to continue farming operations without having to market their crop during a period of low market prices. Second, these loans facilitate the orderly marketing and distribution of commodities throughout the year.

The three largest amounts of acreage planted to agricultural commodities for which marketing assistance loans are available are devoted to corn, soybeans and wheat. The following chart shows the estimated production of these commodities, as determined by the National Agricultural Statistics Service of USDA, and the quantity of such crops forfeited to CCC in the 2000 through 2004 crop years. With respect to the 2004 crop, the increase in forfeitures was attributable to the disruption in marketing channels caused by Hurricane Katrina. This hurricane occurred when a significant number of corn and soybean marketing assistance loans matured in the upper Midwest. The closing of the Mississippi River in the New Orleans area and damage to grain handling facilities in that area caused significant reductions in commodity prices. As a result, there was an abnormal increase in forfeitures to CCC; however, to mitigate this impact, CCC provided producers with farm-stored loans the opportunity to store these CCC-owned stocks on their farm for up to 60 days with the option of purchasing the commodity at a price CCC would use in completing a marketing loan transaction. Accordingly, while CCC took title to a larger quantity of 2004 crops compared to the previous two years, such stocks moved into commercial distribution as soon as was practicable in as normal a way as possible.

Commodity year	Production bil. bushels	Forfeitures mil. bushels	Percent of production forfeited
Corn:			
2000	9.915	26.596	0.2682
2001	9.502	0.017	0.0002
2002	8.966	1.892	0.0211
2003	10.089	1.037	0.0103
2004	11.807	24.382	0.2065
Soybeans:			
2000	2.757	5.704	0.2069
2001	2.890	0.054	0.0019
2002	2.756	0.205	0.0074
2003	2.453	0.122	0.0050
2004	3.123	0.483	0.0154
Wheat:			
2000	2.228	12.749	0.5722
2001	1.947	0.442	0.0227
2002	1.605	1.507	0.0939
2003	2.344	2.480	0.1058
2004	2.158	9.401	0.3247

CCC's ownership interest in these major commodities is insignificant. The percentage of other marketing loan commodities owned by CCC as a percentage of total production is similar to these commodities. When a comparison is made with the quantities of commodities forfeited to CCC as a percentage of the quantities pledged as collateral for such loans, CCC takes possession of less than 0.4 percent of the commodities pledged as collateral for marketing assistance loans.

The amount of the monetary gain producers may obtain by repaying CCC marketing assistance loans at repayment rates below their loan rate can be substantial. Therefore, there is a significant incentive for a producer to obtain these loans solely for this benefit. However, both the producer and CCC incur costs in completion of the loan transaction due to costs associated with lien searches and lien filing fees as well as USDA personnel costs incurred in processing these loans. To reduce the costs associated with the delivery of this benefit, producers may simply request that a payment be made to them in an amount equal to what would be realized if the loan had been made and immediately repaid at the lower repayment rate. In return for the payment, referred to as a ''loan deficiency payment (LDP)'', the producer agrees that the commodity for which the LDP was provided will not be pledged as collateral for a CCC marketing assistance loan. The LDP amount is equal to the established loan rate for the applicable loan commodity less the repayment rate multiplied by the eligible quantity of the commodity. With respect to commodities such as wheat, rice, feed grains, minor oilseeds, wool, mohair and pulse crops, section 1205 of the 2002 Act provides that these payments are made with respect to ''producers on a farm that, although eligible to obtain a marketing assistance loan under section 1201 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments. * * *'' A similar provision is set forth in section 1307 of the 2002 Act for producers of peanuts.

With the advent of marketing assistance loans and LDP's in the mid-1980's, producers' use of these benefits has shifted substantially from the marketing loan option to the LDP option. The following chart sets forth the number of marketing assistance loans and LDP's approved by CCC as of March 31, 2006, for the 2003, 2004, and 2005 crops.

Commodity year	Warehouse loans	Farm loan	Loan deficiency payments
Corn:			
2003	3,465	47,933	99,617
2004	6,952	50,684	1,079,690
2005	4,594	34,031	1,155,137
Soybeans:			
2003	3,256	18,538	7
2004	15,258	40,318	463,338
2005	14,239	39,587	86,170
Wheat:			
2003	5,749	8,295	103,418
2004	5,440	9,569	55,725
2005	3,596	8,464	17,571

Generally, in those years in which market prices remain below the CCC loan rate, there is a significantly greater use made of LDP's than marketing assistance loans. However, as demonstrated by the issuance of only 7 loan deficiency payments with respect to the 2003 crop of soybeans, and the issuance of approximately 22,000 marketing assistance loans, producers still avail themselves of the loan program for financing purposes.

The CCC storage payment with respect to peanuts and upland cotton pledged as collateral for marketing assistance loan programs encourages the use of such loans instead of loan deficiency payments; thus, the percentages of loan placements for these commodities are statistically larger than for other commodities. Similarly, the use of commodity certificates under section 166 of the Federal Agriculture Improvement and Reform Act of 1996, as amended, (the 1996 Act) also encourages the use of these loans in lieu of loan deficiency payments for several reasons, further skewing the distribution of these benefits. The use of these certificates by large marketing cooperatives facilitates the repayment of marketing assistance loans because the benefits attributable to the use of these certificates do not count against the statutory payment limitation provisions of the Food Security Act of 1985, as amended, which would otherwise limit: (1) The amount of a gain that a producer would be able to receive through a marketing assistance loan; and (2) the amount of loan deficiency payments that would be made to the producer. Thus, the number of warehouse-stored loans made with respect to upland cotton and rice is greater, and the use of loan deficiency payments less, than would otherwise be anticipated in the absence of section 166 of the 1996 Act.

The manner in which agricultural commodities are marketed and used has changed substantially since the enactment of the Agricultural Act of 1949. Changes in commodity marketing and use have been driven in part by the dramatic consolidation in farm operations since the middle 1900's. Advances in agronomics and technology, including biotechnology, have allowed producers to significantly expand the sizes of their operations and benefit from crop specialization and economies of scale. Coincident to this have been structural changes in the livestock and poultry feeding sectors and the remarkable growth in ethanol production. These changes have pushed larger and larger quantities of agricultural commodities into commercial marketing channels and away from the primary on-farm uses of the early 1900's.

Based on the U.S. Census of Agriculture, the number of U.S. farms dropped from 5.4 million in 1950 to 2.1 million in 2002. Much of the loss in farm numbers, however, occurred by the mid-1970's. The 1974 Census of Agriculture reported 2.3 million farms. Despite the slowing decline in farm numbers, the size of farm operations continues to grow. In 1974, there were 32,752 farms with 1,000 acres or more land. In 2002, there were 176,990 farms with 1,000 acres of more land. The number of farms with 2,000 acres or more increased more than 13 fold during this time, going from only 5,862 farms in 1974 to 77,970 farms in 2002.

Accompanying this consolidation in farm numbers and growth in farm size has been a similarly dramatic consolidation in the livestock and poultry feeding sectors. Based on the

U.S. Census of Agriculture, 3 out of every 4 farms had cattle and 1 out of every 2 farms had hogs in 1950. In 2002, only 1 in every 2 farms had cattle, and only 1 in every 25 had hogs. Numbers are just as dramatic for poultry. In 1950, 4 of every 5 farms had chickens or turkeys. In 2002, only 1 out of every 14 farms had chickens or turkeys. The consolidation of cattle, hog, and poultry feeding into fewer and larger capital intensive operations has shifted feed use away from the farms where grains and oilseeds are produced. This has left grain and oilseed producers increasingly reliant on commercial grain marketing channels as outlets for their production and sources of their revenue. These structural changes have had a significant impact on the amount of grain used on the farms where it is produced. During the 1949/50 marketing year just more than half of all grain and oilseed (wheat, corn, barley, oats, rye, sorghum, rice, and soybeans) production was consumed on the same farms where it was produced. Since then, while production of these commodities has increased more than three-fold, the amount used on the same farm where it was produced has dropped by more than one-third. The bulk of this decline in on-farm use reflects consolidation in livestock and poultry feeding and specialization in grain and oilseed farming. It also reflects the phenomenal expansion in fuel ethanol production which has grown from a negligible share of domestic corn use in the 1970's to more than 12 percent of domestic use during the 2004/05 marketing year. Less significant, but also affecting this decline in on-farm use has been the shift away from bin-run seed in the small grains and soybean sectors as commercial seed varieties have become ever more dominant.

The decline in on-farm use has substantially increased the volume of grain moving through commercial marketing channels. In the early 1950's, 50 percent of all grain and oilseed production was sold commercially. In recent years, 90 percent of all grain and oilseed production has been sold commercially. As on-farm use has fallen since 1949/50, the volume that is marketed commercially has increased six-fold, twice the rate of increase in production.

CCC nonrecourse loan provisions have been modified over the years to better reflect the needs of producers who must respond to these changes in commodity marketing and use. Particularly important in this regard has been the marketing assistance loan provisions that have given CCC tools like alternative marketing loan repayment rates and the LDP which have significantly reduced the quantity of loan collateral forfeited to CCC. With greater ability to minimize forfeitures, CCC inventories and quantities of grains and oilseeds otherwise controlled by CCC have dramatically declined since the 1980's.

Producers who do not have storage facilities on their farms, and who desire to obtain a marketing assistance loan, may deliver the commodity to a CCC-approved warehouse and tender to CCC as collateral for a loan a warehouse receipt that reflects the quantity and quality of the commodity produced and delivered to such facility. Commodities delivered to other non-CCC-approved warehouses and to facilities that commingle the commodity with the commodities of other persons may not be tendered to CCC as loan collateral, except as provided in section 1201(c) of the 2002 Act.

To be a CCC-approved warehouse the warehouse must enter into a CCC storage agreement and meet certain financial requirements. This agreement was required because, prior to authorization and use of marketing assistance loans, in some years, producers tendered to CCC over 75 percent of the annual production of some crops. If market prices remained below the CCC loan rate, the producers would forfeit the commodity to CCC. CCC required producers with warehouse-stored loans to store the loan collateral in CCC-approved warehouses to protect CCC's interest in the commodity by storing the commodity where CCC could readily assume ownership. CCC takes title from a warehouse according to its agreement upon maturity of the loan with no action needed on the part of the producer. The warehouse receipt is simply endorsed in blank to vest title in the holder, which is CCC. If a farm-stored loan was involved, CCC would direct the producer to deliver the commodity to a CCC-approved warehouse. Other statutes precluded the sale of CCC-owned commodities unless market prices reached certain levels, thus requiring CCC to own commodities for prolonged periods of time. Thus, CCC was dependent upon commercial warehouses for the storage of large quantities of grain, and, in the event of collateral forfeiture, the approved warehouse could continue to store the commodity for extended periods. CCC still requires the storage of its loan collateral only in CCC-approved warehouses regardless of its license status.

Proposed Changes

The first change proposed by this rule is that CCC will no longer require a Federally-licensed warehouse operator also to maintain a CCC storage agreement. With respect to warehouses licensed by USDA under the United States Warehouse Act, the conditions that a warehouse operator must meet for obtaining a Federal license exceed those that must be met for obtaining a CCC storage agreement. While the CCC storage agreement, unlike a Federal warehouse license, specifies storage rates that CCC will pay in the unlikely event the commodity is forfeited to CCC, CCC has maintained a policy since the late 1980's to move commodities it obtains as forfeitures into the market place as quickly as possible. Thus, minimal storage costs are incurred by CCC. Accordingly, CCC has determined that requiring a Federally-licensed warehouse operator to also maintain a CCC storage agreement provides no additional protection to CCC's interests as a lender in the administration of the marketing assistance loan programs and CCC will no longer require such warehouse operators to also maintain a storage agreement. CCC may, however, continue to utilize storage agreements in those instances where it is engaged in the long-term storage of commodities for use in CCC domestic and international feeding programs, i.e. wheat stored under the Bill Emerson Humanitarian Trust.

Second, in a State with a warehouse licensing program, CCC will no longer require the use of a CCC storage agreement for a State-licensed warehouse. In such States, especially those with grain indemnity funds that provide cash payments to depositors in the event of the insolvency of the warehouse operator, CCC has adequate protection as a secured lender. There are redundant costs to the warehouse operator in meeting, and maintaining, compliance with both the State license and the CCC storage agreement. Even without the storage agreement CCC will still have clear title to the commodity in the event of the insolvency of the warehouse operator. If the loan is repaid, CCC has no interest at stake. Thus, for State-licensed warehouses, a CCC storage agreement will not be required, except possibly in the case of the long term storage of CCC-owned grain.

A small number of States do not have warehouse licensing programs. In these States, warehouse operators must still comply with State laws pertaining to storage and bailment. CCC will not require these entities to execute a CCC storage agreement before a producer may obtain a marketing assistance loan with respect to commodities stored in such warehouse, but may require that the warehouse be approved in advance by CCC as a location where CCC loan collateral may be stored using the same general criteria currently used in the administration of CCC storage agreements. In making these determinations, CCC may require that the storing warehouse meet certain financial requirements and that the structure in which the commodity is stored meets conditions needed to protect CCC's interest in these States. A list of approved warehouses may be obtained from FSA State and county offices.

These changes will allow producers to obtain warehouse-stored loans at all warehouses, both State and Federally-licensed, thus expanding the amount of storage available for use by producers who wish to obtain such loans. This is particularly beneficial since commercial warehouse capacity has declined over the past 15 years while the amount of commodities produced in that time has increased—9.4 billion bushels of commercial storage available in the United States in 1990, compared to 8.5 billion in 2005. Production of wheat, corn, soybeans, rice, grain sorghum, and barley during that same time increased from 13.9 billion bushels to 17.3 billion bushels. Marketing patterns have changed during this time, for example, many buyers have turned to a ''timed-to-arrive'' basis and do not maintain large stocks of commodities at their facilities. The proposed regulatory changes are intended to compliment these changing patterns.

This proposed rule will have no impact on the administration of the U.S. Warehouse Act.

Notice and Comment

Section 1601(c) of the 2002 Act provides that the regulations needed to implement Title I of the 2002 Act, which include those involved here, may be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 relating to notices of proposed rulemaking and public participation in rulemaking.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, was determined to be not significant and has not been reviewed by the Office of Management Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because CCC is not required by 5 U.S.C. 533 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

Environmental Assessment

The environmental impacts of this rule have been considered consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799. FSA concluded that the rule requires no further environmental review because it is categorically excluded. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule will preempt State laws that are inconsistent with it. Before any legal action may be brought regarding a determination under this rule, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

The rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be made without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed to administer the program authorized by these regulations are not subject to review by OMB under the Paperwork Reduction Act.

Executive Order 12612

This rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Government Paperwork Elimination Act

CCC is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in the program are available electronically through the USDA eForms Web site at *http://www.sc.egov.usda.gov* for downloading. The regulation is available at FSA's Price Support Division Internet site at *http://www.fsa.usda.gov/dafp/psd.* Applications may be submitted at the FSA county offices, by mail or by FAX. At this time, electronic submission is not available. Full development of electronic submission is underway.

Federal Assistance Programs

The title and number of the Federal assistance program found in the Catalog of Federal Domestic Assistance to which this final rule applies are: Commodity Loans and Loan Deficiency Payments, 10.051.

List of Subjects in 7 CFR Part 1421

Agricultural commodities, Feed grains, Grains, Loan programs-agriculture, Oilseeds, Price support programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR part 1421 is amended as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR THE 2002 THROUGH 2007 CROP YEARS

1. The authority citation for part 1421 continues to read as follows:

Authority: 7 U.S.C. 7231–7237 and 7931 *et seq.*; 15 U.S.C. 714b and 714c.

Subpart A—General

2. Revise § 1421.13 to read as follows:

§ 1421.13 Special marketing assistance loans and loan deficiency payments.

(a) Commodities stored in an unapproved storage facility may be pledged as collateral for a marketing assistance loan if the producer:

(1) Makes request of the marketing assistance loan and obtains the commodity certificate to immediately exchange for the requested loan collateral at the same time at the county office that, under part 718 of this title, is responsible for administering the programs for the farm on which the commodity was produced.

(2) Submits the marketing assistance loan request and the commodity certificate exchange before or on the date of delivery to the unapproved facility.

(b) Eligible producers of hay and silage derived from an eligible loan commodity as provided in § 1421.5 are eligible to request hay and silage quantities for a loan deficiency payment in accordance with § 1421.200.

Subpart B—Marketing Assistance Loans

3. Revise § 1421.103(c) to read as follows:

§ 1421.103 Approved storage.

* * * * *

(c)(1) Approved warehouse storage consists of warehouses that are:

(i) If Federally-licensed, in compliance with 7 CFR part 735; or

(ii) If not Federally-licensed, in compliance with State laws and is a warehouse that issues a warehouse receipt that meets the criteria set forth in § 1421.107.

(2) CCC may, on a case-by-case basis, require a warehouse operator that is not Federally-or State-licensed to enter into an agreement with CCC that sets forth requirements to adequately protect CCC's security interest in commodities pledged as collateral for a loan in accordance with this part.

4. Remove §§ 1421.5551 through 1421.5559.

Signed in Washington, DC, on June 16, 2006.

Thomas B. Hofeller,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. E6–10368 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 32

RIN 3150–AH48

National Source Tracking of Sealed Sources: Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On June 13, 2006, the Nuclear Regulatory Commission (NRC) published for public comment a proposal to change the basis for the national source tracking rule from the NRC's authority to promote the common defense and security to protection of the public health and safety. The comment period for this proposed rule was to have expired on July 3, 2006. Senator Hillary Rodham Clinton and Representative Edward Markey requested an extension to the comment period. The NRC has decided to extend the comment period for an additional 25 days.

DATES: The comment period for the proposed rule published on June 13, 2006 (71 FR 34024), has been extended and now expires on July 28, 2006. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AH48) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking Web site. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking website to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov.* Comments can also be submitted via the Federal Rulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–8126, e-mail, *mlh1@nrc.gov.*

Dated at Rockville, Maryland, this 28th day of June, 2006.

For the Nuclear Regulatory Commission.

Annette Vietti Cook,

Secretary of the Commission.

[FR Doc. E6–10422 Filed 6–30–06; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 2006–24]

RIN 1550–AC06

Subordinated Debt Securities and Mandatorily Redeemable Preferred Stock

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: A savings association must obtain OTS approval (or non-objection) before it may include subordinated debt securities or mandatorily redeemable preferred stock in supplementary (tier 2) capital. OTS rules at 12 CFR 563.81 set forth application and notice procedures, requirements that securities must meet in order to be included in supplementary capital, and conditions for OTS approval (or non-objection), and also address other matters.

OTS is proposing to update this rule. The proposed rule would delete several unnecessary or outdated requirements and would conform certain provisions, such as maturity period requirements and purchaser restrictions, to the rules issued by the other federal banking agencies. In addition, the proposed rule would reconcile conflicting rules, add appropriate statutory cross-references, and rewrite the rule in plain language.

DATES: Comments must be received on or before September 1, 2006.

ADDRESSES: You may submit comments, identified by No. 2006–24, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail address: *regs.comments@ots.treas.gov.* Please include No. 2006–24 in the subject line of the message and include your name and telephone number in the message.
- Fax: (202) 906–6518.
- Mail: Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: No. 2006–24.
- Hand Delivery/Courier: Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office, Attention: No. 2006–24.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to the OTS Internet Site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.* In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT: David W. Riley, Senior Analyst, (202) 906–6669; Capital Policy, Karen Osterloh, Special Counsel, (202) 906–6639, Regulations and Legislation Division, or Gary Jeffers, Senior Attorney, (202) 906–6457, Business Transactions Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Discussion

A savings association must obtain OTS approval (or non-objection) before it may include subordinated debt securities or mandatorily redeemable preferred stock in supplementary (tier 2) capital. OTS rules at 12 CFR 563.81 set forth application and notice procedures, requirements that securities must meet in order to be included in supplementary capital, and conditions for OTS approval (or non-objection), and also address other matters.

OTS is proposing to update this rule. The proposed rule would delete several unnecessary or outdated requirements and would conform certain provisions, such as maturity period requirements and purchaser restrictions, to the rules issued by the other federal banking agencies. In addition, the proposed rule would reconcile conflicting OTS rules, add appropriate statutory cross-references, and rewrite the rule in plain language. A section-by-section description of the proposed rule follows.

Scope—Proposed § 563.81(a)

Paragraph (a) sets out the scope of the proposed rule. This new paragraph states that a savings association must comply with § 563.81 if it wishes to include covered securities in supplementary capital under 12 CFR 567.5(b). Paragraph (a) also states that § 563.81 does not apply if a savings association does not intend to include covered securities in supplementary capital. OTS notes that a savings association that issues subordinated debt securities must comply with the general borrowing limitations at 12 CFR 563.80, whether or not the savings association intends to include the securities in supplementary capital.

Application and Notice Procedures—Proposed § 563.81(b)

OTS has substantially amended its application processing rules in the past years. As a result, 12 CFR part 516 contains various procedures that overlap and duplicate the application processing requirements set out in existing § 563.81. Proposed paragraph (b) would streamline the rule by cross-referencing the application and notice filing procedures at part 516, subpart A. The proposed rule would also clarify that a savings association may file its application or notice before or after it issues covered securities, but may not include the covered securities in supplementary capital until OTS approves the application or does not object to the notice.

The proposed rule includes a new provision at paragraph (b)(2). This provision reminds savings associations that they must comply with OTS securities offering rules at 12 CFR part 563g by filing an offering circular for a proposed issuance of covered securities, unless the offering qualifies for an exemption under that part.

Securities Requirements—Proposed § 563.81(c)

Proposed paragraph (c) addresses the form of securities, maturity requirements, mandatory prepayment restrictions, and indenture agreements.

Form. The existing rule contains various requirements regarding the form of covered securities.[1] Paragraph (c)(1) of the proposed rule would restate these requirements with certain modifications. Under the proposed rule, each certificate evidencing a covered security must:

- Bear a legend indicating that the security is *not* a savings account or deposit, and is *not* insured by the United States or any agency or fund of the United States.
- State that the security is subordinated on liquidation, as to principal, interest, and premium, to all claims against the savings association that have the same priority as savings accounts or a higher priority.
- State that the security is not secured by the savings association's assets or the assets of any affiliate of the savings association.
- State that the security is not eligible collateral for a loan by the savings association.
- Restate certain statutory prohibitions. The existing rule requires covered securities to restate the prohibition on the payment of

[1] 12 CFR 563.81(d)(1).

dividends or interest at 12 U.S.C. 1828(b) (prohibiting payments while an insured depository institution is in default on payment of its Federal Deposit Insurance Corporation (FDIC) assessment). The proposed rule adds that subordinated debt securities must restate the prohibition on the payment of principal and interest at 12 U.S.C. 1831o(h) (prohibiting payments by a critically undercapitalized insured depository institution).[2]

- For subordinated debt securities, state (or refer to a document stating) the terms under which the savings association may prepay the obligation.
- State (or refer to a document stating) that the savings association must obtain OTS approval before the voluntarily prepayment of principal on subordinated debt securities, the acceleration of payment of principal on subordinated debt securities, or the voluntarily redemption of mandatorily redeemable preferred stock (other than scheduled redemptions), if the savings association fails to meet certain capital tests before or after the repayment. The current rule refers to regulatory capital standards at 12 CFR part 567. The proposed rule adds that OTS approval is required if the savings association is undercapitalized, significantly undercapitalized, or critically undercapitalized under prompt corrective action standards (PCA standards) at 12 CFR part 565.

The proposed rule would delete three provisions that are codified as form requirements in the existing rule. First, the proposed rule would delete various purchaser prohibitions. Under the existing rule, each certificate evidencing covered securities must state that the issuer is prohibited from selling the covered securities to another savings association or to a corporate affiliate of a savings association, without the prior written approval of OTS. The existing rule, however, permits an issuer to sell covered securities to its corporate affiliates, or to a diversified savings and loan holding company and its non-savings association affiliates.[3]

The Federal Home Loan Bank Board (FHLBB), as the operating head of the Federal Savings and Loan Insurance Corporation (FSLIC), originally promulgated this provision. The purchaser restriction was primarily intended to protect FSLIC and was based on the view that no risk is transferred outside the group of institutions with FSLIC-insured accounts when the purchaser is another insured savings association or its affiliate.[4] OTS questions whether it is appropriate to continue to impose this requirement on covered securities. Neither FDIC, which is charged with the primary responsibility of protecting the Deposit Insurance Fund, nor the other federal banking agencies impose this requirement on other insured depository institutions that issue similar securities. Moreover, other existing OTS rules provide some protection. For example, OTS capital rules protect the Deposit Insurance Fund by requiring savings associations to deduct reciprocal holdings of depository institution capital instruments from total capital.[5] Accordingly, OTS proposes to delete the purchaser restriction.[6]

OTS also proposes to delete the existing requirement that all certificates evidencing subordinated debt must state that the savings association retains the right to prepay the subordinated debt, without premium or other penalty, during the 15 months immediately prior to the maturity date.[7] This requirement ensures that a savings association has the ability to repay early where, for example, the savings association is able to refinance the debt on more favorable terms. The requirement, however, also prevents a savings association from bargaining away its right to prepay in return for a lower interest rate or other favorable terms. In recent years, savings associations have frequently requested, and OTS has granted, waivers of this 15-month prepayment provision. As a result, OTS proposes to eliminate this provision as a requirement for subordinated debt issuances.

Finally, the existing rule requires certificates evidencing subordinated debt to include certain provisions using language prescribed in the regulation.[8] Two of these provisions address various issues related to FDIC's obligations as receiver for the issuer. A third provision addresses the purchaser restrictions, which are discussed above. The proposed rule does not include prescribed language. Instead, OTS will prescribe language for certificates and related documents in its Application Processing Handbook. This will permit OTS to amend the required text promptly to reflect revised laws and regulations and other changed circumstances. OTS specifically requests comments on whether it should revise the current language when it is incorporated in the Application Processing Handbook.

Maturity requirements. The proposed rule at § 563.81(c)(2) addresses maturity requirements. Under the existing OTS rule, a covered security must have an original period to maturity (or to required redemption) of at least seven years. In addition, OTS's rule prescribes a formula that limits the amount of required sinking fund payments, required prepayments, required purchase-fund payments, required reserve allocations, and required redemptions that may occur during the first six years that a covered security is outstanding.[9] By contrast, the other banking agencies' rules require that subordinated debt securities and mandatorily redeemable preferred stock must have a five-year original weighted average maturity to be included in Tier 2 capital.[10]

Depending upon the payment schedule applicable to a particular covered security and other factors, OTS's rules could require an original weighted average maturity that is shorter—or longer—than five years. Ultimately, however, OTS believes that the five-year original weighted average maturity requirement may be more flexible than its current rule because the five-year requirement does not impose a specific formula limiting the amount of permissible repayments, payments, and reserve allocations that may be made during the first six years that the covered security is outstanding. Accordingly, OTS proposes to change its rule to state that covered securities must have an original weighted average maturity (or period to required redemption) of at least five years. OTS

[2] OTS notes that certain prepayments may be capital distributions that are subject to 12 CFR part 563, subpart E.

[3] 12 CFR 563.81(d)(1)(i)(B). This restriction is restated in various forms in several other places in the existing rule. *See* 12 CFR 563.81(d)(1)(vi)(C), (d)(3)(ii), and (k)(3)(ii).

[4] 50 FR 20550 (May 17, 1985).

[5] 12 CFR 567.5(c)(2)(i). The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and FDIC have similar capital rules. *See* 12 CFR part 3, Appendix A, § 2(c)(6)(ii) (OCC); 12 CFR part 208, Appendix A, § II.B.(iii) and part 225, Appendix A, § II.B.(iii) (FRB); and 12 CFR part 325, Appendix A, § I.B.(4) (FDIC).

[6] For similar reasons, OTS proposes to delete existing 12 CFR 563.81(d)(3)(i), which prohibits the sale of subordinated debt securities to a Federal Home Loan Bank or to FDIC.

[7] 12 CFR 563.81(d)(1)(iii).

[8] 12 CFR 563.81(d)(1)(vi).

[9] 12 CFR 563.81(d)(2). During the first six years that a covered security is outstanding, these items may not exceed the original principal amount or original redemption price of the covered securities multiplied by a specified fraction. The numerator of the fraction is the number of years elapsed since the issuance of the covered security. The denominator of the fraction is the number of years in the original period to maturity or required redemption.

[10] OCC and FRB rules use the phrase "original weighted average maturity," while FDIC rules use the phrase "original average maturity." *See* 12 CFR 3.100(f)(1) (OCC); 12 CFR part 208, Appendix A, § II.A.2.d.(ii) and part 225, Appendix A, § II.A.2.d.(i) (FRB); and 12 CFR part 325, Appendix A, § I.A.2.(d) (FDIC).

notes that this change would conform this aspect of its capital rules to the capital rules of the other banking agencies and is consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803). Section 303 directs the agencies to work to make uniform regulations and guidelines implementing common statutory or supervisory policies, consistent with the principles of safety and soundness, statutory law and policy, and the public interest.

Mandatory prepayment of principal. The proposed rule at § 563.81(c)(3) would restate the current rules regarding mandatory prepayment of subordinated debt.[11] Specifically, the proposed rule states that subordinated debt securities may not provide events of default or contain other provisions that could result in a mandatory prepayment of principal, other than events of default that:

- Arise from the savings association's failure to make timely payment of interest or principal.
- Arise from its failure to comply with reasonable financial, operating, and maintenance covenants of a type that are customarily included in indentures for publicly offered debt securities,
- Relate to bankruptcy, insolvency, receivership, or similar events.

As noted above, the proposed rule would continue to state that any acceleration of payment of principal on a subordinated debt security by a savings association that fails to meet certain capital requirements would be subject to OTS prior approval.

All of the banking agencies allow for the mandatory prepayment or acceleration of principal upon events of default related to bankruptcy, insolvency, receivership, and similar events.[12] However, there is no uniform approach with respect to prepayment or acceleration upon other events of default.[13] OTS seeks public comment whether it should revise this provision. Commenters should address whether the rules issued by any other Federal banking agency more appropriately address events of default that may trigger mandatory prepayment or acceleration of principal.

Indenture requirements. The current rule requires savings associations to use an indenture for subordinated debt securities.[14] OTS proposes to update the monetary thresholds in these indenture requirements to reflect statutory changes in the Trust Indenture Act of 1939 (TIA). 15 U.S.C. 77aaa *et seq.*

In addition to these updates, OTS is seeking public comment on additional possible revisions to the indenture requirements. For example, the current rule requires a savings association to use an indenture for all subordinated debt security issuances. The TIA generally requires indentures for debt instruments, but does not require an indenture where the underlying securities are exempt from registration under the Securities Act of 1933 (Securities Act).[15] One such exemption is available for offerings made solely to accredited investors.[16] The Securities Act and the TIA exempt such offerings because accredited investors are considered to have sufficient financial and professional resources and sophistication to analyze the offering, make informed decisions, and defend and exercise their rights.[17] In recent years, OTS has waived the indenture requirement where subordinated debt securities are issued to accredited investors that are top-tier parent holding companies of the issuer (or subsidiaries of these holding companies), provided a paying agent agreement is in place. These waivers are conditioned upon the savings association's representation that it will provide OTS with a draft indenture before the debt holder sells or assigns any of the debt securities to an unaffiliated third party. In addition, the savings association must agree that the indenture will apply to all unaffiliated third party debt holders. OTS is considering exempting such issuances from the indenture requirements in the final rule and seeks comment on this possible change. Commenters are invited to address whether OTS should exempt offerings to accredited investors that are holding companies of the issuer (or their subsidiaries) from the indenture requirement, and whether it should also exempt offerings to unaffiliated accredited investors.

OTS Review—Proposed § 563.81(d)

Proposed paragraph (d)(1) states that OTS will review notices and applications under the application processing procedures at 12 CFR part 516, subpart E. In addition, proposed paragraph (d)(2) sets out the factors that OTS will consider in its review of a notice or application. These criteria are based on the existing rule with minor changes.[18] In reviewing notices and applications under this section, OTS will consider whether:

- The issuance of the covered securities is authorized under applicable laws and regulations, and is consistent with the savings association's charter and bylaws.
- The savings association is at least adequately capitalized under the PCA standards and meets the regulatory capital requirements. The current rule refers only to the regulatory capital requirements at 12 CFR part 567. The proposed rule would add the reference to the PCA standards at 12 CFR part 565.
- The savings association is or will be able to service the covered securities.
- The covered securities are consistent with the requirements regarding the form of securities, limitations on terms, prepayment restrictions, use of an indenture, and other requirements imposed under the rule.
- The covered securities and related transactions sufficiently transfer risk from the Deposit Insurance Fund.
- OTS has no objection to the issuance based on the savings association's overall policies, condition, and operations.[19]

The existing rule states that issuances of covered securities are subject to seven standard conditions. OTS has decided to delete most of these conditions. OTS has determined that many of the standard conditions are unnecessary because they are stated elsewhere as proposed regulatory requirements. For example, reporting is addressed in proposed paragraph (g),[20] and amendments to covered securities following OTS review are addressed at

[11] 12 CFR 563.81(b)(3).

[12] 12 CFR 250.166(b)(2) (FRB); and 12 CFR part 325, Appendix A, § I.A.2.(c)(2) and (d) (FDIC). See Comptroller's Licensing Manual, Subordinated Debt (November 2003), pp 15–16.

[13] 12 CFR 250.166 (FRB); 12 CFR part 325, Appendix A, § I.A.2.(d) (FDIC); and 12 CFR part 3, Appendix A, § 2(b)(4) and Comptroller's Licensing Manual, Subordinated Debt (November 2003) (OCC).

[14] 12 CFR 563.81(d)(4).

[15] 15 U.S.C. 77ddd.

[16] 15 U.S.C. 77d(6).

[17] For example, "accredited investors" include such entities as: brokers or dealers registered under the Securities Exchange Act of 1934; insurance companies as defined in the Securities Act; investment companies registered under the Investment Company Act of 1940; certain employee benefit plans; directors, executive officers or general partners of the issuer; natural persons with income or net worth in excess of specified limits; and certain trusts with assets in access of specified limits. 17 CFR 230.501(a). *See* 15 U.S.C. 77(a)(15).

[18] 12 CFR 563.81(b).

[19] The existing rule states that OTS shall establish non-exclusive guidelines identifying supervisory bases that may be used to object to the inclusion of covered securities in regulatory capital. 12 CFR 563.81(b)(2)(i). While OTS may establish such guidance in the future, the proposed rule does not require OTS to take this step.

[20] 12 CFR 563.81(k)(2) and (3).

new paragraph (e).[21] Other standard conditions would be deleted because they are contrary to current securities law or refer to obsolete OTS regulations.[22]

With these deletions, proposed 563.81(d)(3) would provide that OTS approval or nonobjection is conditioned upon no material changes to the information disclosed in the application or notice submitted to OTS.[23] The proposed rule would also expressly state that OTS may impose such additional requirements or conditions as may be necessary to protect purchasers, the savings association, OTS, or the Deposit Insurance Fund.

Amendments—Proposed § 563.81(e)

The proposed rule would resolve an inconsistency in the current rules regarding amendments to covered securities or related documents following OTS review. One provision appears to require a savings association to seek OTS approval or nonobjection only where an amendment would not conform to OTS regulations governing the form or content of the covered securities and related documents, or where the amended securities would not sufficiently transfer risk from the Deposit Insurance Fund.[24] The other provision requires a savings association to seek OTS approval or nonobjection for *all* amendments that occur after the conclusion of the OTS review.[25] OTS believes that it should have the opportunity to review all amendments to covered securities and related documents. Accordingly, the proposed rule requires OTS approval or nonobjection for all amendments after OTS review.

Sale of Covered Securities—Proposed § 563.81(f)

The existing rule provides that a savings association must complete the sale of securities within one year of OTS approval or nonobjection and that OTS may extend this period upon a timely request.[26] Proposed paragraph (f) restates this provision in plain language without substantive change.

Reports—Proposed § 563.81(g)

The existing rule requires savings associations to submit various reports in connection with the sale of covered securities.[27] The proposed rule would restate and consolidate all reporting requirements in one provision. The proposed rule does not modify the substance of the reporting requirement.

Obsolete Provisions

In addition to the revisions discussed above, OTS proposes to delete certain obsolete provisions of the existing rules. These existing provisions include:

- 12 CFR 563.81(b)(2)(i)(B), which refers to non-existent OTS regulations at 12 CFR 563.160 and 563.172.
- 12 CFR 563.81(d) (introductory paragraph), which states that OTS may waive certain requirements. This provision duplicates (and conflicts with) OTS general waiver authority at 12 CFR 500.30(a).
- 12 CFR 563.81(k)(7). This section conflicts with 12 CFR 563.76, which prohibits the sale of debt securities on the premises of a savings association.

II. Solicitation of Comments Regarding the Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires Federal banking agencies to use ''plain language'' in all proposed and final rules published after January 1, 2000. OTS invites comments on how to make this proposed rule easier to understand. For example:

(1) Have we organized the material to suit your needs? If not, how could the material be better organized?

(2) Do we clearly state the requirements in the rule? If not, how could the rule be more clearly stated?

(3) Does the rule contain technical language or jargon that is not clear? If so, what language requires clarification?

(4) Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?

III. Executive Order 12866

The Director of OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866.

IV. Unfunded Mandates Reform Act of 1995

Today's proposed rule merely revises an existing rule to delete unnecessary, outdated, and conflicting requirements, to add appropriate statutory cross-references, and to rewrite the rule in plain language. Accordingly, OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more and that a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

VI. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601), the Director certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. Today's proposed rule merely revises an existing rule to delete unnecessary, outdated, and conflicting requirements, to add appropriate statutory cross-references, and to rewrite the rule in plain language.

VII. Paperwork Reduction Act of 1995

The information collection requirements in the existing OTS rules at 12 CFR 563.81 were previously approved under OMB control number 1550–00xx. The proposed rule would continue to incorporate these requirements and does not make any substantive changes that affect the overall burden of compliance.

List of Subjects in 12 CFR Part 563

Accounting, Administrative practice and procedure, Advertising, Conflict of interest, Crime, Currency, Holding companies, Investments, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bond.

Accordingly, the Office of Thrift Supervision proposes to amend 12 CFR part 563 as set forth below:

PART 563—SAVINGS ASSOCIATIONS—OPERATIONS

1. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 1831o, 3806; 31 U.S.C. 5318; 42 U.S.C. 4106.

2. Revise § 563.81 to read as follows:

§ 563.81 Inclusion of subordinated debt securities and mandatorily redeemable preferred stock as supplementary capital.

(a) *Scope.* A savings association must comply with this section in order to include subordinated debt securities or mandatorily redeemable preferred stock (''covered securities'') in supplementary capital under 12 CFR 567.5(b). If a savings association does not include covered securities in supplementary capital, it is not required to comply with this section.

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[21] 12 CFR 563.81(k)(5) and (6).

[22] 12 CFR 563.81(k)(1) and (7).

[23] 12 CFR 563.81(k)(4).

[24] 12 CFR 563.81(k)(5).

[25] 12 CFR 563.81(a).

[26] 12 CFR 563.81(g).

[27] These reporting requirements are contained in 12 CFR 563.81(h) and in the standard conditions at 12 CFR 563.81(k)(2) and (3).

(b) *Application and notice procedures.* (1) A savings association must file an application or notice under 12 CFR part 516, subpart A seeking OTS approval of, or nonobjection to, the inclusion of covered securities in supplementary capital. The savings association may file its application or notice before or after it issues covered securities, but may not include covered securities in supplementary capital until OTS approves the application or does not object to the notice.

(2) A savings association must also comply with the securities offering rules at 12 CFR part 563g by filing an offering circular for a proposed issuance of covered securities, unless the offering qualifies for an exemption under that part.

(c) *Securities requirements.* To be included in supplementary capital, covered securities must meet the following requirements:

(1) *Form.* (i) Each certificate evidencing a covered security must:

(A) Bear the following legend on its face, in bold type: ''This security is *not* a savings account or deposit and it is *not* insured by the United States or any agency or fund of the United States;''

(B) State that the security is subordinated on liquidation, as to principal, interest, and premium, to all claims against the savings association that have the same priority as savings accounts or a higher priority;

(C) State that the security is not secured by the savings association's assets or the assets of any affiliate of the savings association, as defined in 12 CFR 583.2;

(D) State that the security is not eligible collateral for a loan by the savings association;

(E) State the prohibition on the payment of dividends or interest at 12 U.S.C. 1828(b) and, in the case of subordinated debt securities, state the prohibition on the payment of principal and interest at 12 U.S.C. 1831o(h);

(F) For subordinated debt securities, state or refer to a document stating the terms under which the savings association may prepay the obligation; and

(G) State or refer to a document stating that the savings association must obtain OTS approval before the voluntarily prepayment of principal on subordinated debt securities, the acceleration of payment of principal on subordinated debt securities, or the voluntarily redemption of mandatorily redeemable preferred stock (other than scheduled redemptions), if the savings association is undercapitalized, significantly undercapitalized, or critically undercapitalized as described in § 565.4(b) of this chapter, fails to meet the regulatory capital requirements at 12 CFR part 567, or would fail to meet any of these standards following the payment.

(ii) A savings association must include such additional statements as OTS may prescribe for certificates, purchase agreements, indentures, and other related documents. OTS will prescribe the text of these additional statements in its Application Processing Handbook.

(2) *Maturity requirements.* Covered securities must have an original weighted average maturity or original weighted average period to required redemption of at least five years.

(3) *Mandatory prepayment.* Subordinated debt securities and related documents may not provide events of default or contain other provisions that could result in a mandatory prepayment of principal, other than events of default that:

(i) Arise from the savings association's failure to make timely payment of interest or principal;

(ii) Arise from its failure to comply with reasonable financial, operating, and maintenance covenants of a type that are customarily included in indentures for publicly offered debt securities; or

(iii) Relate to bankruptcy, insolvency, receivership, or similar events.

(4) *Indenture.* A savings association must use an indenture for subordinated debt securities. If the aggregate amount of subordinated debt securities that are publicly offered (excluding sales in a non-public offering as defined in 12 CFR 563g.4) and sold in any consecutive 12-month or 36-month period exceeds $5,000,000 or $10,000,000 respectively (or such lesser amount that the Securities and Exchange Commission shall establish by rule or regulation under 15 U.S.C. 77ddd), the indenture must provide for:

(i) The appointment of a trustee other than the savings association or an affiliate of the savings association (as defined at 12 CFR 583.2); and

(ii) Collective enforcement of the security holders' rights and remedies.

(d) *OTS review.* (1) OTS will review notices and applications under 12 CFR part 516, subpart E.

(2) In reviewing notices and applications under this section, OTS will consider whether:

(i) The issuance of the covered securities is authorized under applicable laws and regulations and is consistent with the savings association's charter and bylaws.

(ii) The savings association is at least adequately capitalized under § 565.4(b) of this chapter and meets the regulatory capital requirements at § 567.2 of this chapter.

(iii) The savings association is or will be able to service the covered securities.

(iv) The covered securities are consistent with the requirements of this section.

(v) The covered securities and related transactions sufficiently transfer risk from the Deposit Insurance Fund.

(vi) OTS has no objection to the issuance based on the savings association's overall policies, condition, and operations.

(3) OTS approval or nonobjection is conditioned upon no material changes to the information disclosed in the application or notice submitted to OTS. OTS may impose such additional requirements or conditions as it may deem necessary to protect purchasers, the savings association, OTS, or the Deposit Insurance Fund.

(e) *Amendments.* If a savings association amends the covered securities or related documents following the completion of OTS review, it must obtain OTS approval or nonobjection under this section before it may include the amended securities in supplementary capital.

(f) *Sale of covered securities.* The savings association must complete the sale of covered securities within one year after OTS approval or nonobjection under this section. A savings association may request an extension of the offering period by filing a written request with OTS. The savings association must demonstrate good cause for the extension and file the request at least 30 days before the expiration of the offering period or any extension of the offering period.

(g) *Reports.* A savings association must file the following information with OTS within 30 days after the savings association completes the sale of covered securities includable as supplementary capital. If the savings association filed its application or notice following the completion of the sale, it must submit this information with its application or notice:

(1) A written report indicating the number of purchasers, the total dollar amount of securities sold, the net proceeds received by the savings association from the issuance, and the amount of covered securities, net of all expenses, to be included as supplementary capital;

(2) Three copies of an executed form of the securities and a copy of any related documents governing the issuance or administration of the securities; and

(3) A certification by the appropriate executive officer indicating that the savings association complied with all applicable laws and regulations in connection with the offering, issuance, and sale of the securities.

Dated: June 26, 2006.

By the Office of Thrift Supervision.

John M. Reich,

Director.

[FR Doc. E6–10341 Filed 6–30–06; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25232; Directorate Identifier 2006–NM–106–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ 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 BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ airplanes. This proposed AD would require repetitive inspections of the wing top skin under the rib 0 joint strap, and related investigative and corrective actions if necessary. This proposed AD results from a report of a significant crack in the wing top skin under the rib 0 joint strap. We are proposing this AD to detect and correct corrosion and cracking in that area, which could result in reduced structural integrity of the wing.

DATES: We must receive comments on this proposed AD by August 2, 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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; 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–2006–25232; Directorate Identifier 2006–NM–106–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 European Aviation Safety Agency (EASA) notified us that an unsafe condition may exist on certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ airplanes. The EASA advises that a significant crack in the wing top skin under the rib 0 joint strap was found during a scheduled inspection of adjacent structure. This cracking may also occur on other airplanes having top wing skins made from the same aluminum alloy as the top wing skin on the subject airplane. Cracking in this area, if not corrected, could result in reduced structural integrity of the wing.

Relevant Service Information

The manufacturer has issued BAE Systems (Operations) Limited Alert Inspection Service Bulletin (ISB) ISB.57–a071, dated April 12, 2006. The ISB describes procedures for repetitive ultrasonic inspections for defects (including corrosion and cracking) of the wing top skin under the rib 0 joint strap, at the outer row of fasteners. The initial compliance time ranges from the earlier of 500 flights or 3 months (for airplanes with existing repairs and no previous inspection of the subject area) to the earlier of 4,000 flight cycles or 24 months (for airplanes previously inspected). For any defect found, the ISB specifies the related investigative actions of a radiographic inspection of the top wing skin to detect corrosion and cracking, and a high frequency eddy current inspection around the nuts of the stringer flanges to detect cracking and corrosion. The ISB describes the corrective actions of repairing the cracks or corrosion; alternatively, the ISB specifies operators may obtain an approved BAE Systems repair scheme.

Accomplishing the actions specified in the ISB is intended to adequately address the unsafe condition. The EASA mandated the ISB and issued emergency airworthiness directive 2006–0091–E, dated April 20, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

The ISB refers to BAe 146 Series/ AVRO–RJ Series Nondestructive Testing Manual 57–10–12, Revision 23, dated November 15, 2003, as an additional source of service information for the radiographic and high frequency eddy current inspections. The ISB refers to BAe Structural Repair Manual 57–10–15–001 as an additional source of service information for the repair.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in the United Kingdom 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 ISB described previously, except as discussed below.

Differences Between the Proposed AD and ISB

The ISB allows, as an option, an approved BAE Systems repair scheme for repairing certain conditions, but this AD requires repairing those conditions using a method approved by the FAA or the EASA (or its delegated agent). In light of the type of repair required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this AD, a repair approved by the FAA or the EASA is acceptable for compliance with this AD.

Clarification of Compliance Time

This AD refers to compliance times specified in the ISB. However, the ISB does not provide a relevant point from which to measure the compliance time. This AD requires that the required actions be done within the specified compliance times after the effective date of this AD.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD, per inspection cycle.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	6	$80	$0	$480	10	$4,800

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):

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2006–25232; Directorate Identifier 2006–NM–106–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by August 2, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A series airplanes; and Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; as identified in BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.57–a071, dated April 12, 2006.

Unsafe Condition

(d) This AD results from a report of a significant crack in the wing top skin under the rib 0 joint strap. We are issuing this AD to detect and correct corrosion and cracking in that area, which could result in reduced structural integrity of the wing.

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.

Inspection

(f) Inspect the airplane at the applicable time specified in paragraph 1.D. ''Compliance'' of BAE Systems (Operations) Limited Alert Inspection Service Bulletin (ISB) ISB.57–a071, dated April 12, 2006, except, where the service bulletin specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD. The inspection required by this paragraph involves an ultrasonic inspection for defects, including corrosion and cracking, of the wing top skin under the rib 0 joint strap, at the outer row of fasteners, by doing all applicable actions specified in the Accomplishment Instructions of the ISB. Do all applicable related investigative and corrective actions before further flight in accordance with the ISB, except as required by paragraph (g) of this AD. Repeat the inspection at intervals not to exceed 4,000 flight cycles or 24 months, whichever occurs first.

Exceptions to ISB Specifications

(g) BAE Systems (Operations) Limited Alert Inspection Service Bulletin (ISB) ISB.57-a071, dated April 12, 2006, specifies two provisions not specified in this AD.

(1) No inspection report is necessary.

(2) As an option, the ISB would allow repairs specified in an approved BAE Systems repair scheme. This AD instead requires any repair using this option in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (or its delegated agent).

Alternative Methods of Compliance (AMOCs)

(h)(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

(i) The subject of this AD is also addressed in European Aviation Safety Agency emergency airworthiness directive 2006–0091–E, dated April 20, 2006.

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

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–10352 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 59]

RIN: 1513–AB13

Proposed Establishment of the Outer Coastal Plain Viticultural Area (2003R–166P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the Outer Coastal Plain viticultural area in southeastern New Jersey. The proposed viticultural area consists of approximately 2,255,400 acres and includes all of Cumberland, Cape May, Atlantic, and Ocean Counties and portions of Salem, Gloucester, Camden, Burlington, and Monmouth Counties. We designate viticultural areas to allow bottlers to better describe the origin of their wines and to allow consumers to better identify the wines they may purchase. We invite comments on this proposed addition to our regulations.

DATES: We must receive written comments on or before September 1, 2006.

ADDRESSES: You may send comments to any of the following addresses:

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 59, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).
- *http://www.ttb.gov/alcohol/rules/index.htm*. An online comment form is posted with this notice on our Web site.
- *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of the notice and comments online at *http://www.ttb.gov/alcohol/rules/index.htm*.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, P.O. Box 18152, Roanoke, VA 24014; telephone 540–344–9333.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Outer Coastal Plain Petition

James Quarella of Bellview Winery, Landisville, New Jersey, petitioned TTB to establish the ''Outer Coastal Plain'' as an American viticultural area in southeastern New Jersey. The proposed viticultural area covers approximately 2,255,400 acres and includes all of Cumberland, Cape May, Atlantic, and Ocean Counties and portions of Salem, Gloucester, Camden, Burlington, and Monmouth Counties. According to the petitioner, the area currently includes thirteen wineries, several vineyards, and approximately 750 acres planted to vines. We summarize below the evidence submitted in support of the petition.

Name Evidence

The Outer Coastal Plain is one of five defined physiographic regions of New Jersey. The other regions are the Inner Coastal Plain, the Newark Basin Piedmont, the Highlands, and the Appalachian Valley and Ridge.

The Outer Coastal Plain includes most of the State's Atlantic coastline and the area known as the ''Pinelands.'' The petitioner states that most geology reference sources and such government entities as the New Jersey Department of Environmental Protection, USGS, and the United States Department of Agriculture (USDA), call the region the ''Outer Coastal Plain.''

As evidence that the proposed viticultural area is known locally and nationally by this name, the petitioner submitted several documents that identify the area as the ''Outer Coastal Plain.'' These included—

- A map from a National Park Service Web site showing landform regions in New Jersey (*http://www.cr.nps.gov/history/online_books/nj2/chap1.htm.*);
- A map entitled ''Geographic Boundaries of the Outer Coastal Plain (OCP) of New Jersey,'' issued by the New Jersey Department of Environmental Protection; and
- A list of native trees and shrubs for the Outer Coastal Plain on the Web site of the New Jersey Agricultural Experiment Station/Cook College, Rutgers, The State University of New Jersey (*http://www.rce.rutgers.edu/njriparianforestbuffers/nativeOUTER.htm.*).

The Outer Coastal Plain is part of the Atlantic Coastal Plain, an extensive seaward-sloping plain stretching about 2,200 miles along the coast of the Eastern United States from Massachusetts to Florida. It consists of an inner and outer coastal plain.

Boundary Evidence

The Outer Coastal Plain encompasses the southeastern part of the State of New Jersey. The proposed area is roughly triangular in shape and comprises the most easterly and southerly portions of New Jersey, including most of the State's Atlantic coastline and the area known as the ''Pinelands'' or ''Pine Barrens.'' According to the petitioner, the geographical and geological features that define the boundaries of the proposed viticultural area clearly distinguish it from surrounding areas. The proposed viticultural area's proximity to the Atlantic Ocean and Delaware Bay greatly influences its climate and geological features, such as soils and underlying sediments. These features are described in greater detail in the following section.

The Atlantic Ocean coastline, including its barrier islands, forms the area's eastern boundary, and Delaware Bay forms its southern boundary. The diagonal western boundary is immediately east of a belt of low hills, called cuestas. These cuestas, which extend in a northeasterly direction from the Delaware River lowlands in the southwest to the Atlantic Highlands overlooking Raritan Bay in the northeast, separate the proposed area from the Inner Coastal Plain. The diagonal western boundary meets the eastern boundary within the city of Long Branch, New Jersey, on the Atlantic coastline.

As historical evidence for these proposed boundaries, the petitioner cited the area's long viticultural history. According to evidence that the petitioner submitted, viticulture flourished in the area as early as the mid-nineteenth century. Egg Harbor City, New Jersey, was the center of a thriving wine industry with hundreds of acres of grapes. In 1864, Louis Renault established Renault Winery in Egg Harbor City, where he found the soils and climate to be similar to those of his native Rheims, France. Today, Renault Winery is one of the oldest, continuous winery operations in the United States. Around the same time, Dr. Thomas Welch founded the U.S. grape juice industry in Vineland, New Jersey, with a product that became known as Welch's Grape Juice. Although Prohibition devastated the area's wineries, the wine industry has made a strong comeback in recent years, due largely to the New Jersey Farm Winery Act of 1981. The number of wineries in the State jumped from 9 in 1981 to 27 today, 13 of which are in the proposed area.

Distinguishing Features

Soils and Geology

The petitioner asserts that the soils and geology of the proposed viticultural area clearly distinguish it from surrounding areas. Despite its large landmass, the Outer Coastal Plain has remarkably uniform, well drained sandy soils that derived from unconsolidated sediments. The relatively low fertility and low pH of these soils, the petitioner notes, are favorable for grape growing. In contrast to the soils of the Outer Coastal Plain, the fine, silty soils of the Inner Coastal Plain to the west have both higher fertility and higher pH and the soils to the north are dense, rocky, and derived from bedrock.

As evidence of the proposed viticultural area's distinctive geology, the petitioner submitted a document entitled ''Geologic Map of New Jersey.'' Published by the State's Department of Environmental Protection, this map clearly shows that most of the Outer Coastal Plain is underlain by unconsolidated deposits of sand, silt, and clay of the Tertiary period and that a small coastal fringe consists of beach and estuarine deposits of the Holocene epoch. The parent material of soils in other parts of the State formed in later geologic periods. The Inner Coastal Plain, in contrast, is underlain by sand, silt, and clay of the Cretaceous period, and the northern regions of the State are underlain by sedimentary, igneous, and metamorphic rocks of still later geologic periods.

According to the petitioner, a unique feature of the proposed viticultural area is its significant aquifers, particularly the Cohansey aquifer, the largest freshwater aquifer in the mid-Atlantic region. The petitioner states that this aquifer is so important to the region's drainage and water supply that it was one of the reasons the Pinelands National Reserve was created as a federally protected area. The Cohansey aquifer is part of the 1.93-million-acre Kirkwood-Cohansey aquifer system, the borders of which nearly correspond to those of the proposed viticultural area. These aquifers, the petitioner notes, provide an abundant source of water for the proposed viticultural area's vineyards. In contrast, the adjacent Inner Coastal Plain has smaller, confined aquifers, which are mostly in the Potomac-Raritan-Magothy aquifer system.

Elevation

The petitioner states that the proposed viticultural area's elevation is another feature that distinguishes it from adjacent areas. According to an elevation map issued by the New Jersey Geological Survey, almost the entire area has elevations of less than 280 feet above sea level, and most of the area has elevations significantly below that height. The petitioner notes that the proposed viticultural area's low elevation and proximity to the Atlantic Ocean are moderating influences on its climate, as described below. Elevations in the other regions of New Jersey are higher. Elevations in the northwestern part of the State, for example, range from 1,300 to 1,680 feet.

Climate

According to the petitioner, the climate of the Outer Coastal Plain is strongly influenced by the Atlantic Ocean to the east and Delaware Bay to the south. Because of this maritime influence on its climate, the proposed viticultural area is generally warmer, has a longer growing season, and has more moderate temperatures than areas to the west and north. As evidence of the maritime influence, the petitioner submitted a USDA plant hardiness zone map of New Jersey and noted that the proposed viticultural area is in zones 6B, 7A, or 7B, while areas to the north and west are in cooler zones and have shorter growing seasons. The petitioner also submitted a climate overview published on the Web site of the New Jersey State Climatologist. (*See http://climate.Rutgers.edu/stateclim_v1/njclimoverview.html*.) The overview shows that the proposed viticultural area ranges between 190 and 217 freeze-free days per year. In contrast, the Highlands region to the north averages 163 freeze-free days and the central Piedmont region averages 179 freeze-free days. The petitioner notes that because of these climatic differences, more temperature-sensitive grape varieties may be grown in vineyards within the proposed viticultural area than in vineyards in other adjacent regions.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and we list them below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we establish this proposed viticultural area, its name, ''Outer Coastal Plain,'' will be recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the new regulation would clarify this point. Consequently, wine bottlers using ''Outer Coastal Plain'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. On the other hand, we do not believe that any single part of the proposed viticultural area name standing alone would have viticultural significance if the new area is established. Accordingly, the proposed part 9 regulatory text set forth in this document specifies only the full ''Outer Coastal Plain'' name as a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other term as an appellation of origin and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name ''Outer Coastal Plain'' for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of the approval of the Outer Coastal Plain viticultural area.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

We invite comments from interested members of the public on whether we should establish the proposed viticultural area. We are also interested in receiving comments on the sufficiency and accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Outer Coastal Plain viticultural area on brand labels that include the words ''Outer Coastal Plain'' as discussed above under ''Impact on Current Wine Labels,'' we are particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. We are also interested in receiving suggestions for ways to avoid any conflicts, for example by adopting a modified or different name for the viticultural area.

In addition, TTB is interested in comments regarding the noninclusion within the proposed viticultural area of areas within other States that are part of the Atlantic Coastal Plain and that may therefore also have a claim to use of the name ''Outer Coastal Plain,'' including information on any wine grape-growing in those areas. In this regard, we invite comments on whether the name ''New Jersey Outer Coastal Plain'' would more appropriately identify the proposed viticultural area. Comments in this regard should include documentation or other information supporting the conclusion that use of ''New Jersey Outer Coastal Plain'' rather than only ''Outer Coastal Plain'' on a wine label would better enable consumers and vintners to attribute to the wine in question the quality, reputation, or other characteristic of wine made from grapes grown in the proposed viticultural area.

Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments to be originals. You may submit comments in one of five ways:

- *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *Facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be on 8.5- by 11-inch paper;

(2) Contain a legible, written signature; and

(3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

• *E-mail:* You may e-mail comments to *nprm@ttb.gov.* Comments transmitted by electronic mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5- by 11-inch paper.

• *Online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm.* Select the ''Send comments via e-mail'' link under this notice number.

• *Federal e-rulemaking portal:* To submit comments to us via the Federal e-rulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Information Resource Center at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our information specialist at the above address or by telephone at 202–927–2400 to schedule an appointment or to request copies of comments.

We will post this notice and any comments we receive on this proposal on the TTB Web site. All name and address information submitted with the comments will be posted, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Information Resource Center. To access the online copy of this notice and the submitted comments, visit *http://www.ttb.gov/alcohol/rules/index.htm.* Select the ''View Comments'' link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

Jennifer Berry and Linda Chapman of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Amend subpart C by adding § 9.____ to read as follows:

§ 9.____ Outer Coastal Plain.

(a) *Name.* The name of the viticultural area described in this section is ''Outer Coastal Plain''. For purposes of part 4 of this chapter, ''Outer Coastal Plain'' is a term of viticultural significance.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Outer Coastal Plain viticultural area are seven United States Geological Survey topographic maps. They are titled—

(1) Wilmington, Delaware-New Jersey-Pennsylvania-Maryland, 1984, 1:100,000 scale;

(2) Hammonton, New Jersey, 1984, 1:100,000 scale;

(3) Trenton, New Jersey-Pennsylvania-New York, 1986, 1:100,000 scale;

(4) Long Branch, New Jersey, 1954, photorevised 1981, 1:24,000 scale;

(5) Atlantic City, New Jersey, 1984, 1:100,000 scale;

(6) Cape May, New Jersey, 1981, 1:100,000 scale; and

(7) Dover, Delaware-New Jersey-Maryland, 1984, 1:100,000 scale.

(c) *Boundary.* The Outer Coastal Plain viticultural area includes all of Cumberland, Cape May, Atlantic, and Ocean Counties and portions of Salem, Gloucester, Camden, Burlington, and Monmouth Counties in the State of New Jersey. The boundary of the Outer Coastal Plain viticultural area is as described below.

(1) The beginning point is on the Wilmington map at the confluence of Alloway Creek with the Delaware River (within Mad Horse Creek State Wildlife Management Area) in Salem County;

(2) From the beginning point, proceed northeasterly in a straight line to the village of Hagerville; then

(3) Continue north on an unnamed road locally known as County Road (CR) 658 to its intersection with State Route (SR) 49; then

(4) Proceed northwesterly on SR 49 to its intersection with SR 45 in the center of the town of Salem; then

(5) Proceed northeasterly on SR 45 to its intersection with SR 540 at the village of Pointers; then

(6) Proceed north on SR 540 into the village of Slapes Corner; then

(7) In Slapes Corner, proceed northeasterly on an unnamed road locally known as CR 646 to its intersection with the New Jersey Turnpike near the village of Auburn; then

(8) Proceed northeasterly on the New Jersey Turnpike for approximately 18 miles to its intersection with SR 47; then

(9) Proceed south on SR 47 for approximately 0.5 mile to its intersection with SR 534 at the village of Gardenville Center; then

(10) Proceed southeasterly through Gardenville Center on SR 534 to its intersection with SR 544; then

(11) Proceed northeasterly on SR 544 to its intersection with SR 73 on the Hammonton map; then

(12) Proceed north-northwesterly on SR 73 to its intersection with SR 70 in Cropwell; then

(13) Proceed east on SR 70 to its intersection with U.S. 206 in Red Lion; then

(14) Proceed north on U.S. 206, onto the Trenton map, to the village of Chambers Corner; then

(15) Proceed northeasterly on an unnamed road locally known as CR 537, through the village of Jobstown; then

(16) Continue northeasterly on CR 537, through the villages of Smithburg and Freehold, to its intersection with SR 18; then

(17) Proceed easterly on SR 18 to its intersection with the Garden State Parkway; then

(18) Proceed north on the Garden State Parkway and immediately exit

onto SR 36 East and onto the Long Branch map; then

(19) Using the Long Branch map, continue east on SR 36 to where it intersects with Joline Avenue; then

(20) Proceed northeasterly on Joline Avenue to the Atlantic Ocean shoreline; then

(21) Follow the Atlantic Ocean shoreline south, encompassing all coastal islands, onto the Trenton, Hammonton, Atlantic City, and Cape May maps, to the city of Cape May; then

(22) Proceed west, then north, along the eastern bank of the Delaware River, onto the Atlantic City, Dover, and Wilmington maps to the beginning point.

Signed: June 26, 2006.

John J. Manfreda,

Administrator.

[FR Doc. E6–10384 Filed 6–30–06; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AD18

Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Revisions to Subpart A—General; Subpart I—Platforms and Structures; and Subpart J—Pipelines and Pipeline Rights-of-Way

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: MMS is proposing to amend its regulations to require lessees, lease operators, and pipeline right-of-way (ROW) holders to submit assessment information on the structural integrity of their OCS platforms each year, and to submit an inspection program to MMS yearly. Also, a damage report would be required if a facility or pipeline was damaged by a hurricane or other natural phenomena. Lessees, lease operators, and pipeline ROW holders proposing to use unbonded flexible pipe for pipelines, or to install pipeline risers on floating platforms, would have to provide additional information on their projects. The proposed rule also would incorporate an industry-developed standard concerning the in-service inspection of mooring hardware for floating drilling units. These proposed changes would allow MMS to better regulate the safety of the oil and gas infrastructure, and to promptly assess damage resulting from hurricanes or other natural phenomena.

DATES: Submit comments by September 1, 2006. MMS may not fully consider comments received after this date. Submit comments to the Office of Management and Budget on the information collection burden in this rulemaking by August 2, 2006.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010–AD18 as an identifier in your message. See also Public Comment Procedures under Procedural Matters.

- MMS's Public Connect on-line commenting system, *http://ocsconnect.mms.gov*. Follow the instructions on the Web site for submitting comments.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions on the Web site for submitting comments.
- E-mail MMS at *rules.comments@mms.gov*. Use the RIN 1010–AD18 in the subject line.
- *Fax:* 703–787–1546. Identify with the RIN, 1010–AD18.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team (RPT); 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference 1010–AD18 in your comments and include your name and return address.
- Send comments on the information collection in this rule to: Interior Desk Officer 1010–AD18, Office of Management and Budget, 202/395–6566 (facsimile); e-mail: *oira_docket@omb.eop.gov*. Please also send a copy to MMS.

FOR FURTHER INFORMATION CONTACT: Larry Ake, Regulations and Standards Branch at (703) 787–1567.

SUPPLEMENTARY INFORMATION: On July 19, 2005, MMS published a final rule (70 FR 41556) titled ''Fixed and Floating Platforms and Structures and Documents Incorporated by Reference'' in the **Federal Register**. That final rule expanded MMS regulations regarding the design, construction, and operation of OCS facilities to include coverage of floating oil and gas production platforms. The rule also incorporated by reference a number of industry-developed standards pertaining to floating platforms. During the process of developing and publishing that final rule, comments were received, both from the public and internally within MMS, that suggested additional requirements. MMS has since reviewed the suggested changes and is incorporating those with the greatest merit in this proposed rule.

The first of these proposed revisions was suggested by both the Offshore Operator's Committee (OOC) and Shell Oil Company. They suggested that MMS consider adopting American Petroleum Institute Recommended Practice (API RP) 2I, ''In-Service Inspection of Mooring Hardware for Floating Drilling Units.''

MMS agrees that API RP 2I, second edition, would be a valuable industry standard to consider for incorporation by reference into 30 CFR part 250, subparts A and I. API RP 2I is specifically written to address the inspection of mooring chain and wire rope for Mobile Offshore Drilling Units (MODUs), which frequently move from location to location. Moreover, the detailed information provided in API RP 2I on failure modes, inspection methods, and repair methods also could be useful in the development and implementation of the in-service inspection plan required under § 250.919(a) for other types of offshore floating facilities that remain on station for longer periods of time. Based on OOC's and Shell's recommendation, MMS has reviewed API RP 2I, ''In-Service Inspection of Mooring Hardware for Floating Drilling Units,'' and is proposing that it be incorporated by reference into our regulations. MMS welcomes further industry comments on the referencing of this document in subparts A and I.

Subpart I currently requires that lessees and operators develop an in-service inspection plan for platforms (§ 250.919). The plan must show in detail the type, extent, and frequency of the inspections lessees and operators will conduct on platforms. The existing regulation does not specify when the plan must be submitted to MMS for approval. MMS is now proposing that the plan be submitted to the Regional Supervisor for approval each year by April 1.

The proposed rule would add several requirements to subpart I, Platforms and Structures, to reflect MMS's concerns about the aging infrastructure on the OCS. These proposed new requirements are meant to help ensure that lessees, lease operators, and pipeline ROW holders are appropriately assessing their OCS structures to ascertain their fitness for continued use. Included in the proposed revisions to § 250.920 are the following: (1) A complete platform structural assessment analysis if the platform meets one or more platform assessment initiators; (2) platform mitigation actions, which must be approved by the Regional Supervisor, if the platform does not pass the assessment; (3) approval from the

Regional Supervisor before assessing a platform to either the medium or low consequence-of-failure exposure category; and (4) MMS approval before changing the use of the platform.

Also in subpart I, a proposed addition to the table contained at § 250.905 would require lessees and lease operators to submit a summary of the safety factors utilized when designing their platforms. This requirement was included in previous MMS regulations, but was omitted in the recently published subpart I due to an oversight.

At § 250.916(c), the third-party Certified Verification Agent (CVA) currently must submit the final platform design report to the Regional Supervisor before the fabrication phase begins. In addition, § 250.917(c) requires the CVA to submit the final fabrication report before the beginning of the installation phase. Finally, § 250.918(c) now requires the CVA to submit a final report covering the adequacy of the installation phase within 30 days of the installation of the platform. MMS recognizes that it may be difficult and impractical for lessees and operators to meet these deadlines for some projects. Therefore, the proposed rule would add language to require operators to submit a complete schedule for platform design, fabrication, and installation that shows when interim and final reports will be submitted to MMS.

MMS often needs to obtain damage assessments and reports from lessees, lease operators, and pipeline right-of-way holders after events such as earthquakes or hurricanes. Proposed wording has been added to subpart I at § 250.919(c) and (d) concerning special surveys of platforms that would be conducted in accordance with the provisions of API RP 2A–WSD. MMS would require lessees, lease operators, and pipeline right-of-way holders to provide MMS with the schedule for, and results of, these special surveys.

A new proposed requirement also would be added to subpart A, General, at § 250.192, that would require lessees, lease operators, and pipeline ROW holders to submit reports to MMS if their facilities are damaged by a hurricane, earthquake, or other natural phenomenon. A new form (Form MMS–143, Facility/Equipment Damage Report) has been developed to assist lessees, lease operators, and pipeline ROW holders when reporting this damage. Adding this requirement to the regulations, with an Office of Management and Budget (OMB) approval for information collection, would allow MMS to request damage information without the delay of obtaining OMB approval for each event.

Additional requirements are also proposed for subpart J, Pipelines and Pipeline Rights-of-Way. These proposed requirements would require lessees, lease operators, and pipeline ROW holders to provide additional information in their pipeline applications if they intend to use unbonded flexible pipe or a pipeline riser with a floating platform.

Procedural Matters

Public Comment Procedures

MMS's practice is to make comments, including the names and addresses of respondents, available for public review. Individual respondents may request that we withhold their addresses from the rulemaking record, which we will honor to the extent allowable by law. There 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. However, MMS 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.

Regulatory Planning and Review (Executive Order (E.O.) 12866)

This document is not a significant rule and does not require review by OMB under E.O. 12866.

(1) This proposed rule would not have an effect of $100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

(2) This proposal would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients; and has no effect on these programs or such rights.

(4) This proposed rule would not raise novel legal or policy issues.

Regulatory Flexibility Act (RFA)

The Department certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities as defined under the RFA (5 U.S.C. 601 *et seq.*). Most of the costs for complying with this proposed rule would be information collection costs. The total estimated annual burden hours for responding to the information collection requirements in this proposed rule are 87,347. At an estimated cost of $50 per hour, the industry-wide cost for the information collection burden in this proposed rule would be slightly over four million dollars. Complying with the API RP 2I, ''In-Service Inspection of Mooring Hardware for Floating Drilling Units,'' should not be a financial burden since responsible companies already adhere to the practices described in the document. For a proposed rule with these relatively low projected costs to industry, a Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

This proposed rule would apply to all lessees, lease operators, and pipeline ROW holders operating on the OCS. MMS estimates that 130 lessees/operators explore for and produce oil and gas on the OCS. Approximately 70 percent of them (91 companies) fall into the small business category. MMS estimates that 207 companies currently hold pipeline rights-of-way. Approximately 65 percent of them (135 companies) fall into the small business category.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free 1–(888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed rule is not a major rule under SBREFA (5 U.S.C. 804(2)). This proposed rule:

(a) Would not have an annual effect on the economy of $100 million or more.

(b) Would not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic areas.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This proposed rule would not impose an unfunded mandate on state, local, or tribal governments, or the private sector, of more than $100 million per year. The proposed rule would not have a significant or unique effect on state, local, or tribal governments, or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implications Assessment (Executive Order 12630)

According to E.O. 12630, the proposed rule would not have significant Takings implications. A Takings Implication Assessment is not required.

Federalism (Executive Order 13132)

According to E.O. 13132, this proposed rule would not have Federalism implications. The proposed rule would not substantially and directly affect the relationship between the federal and state governments, and would not impose costs on states or localities.

Civil Justice Reform (Executive Order 12988)

With respect to E.O. 12988, the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system, and meets the requirements of sections 3(a) and 3(b)(2) of the E.O.

Paperwork Reduction Act (PRA)

This proposed rule contains a collection of information that has been submitted to OMB for review and approval under § 3507(d) of the PRA. As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other federal agencies to comment on any aspect of the reporting and recordkeeping burden. If you wish to comment on the information collection aspects of this proposed rule, you may send your comments directly to the OMB (see the **ADDRESSES** section of this notice). Please identify your comments with 1010–AD18. Send a copy of your comments to the Rules Processing Team (RPT), Attn: Comments; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''30 CFR 250, Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Revisions to Subpart A—General; Subpart I—Platforms and Structures; and Subpart J—Pipelines and Pipeline Rights-of-Way, 1010–AD18'' in your comments. You may obtain a copy of the supporting statement for the new collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208–7744.

The PRA provides that 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 is required to make a decision concerning the collection of information contained in these proposed regulations between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB received it by August 2, 2006. This does not affect the deadline for the public to comment to MMS on the proposed regulations.

The title of the collection of information for the rule is ''30 CFR 250, Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Revisions to Subpart A—General; Subpart I—Platforms and Structures; and Subpart J—Pipelines and Pipeline Rights-of-Way.'' Respondents are approximately 130 Federal OCS lessees, operators, and their Independent Verification Agents or other third-party reviewers of production facilities, as well as 207 pipeline right-of-way holders. Responses to this collection are mandatory. The frequency of response varies, but is primarily annual or as needed. The information collection (IC) does not include questions of a sensitive nature. MMS will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 522) and its implementing regulations (43 CFR part 2), and 30 CFR 250.196, ''Data and information to be made available to the public,'' and 30 CFR part 252, ''OCS Oil and Gas Information Program.''

The collection of information required by the current subparts A, I, and J of 30 CFR 250 are approved by OMB under control numbers 1010–0114 (expiration October 31, 2007); 1010–0149 (expiration March 31, 2008); and 1010–0050 (expiration March 31, 2009), respectively.

MMS will use the information collected and records maintained under subpart I to determine the fitness of aging infrastructure for continued use, as well as to ensure that the in-service inspection plan for platforms is submitted to the Regional Supervisor for approval each year by April l. The information is necessary to determine that platforms and structures are sound and safe for their intended purpose, provide for the safety of personnel, and meet MMS standards for pollution prevention. The information collected under subpart A would require respondents to submit reports to MMS if their facilities are damaged by a natural phenomenon (e.g., hurricane, earthquake). A new Form MMS–143, Facility/Equipment Damage Report, was developed to assist respondents when reporting this damage. MMS will use this information to rapidly assess damage, and to project any disruption of oil and gas production from the OCS after such an event. MMS will use the information collected under subpart J to ensure that pipelines or pipeline risers with floating platforms have been designed to handle the environmental stresses put upon them (e.g., water currents, mudslides).

When final regulations are promulgated, the new information collection burdens for 30 CFR part 250 subparts A, I, and J will be incorporated into their respective collections of information for those regulations. Also, this rule and ICR modify and incorporate the hours and requirements already approved in 1010–0164, expiration February 28, 2009; therefore, that collection will be discontinued when the final regulations take effect.

The following table details the IC burden for the proposed new requirements in subparts A, I, and J.

Citation 30 CFR 250 rule section and NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average No. of annual responses	Annual burden hours
Subpart A				
192(a)(3)	Inform MMS when you resume production	.166	600	100
192(b)	Use Form MMS–143 to submit an initial damage evaluation report to the Regional Supervisor within 48 hours after completing initial damage assessment.	4	100	400

Citation 30 CFR 250 rule section and NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average No. of annual responses	Annual burden hours
192(b)	Use Form MMS–143 to submit subsequent damage reports on a weekly basis until the damaged structure or equipment is returned to service.	1	400	400
Subpart I				
900(e)	Submit platform installation date and the final as-built location to the Regional Supervisor within 45 days after platform installation.	.5	140	70
905(i)	Provide a summary of safety factors utilized in the design of the platform.	.25	331	83
911; 916; 917; 918	Submit complete schedule of all phases of design, fabrication, and installation with required information; also submit Gantt Chart with required information.	40	15	600
919(a)	Submit annual inspection plan to the Regional Supervisor for approval.	250	130	32,500
919(c) NTL	After an environmental event, submit to Regional Supervisor initial report followed by updates and supporting information.	[1] 12	150	1,800
919(d) NTL	Submit results of inspections; obtain MMS approval before making major repairs.	120	200	24,000
920(b)	Obtain approval from the Regional Supervisor before assessing your platform to medium or low consequence of failure exposure category.	20	400	8,000
920(d)	Obtain approval from the Regional Supervisor for mitigation actions.	40	200	8,000
920(f)	Submit a list of all platforms you operate, and appropriate supporting data, annually.	40	130	5,200
920(g)	Obtain approval from the Regional Supervisor for any change in the platform.	40	100	4,000
Subpart J				
1007(a)(4)(i)(A); (B); (C)	Provide specified information in your pipeline application if using unbonded flexible pipe.	4	6	24
1007(a)(4)(i)(D)	Provide results of third party IVA review in your pipeline application if using unbonded flexible pipe.	40	1	40
1007(a)(4)(ii)	Provide specified information in your pipeline application	30	35	1,050
Total Burden			3,028	87,347

[1] Initial update.

MMS specifically solicits comments on the following questions:

(a) Is the proposed collection of information necessary for MMS to properly perform its functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping ''non-hour cost'' burden resulting from the collection of information. We have not identified any, and we solicit your comments on this item.

National Environment Policy Act (NEPA)

MMS has analyzed this proposed rule under NEPA and 516 Departmental Manual 6, Appendix 10.4C, ''Issuance and/or modification of regulations.'' This proposed rule would not constitute a major Federal action significantly affecting the quality of the human environment, and falls within the categorical exclusion of Appendix 10.4C(1) because the impact of the proposed rule would be limited to administrative and economic effects. A detailed statement under the NEPA is not required.

Energy Supply, Distribution, or Use (Executive Order 13211)

This proposed rule is not a significant rule and is not subject to review by the Office of Management and Budget under E.O. 13211. The proposed rule would not have a significant effect on energy supply, distribution, or use because the costs due to the proposed increases in reporting requirements will be very small when compared to the costs of operating on the OCS. Thus, a Statement of Energy Effects is not required.

Consultation With Indian Tribes (Executive Order 13175)

Under the criteria in E.O. 13175, we have evaluated this proposed rule and determined that it has no potential effects on federally recognized Indian tribes. There are no Indian lands or tribes on the OCS.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the proposed rule clearly stated?

(2) Does the proposed rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Is the description of the proposed rule in the ''Supplementary Information'' section of this preamble helpful in understanding the rule? What else can we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental protection, Oil and gas exploration, Pipelines, Public lands—rights-of-way, Reporting and recordkeeping requirements.

Dated: June 19, 2006.

R.M. ''Johnnie'' Burton,

Director, Minerals Management Service, Exercising the delegated authority of the Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, MMS proposes to amend 30 CFR part 250 as follows:

PART 250—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331, *et seq.*; 31 U.S.C. 9701.

2. Section 250.192 and its title are revised to read as follows:

§ 250.192 What reports and statistics must I submit relating to a hurricane, earthquake, or other natural occurrence?

(a) You must submit evacuation statistics to the Regional Supervisor for a natural occurrence, such as an earthquake, a hurricane, or tropical storm. Statistics include facilities and rigs evacuated and the amount of production shut in for gas and oil. You must:

(1) Submit the statistics by fax or e-mail (for activities in the MMS GOM OCS Region, use Form MMS–132) as soon as possible when evacuation occurs;

(2) Submit the statistics on a daily basis by 11 a.m., as conditions allow, during the period of shut-in and evacuation;

(3) Inform MMS when you resume production; and

(4) Submit the statistics either by MMS district, or the total figures for your operations in an MMS region.

(b) If your facility, production equipment, or pipeline is damaged by a hurricane, tropical storm, earthquake, or other natural occurrence, you must:

(1) Submit a report to the Regional Supervisor within 48 hours after you complete your initial evaluation of the damage. You must use Form MMS–143 to make this report and all subsequent reports. In the report, you must:

(i) Name the items damaged (e.g., platform or other structure, production equipment, pipeline);

(ii) Describe the damage and assess the extent of the damage (major, medium, minor); and

(iii) Estimate the time it will take to replace or repair each damaged structure and piece of equipment and return it to service.

(2) Submit subsequent reports on a weekly basis until the damaged structure or equipment is returned to service. In the final report, you must provide the date the item was returned to service.

3. Section 250.198 paragraph (e) is amended by adding an entry in alphanumerical order in the table for API RP 2I, ''In-Service Inspection of Mooring Hardware for Floating Drilling Units'', and revising the entry for API RP 2A–WSD to read as follows:

§ 250.198 Documents Incorporated by Reference.

* * * * *

(e) * * *

Title of documents	Incorporated by reference at
* * * *	* * *
API RP 2A WSD, Recommended Practice for Planning, Designing, and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-first Edition, December 2000 (API Order No. G2AWSD).	§ 250.901(a)(4); § 250.908(a); § 250.919(c)(2); § 250.920(a)(b)(c)(e).
* * * *	* * *
API RP 2I, In-Service Inspection of Mooring Hardware for Floating Drilling Units, February 1, 1997.	§ 250.901(a)(6).

4. Section 250.199 paragraph (e) is amended by adding an entry for Form MMS–143, Facility/Equipment Damage Report, as follows:

§ 250.199 Paperwork Reduction Act statements—information collection.

* * * * *

(e) * * *

30 CFR 250 subpart/title (OMB control No.)	Reasons for collecting information and how used
* * * *	* * *
(26) Form MMS–143, Facility/Equipment Damage Report, Subpart A (1010–0114).	This information will allow MMS to rapidly assess damage and project any disruption of oil and gas production from the OCS after a major natural occurrence.

5. Section 250.900 paragraph (e) is revised to read as follows:

§ 250.900 What general requirements apply to all platforms?

* * * * *

(e) You must submit notification of the platform installation date, and the final as-built location data, to the

Regional Supervisor within 45 calendar days of completion of platform installation. MMS will cancel your approved platform installation permits 1 year after the approval is granted if the platform is not installed. If MMS cancels your permit approval, you must resubmit your application.

6. In section 250.901 paragraph (a), the following changes are made:

A. Redesignate paragraphs (a)(6) through (a)(20) as (a)(7) through (a)(21), respectively.

B. Add new paragraph (a)(6) to read as follows:

§ 250.901 What industry standards must your platform meet?

(a) * * *

(6) API RP 2I, In-Service Inspection of Mooring Hardware for Floating Drilling Units, (incorporated by reference as specified in § 250.198);

* * * * *

7. Section 250.905 is amended by redesignating current paragraphs (i) and (j), as paragraphs (j) and (k) respectively, and adding new paragraph (i) to read as follows:

§ 250.905 How do I get approval for the installation, modification, or repair of my platform?

* * * * *

Required documents	Required contents	Other requirements
* * *	* *	* *
(i) Summary of safety factors utilized	A summary of pertinent derived factors of safety against failure for major structural members, e.g., unity check ratios exceeding 0.85 for steel-jacket platform members, indicated on "line" sketches of jacket sections.	You must submit one copy.
* * *	* *	* *

8. Section 250.911 is amended by redesignating current paragraphs (d) through (g), as paragraphs (e) through (h), respectively, and adding new paragraph (d) to read as follows:

§ 250.911 If my platform is subject to the Platform Verification Program, what must I do?

* * * * *

(d) Submit a complete schedule of all phases of design, fabrication, and installation for the Regional Supervisor's approval. You must include a project management timeline [Gantt Chart] that depicts when interim and final reports required by §§ 250.916, 250.917, and 250.918 will be submitted to the Regional Supervisor for each phase. On the timeline, you must break out the specific scopes of work that inherently stand alone (e.g., deck, mooring systems, tendon systems, riser systems, turret systems).

* * * * *

9. Section 250.916(c) is revised to read as follows:

§ 250.916 What are the CVA's primary duties during the design phase?

* * * * *

(c) The CVA must submit interim reports and a final report to the Regional Supervisor, and to you, during the design phase in accordance with the approved schedule required by § 250.911(d). In each interim and final report the CVA must:

(1) Provide a summary of the material reviewed and the CVA's findings;

(2) Make a recommendation that the Regional Supervisor either accept, request modifications, or reject the proposed design;

(3) Describe the particulars of how, by whom, and when the independent review was conducted; and

(4) Provide any additional comments the CVA may deem necessary.

10. Section 250.917(c) is revised to read as follows:

§ 250.917 What are the CVA's primary duties during the fabrication phase?

* * * * *

(c) The CVA must submit interim reports and a final report to the Regional Supervisor, and to you, during the fabrication phase in accordance with the approved schedule required by § 250.911(d). In each interim and final report the CVA must:

(1) Give details of how, by whom, and when the independent monitoring activities were conducted;

(2) Describe the CVA's activities during the verification process;

(3) Summarize the CVA's findings;

(4) Confirm or deny compliance with the design specifications and the approved fabrication plan;

(5) Make a recommendation to accept or reject the fabrication; and

(6) Provide any additional comments that the CVA deems necessary.

11. Section 250.918(c) is revised to read as follows:

§ 250.918 What are the CVA's primary duties during the installation phase?

* * * * *

(c) The CVA must submit interim reports and a final report to the Regional Supervisor, and to you, during the installation phase in accordance with the approved schedule required by § 250.911(d). In each interim and final report the CVA must:

(1) Give details of how, by whom, and when the independent monitoring activities were conducted;

(2) Describe the CVA's activities during the verification process;

(3) Summarize the CVA's findings;

(4) Confirm or deny compliance with the approved installation plan;

(5) Make a recommendation to accept or reject the installation; and

(6) Provide any additional comments that the CVA deems necessary.

12. Section 250.919 is amended by revising paragraph (a), and adding new paragraphs (c) and (d) to read as follows:

§ 250.919 What in-service inspection requirements must I meet?

(a) You must submit a comprehensive annual in-service inspection plan covering all of your platforms to the Regional Supervisor for approval by April 1 of each year. As a minimum, your plan must:

(1) Address the recommendations of the appropriate documents listed in § 250.901(a);

(2) Specify the type, extent, and frequency of in-place inspections which you will conduct for both the above-water and the below-water structure of all platforms and pertinent components of the mooring systems for floating platforms; and

(3) Address how you are monitoring the corrosion protection for both the above water and below water structure.

* * * * *

(c) If any of your structures have been exposed to a natural occurrence (e.g., hurricane, earthquake, or tropical storm), the Regional Supervisor may require you to submit an initial report, followed by subsequent updates, that includes the following:

(1) A list of affected structures;

(2) A timetable for conducting the inspections described in section 14.4.3 of API RP 2A–WSD (incorporated by reference as specified in § 250.198); and

(3) An inspection plan for each structure that describes the work you will perform to determine the condition of the structure.

(d) The Regional Supervisor may also require you to submit the results of the inspections referred to in paragraph (c)(2) of this section, including a description of any detected damage that may adversely affect structural integrity, an assessment of its ability to withstand any anticipated environmental conditions, and any remediation plans. Under §§ 250.900(b)(3) and 250.905, you must obtain approval from MMS before you make major repairs of any damage.

13. Section 250.920 is revised to read as follows:

§ 250.920 What are the MMS requirements for assessment of platforms?

(a) You must perform a platform assessment when platform assessment initiators exist. Platform assessment initiators are listed in Sections 17.2.1–17.2.5 of API RP 2A–WSD (incorporated by reference as specified in § 250.198).

(b) You must document all wells, equipment, and pipelines supported by the platform if you intend to use the medium or low consequence-of-failure exposure category for your assessment. Exposure categories are defined in API RP 2A–WSD Section 1.7. You must obtain approval from the Regional Supervisor before assessing your platform to either the medium consequence-of-failure or low consequence-of-failure exposure category.

(c) You must perform a complete platform structural assessment analysis when your platform assessment indicates that the platform is damaged; the deck height is inadequate; loading is significantly increased; or the exposure category changes to a more restrictive level.

(d) You must initiate mitigation actions for platforms that do not pass the assessment process of API RP 2A–WSD. Your mitigation actions must be approved by the Regional Supervisor.

(e) MMS may require you to conduct a platform assessment where the reduced environmental loading criteria contained in API RP 2A–WSD Section 17.6 are not allowed.

(f) By November 1 of each year, you must submit a complete list of all the platforms you operate, together with all the appropriate data to support the consequence-of-failure category you assign to each platform and the platform assessment initiators (as defined in API RP 2A–WSD) to the Regional Supervisor.

(g) The use of Section 17, Assessment of Existing Platforms, of API RP 2A–WSD is limited to existing fixed structures that are serving their original approved purpose and were designed in accordance with the provisions in the 19th or earlier edition of API RP 2A–WSD. You must obtain approval from the Regional Supervisor for any change in purpose of the platform, following the provisions of API RP 2A–WSD, Section 15, Re-use.

14. Section 250.1007 is amended by revising paragraph (a)(4) to read as follows:

§ 250.1007 What to include in applications.

(a) * * *

(4) A description of any additional design precautions you took to enable the pipeline to withstand the effects of water currents, storm or ice scouring, soft bottoms, mudslides, earthquakes, permafrost, and other environmental factors.

(i) If you propose to use unbonded flexible pipe, your application must include:

(A) The manufacturer's design specification sheet;

(B) The design pressure (psi);

(C) An identification of the design standards you used; and

(D) A review by a third-party independent verification agent (IVA) according to API Spec 17J (incorporated by reference as specified in § 250.198), if applicable.

(ii) If you propose to use one or more pipeline risers for a tension leg platform or other floating platform, your application must include:

(A) The design fatigue life of the riser, with calculations, and the fatigue point at which you would replace the riser;

(B) The results of your vortex-induced vibration (VIV) analysis;

(C) An identification of the design standards you used; and

(D) A description of any necessary mitigation measures such as the use of helical strakes or anchoring devices.

* * * * *

[FR Doc. E6–10401 Filed 6–30–06; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 412

[EPA–HQ–OW–2005–0037; FRL–8190–3]

National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations—Proposed Revisions; Public Meetings

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meetings.

SUMMARY: The Environmental Protection Agency hereby gives notice that it will conduct five public meetings on proposed regulatory revisions under the Clean Water Act for Concentrated Animal Feeding Operations (CAFOs). These proposed regulations were signed by EPA Administrator Stephen L. Johnson on June 22, 2006, and are publishing in the **Federal Register** on June 30, 2006 (FRL 8189–7), under the title Revised National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines for Concentrated Animal Feeding Operations in Response to *Waterkeeper* Decision.

The purpose of the meetings is to enhance public understanding of the proposed regulations for CAFOs. The meetings are not a mechanism for submitting formal comments on the proposal. The meetings will consist of a brief presentation by EPA officials on the proposed regulations followed by a question and answer session. Participants are encouraged to familiarize themselves with the basic aspects of the proposed regulations prior to the public meetings; each speaker's time will be limited so that all interested parties may have the opportunity to pose questions. Advance registration is not required.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for meeting addresses.

FOR FURTHER INFORMATION CONTACT: For additional information, please visit the EPA Web site at *http://cfpub.epa.gov/npdes/afo/aforule.cfm,* or contact Kawana Cohen, Water Permits Division, Office of Wastewater Management (4203M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–2345, e-mail address: *cohen.kawana@epa.gov.*

SUPPLEMENTARY INFORMATION:

Dates, Times and Addresses for Public Meetings

EPA is conducting five public meetings on the CAFO proposed regulations as described in the following table:

Date	Location	Time	Facility
Mon., July 24, 2006	Fayetteville, NC	1 p.m.–4 p.m. EST	Crown Coliseum, 1960 Coliseum Drive, Faryetteville, NC 28306.
Tues., July 25, 2006	Ames, IA	1 p.m.–4 p.m. CST	Iowa State Center, Scheman Conference Center, Ames, IA 50011–1113.
Tues., August 1, 2006	Golden, CO	1 p.m.–4 p.m. MST	Jefferson County Fairgrounds, 15200 W. 6th Ave., Golden, CO 80401.
Wed., August 2, 2006	Dallas, TX	9 a.m.–12 p.m. CST	Texas A&M—Dallas Agricultural Research & Extension Center (Pavilion), 17360 Coit Rd., Dallas, TX 75252.
Thurs., August 3, 2006	Sacramento, CA	8 a.m.–11 a.m. PST	CalEPA Building, Byran Sher Auditorium, 1001 I Street, Sacramento, CA 95814.

This **Federal Register** announcement is intended to supplement and refer interested parties to the notice of the public meetings provided on EPA's AFO NPDES Web page, on June 22, 2006. EPA has established a comment period in the proposed rule of 45 days. In scheduling these public meetings, EPA wishes to provide the public the opportunity to be fully informed about the contents of the proposed rule in advance of the date by which comments must be submitted. EPA is utilizing its Web site, which will be updated periodically with specific details concerning location and time, as the principal means of providing information about the public meetings. EPA recommends that those interested in attending a meeting check the Web site for additional information as it becomes available.

Please note that the purpose of these meetings is to enhance public understanding of the proposed regulations for CAFOs. The meetings are not a mechanism for submitting formal comments on the proposal, and formal comments should be submitted following the procedures described in the proposed regulation.

Prior to attending any of these public meetings, please confirm exact location, date and time information via EPA's AFO NPDES Web page (*http://cfpub.epa.gov/npdes/afo/aforule.cfm*).

Background

On June 22, 2006, EPA Administrator Stephen Johnson signed the Agency's proposal to revise the regulations for CAFOs in response to the Second Circuit Court of Appeals decision in *Waterkeeper Alliance et al.* v. *EPA,* 399 F.3d 486 (2nd Cir. 2005). The proposed regulations, publishing in the **Federal Register** on June 30, 2006, respond to the court ruling.

Dated: June 27, 2006.

Jane S. Moore,

Deputy Director, Office of Wastewater Management, Office of Water.

[FR Doc. E6–10426 Filed 6–30–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU30

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Southern California Distinct Vertebrate Population Segment of the Mountain Yellow-Legged Frog (Rana muscosa)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the proposed designation of critical habitat for the southern California distinct vertebrate population segment of the mountain yellow-legged frog (*Rana muscosa*), and the availability of a draft economic analysis of the proposed designation of critical habitat. The draft economic analysis estimates the potential total future impacts, including costs resulting from modifications to fishing and other types of activities, to range from $11.4 million to $12.9 million (undiscounted) over 20 years. Discounted future costs are estimated to be $7.5 million to $8.9 million over this same time period ($704,000 to $842,000 annually) using a real rate of seven percent, or $9.3 million to $10.8 million ($626,000 to $725,000 annually) using a real rate of three percent. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted on the proposed rule need not be resubmitted as they have already been incorporated into the public record and will be fully considered in our final determination.

DATES: We will accept public comments and information until July 24, 2006.

ADDRESSES: Written comments and materials may be submitted to us by any one of the following methods:

1. You may submit written comments and information to Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011.

2. You may hand-deliver written comments and information to our Carlsbad Fish and Wildlife Office at the above address.

3. You may fax your comments to 760/431–9624.

4. You may send your comments by electronic mail (e-mail) to *FW1CFWO_MYLFPCH@fws.gov.* For directions on how to submit e-mail comments, see the ''Public Comments Solicited'' section.

5. You may submit comments via the Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, at the address listed in **ADDRESSES** (telephone 760/431–9440; facsimile 760/431–9624).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We will accept written comments and information during this reopened comment period. We solicit comments on the original proposed critical habitat designation, published in the **Federal Register** on September 13, 2005 (70 FR 54106), and on our draft economic analysis of the proposed designation. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) Specific information on the southern California distinct vertebrate population segment (DPS) of the mountain yellow-legged frog, such as the locations of known occurrences of individuals or subpopulations; the dispersal behavior and distances of adults, juveniles and tadpoles; the developmental time of tadpoles and their habitat requirements throughout the year; genetic information on the mountain yellow-legged frog;, recreation impacts; and impacts of non-native predators;

(2) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), including whether it is prudent to designate critical habitat;

(3) Specific information as to whether the physical and biological features we have identified as being essential to the conservation of the frog are accurate and whether they exist on those areas we have identified as occupied;

(4) If those unoccupied areas proposed to be designated are all essential to the conservation to the species;

(5) Whether the benefit of exclusion of any particular area outweighs the benefit of inclusion under section 4(b)(2) of the Act, in particular the lands proposed for exclusion in the proposed rule (non-Federal lands within existing Public/Quasi Public (PQP) lands, proposed conceptual reserve design lands, and lands targeted for conservation within the Western Riverside County Multiple Species Habitat Conservation Plan);

(6) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(7) Information on any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities or families;

(8) Information on whether the draft economic analysis identifies all State and local costs attributable to the proposed critical habitat designation. If not, what other costs should be included;

(9) Information on whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the listing of the species or the designation of critical habitat;

(10) Information on whether the draft economic analysis correctly assesses the effect on regional costs associated with land- and water-use controls that may derive from the designation of critical habitat;

(11) Information on whether the designation will result in disproportionate economic impacts to specific areas that should be evaluated for possible exclusion from any final critical habitat designation;

(12) Information on whether the economic analysis appropriately identifies all costs that could result from the critical habitat designation;

(13) Information on whether there are areas that could be used as substitutes for the economic activities planned in critical habitat areas that would offset the costs and allow for the conservation of critical habitat areas; and

(14) Information on whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

All previous comments and information submitted during the initial comment period on the proposed rule need not be resubmitted. If you wish to comment, you may submit your comments and materials concerning the draft economic analysis and the proposed rule by any one of several methods (see **ADDRESSES** section). Our final determination concerning designation of critical habitat for the mountain yellow-legged frog will take into consideration all comments and any additional information received during both comment periods. On the basis of public comment on the critical habitat proposal, the draft economic analysis, and the final economic analysis, we may during the development of our final determination find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

If you wish to submit comments electronically, please submit them in an ASCII format and avoid the use of any special characters or any form of encryption. Also, please include ''Attn: Mountain Yellow-Legged Frog'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** or submit your comments in writing using one of the alternate methods listed in the **ADDRESSES** section. Please note that the Internet address *FW1CFWO_MYLFPCH@fws.gov* will be closed at the termination of the public comment period.

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 address, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold 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 comments, but you should be aware that the Service may be required to disclose your name and address pursuant to 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 received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office at the address listed under **ADDRESSES**. Copies of the proposed critical habitat rule for the mountain yellow-legged frog and the draft economic analysis are also available on the Internet at *http://www.fws.gov/carlsbad.* In the event that our Internet connection is not functional, please obtain copies of documents directly from the Carlsbad Fish and Wildlife Office.

Background

On September 13, 2005, we published a proposed rule in the **Federal Register** (70 FR 54106) to designate critical habitat for the mountain yellow-legged frog. We identified approximately 8,770 acres (ac) (3,549 hectares (ha)) of streams and riparian areas in southern California as containing features essential to the conservation of the mountain yellow-legged frog. From this total, we proposed approximately 8,283 ac (3,352 ha) for designation as critical habitat in three units, including 14 subunits, in Los Angeles, San Bernardino, and Riverside counties, California. Approximately 96 percent of the proposed lands are under Federal ownership on U.S. Forest Service (USFS) lands, and the remaining lands are split between State and private ownership. Approximately 487 ac (197 ha) of non-Federal lands covered under the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) in Riverside County contain features essential to the conservation of the mountain yellow-legged frog and are proposed for exclusion pursuant to section 4(b)(2) of the Act. The first comment period for the proposed critical habitat rule closed on November 14, 2005. For more information on this species, refer to the final rule listing this species as endangered, published in the **Federal Register** on July 2, 2002 (67 FR 44382).

Critical habitat is defined in section 3 of the Act as the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat on the basis of the best scientific data available, after taking into consideration the economic impact, impact to national security, and any other relevant impacts of specifying any particular area as critical habitat. We have prepared a draft economic analysis of the September 13, 2005 (70 FR 54106), proposed designation of critical habitat for the mountain yellow-legged frog.

The draft economic analysis considers the potential economic effects of actions relating to the conservation of the mountain yellow-legged frog, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the mountain yellow-legged frog in areas containing features essential to the conservation of this species. The analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the ‘‘opportunity costs’’ associated with the commitment of resources to comply with habitat protection measures (e.g., lost economic opportunities associated with restrictions on land use). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this analysis looks retrospectively at costs that have been incurred since the date the species was listed as an endangered species and considers those costs that may occur in the 20 years following the designation of critical habitat.

Frog conservation activities are likely to primarily impact recreational activities, including trout fishing, hiking, camping, and rock climbing in the Angeles and San Bernardino National Forests. In particular, significant uncertainty exists regarding the potential impact to trout fishing. As a result, the draft economic analysis applies two methodologies to put upper and lower bounds on the range of potential costs. The lower-bound estimate assumes that anglers' overall welfare is unaffected, because numerous substitute fishing sites exist. The upper-bound estimate assumes that fishing trips currently taken to streams in essential habitat are foregone and not substituted elsewhere. The actual impact likely falls between these two bounds. The draft economic analysis assumes that the probability distribution of impacts between these bounds is continuous, and the distribution is not skewed toward either bound. With these two assumptions, the average of the two estimates represents the best estimate of trout fishing impacts.

Total future impacts, including costs resulting from modifications to fishing and other types of activities, range from \$11.4 million to \$12.9 million (undiscounted) over 20 years. Assuming a three percent discount rate, present value impacts range from \$9.3 million to \$10.8 million over the 20-year period, or an annualized impact of \$626,000 to \$725,000. Assuming a seven percent discount rate, present value impacts range from \$7.5 million to \$8.9 million over the 20-year period, or an annualized impact of \$704,000 to \$842,000. Impacts are dominated by welfare losses and other costs related to recreational fishing, accounting for over 50 percent of the total impact. Lost fishing opportunities occur in Big Rock Creek, South Fork (Subunit 1B), Little Rock Creek (Subunit 1C), and San Jacinto River, North Fork (Subunit 3A). The costs of modifications to fire management practices, costs of modifying hiking trails, and welfare losses to rock climbers resulting from a temporary closure of Williamson Rock in the area of Little Rock Creek (Subunit 1C) account for approximately 30 and 40 percent of the total impact.

Required Determinations—Amended

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues. However, because the draft economic analysis indicates the potential economic impact associated with a designation of all habitat with features essential to the conservation of this species would total no more than \$842,000 per year, applying a seven percent discount rate, we do not anticipate that this final rule will have an annual effect on the economy of \$100 million or more or affect the economy in a material way. Due to the time line for publication in the **Federal Register**, the Office of Management and Budget (OMB) did not formally review the proposed rule.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Act, we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (e.g., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In our proposed rule, we withheld our determination of whether this designation would result in a significant effect as defined under SBREFA until we completed our draft economic analysis of the proposed designation so that we would have the factual basis for our determination.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for the mountain yellow-legged frog would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (e.g., recreational fishing, hiking, rock climbing, and residential development). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation.

If this proposed critical habitat designation is made final, Federal agencies must consult with us if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

Our draft economic analysis determined that costs involving conservation measures for the mountain yellow-legged frog would be incurred for activities involving: (1) Recreational trout fishing activities; (2) recreational hiking activities; (3) recreational rock climbing activities; (4) residential development activities; (5) fire management activities; and (6) other activities on Federal lands. Of these six categories, impacts of frog conservation are not anticipated to affect small entities in three of these categories: Residential development, fire management, and other activities on Federal lands. As stated in our economic analysis, residential development is unlikely to be impacted by frog conservation activities for several reasons, including the unsuitability of large-scale development of these private lands due to their location in mountainous areas and the easy incorporation into building designs of a 50-foot buffer around streams to protect mountain yellow-legged frog habitat. Further, since neither Federal nor State governments are defined as small entities by the Small Business Administration (SBA), the economic impacts borne by the USFS and the California Department of Fish and Game (CDFG) resulting from implementation of frog conservation activities or modifications to activities on Federal lands, including installation of signs and relocation of hiking trails, fire suppression efforts, monitoring recreational mining activity, development of hazardous spills management plans, and surveying and monitoring activities, are not relevant to the SBRFA analysis. The total miles of hiking trails potentially affected by frog conservation activities represent a small percentage, less than three percent, of the total miles of hiking trails available to National Forest visitors. Therefore, the draft economic analysis assumes that adequate substitute hiking trails are available to offset potential restrictions placed on recreational hiking within critical habitat and does not estimate any welfare losses to recreational hikers. Accordingly, the small business analysis focuses on economic impacts to recreational trout fishing and rock climbing activities.

The draft economic analysis considers two scenarios to bound the range of potential economic impacts on recreational trout fishing activities. Under the first scenario—the lower-bound estimate—-future costs are limited to compliance costs associated with installing fish barriers and removing nonnative trout. The directly regulated entities under this scenario include the USFS and CDFG, both of which are large government agencies. As a result, the directly affected entities are not subject to this SBRFA analysis. Under the second scenario—the upper-bound estimate—economic impacts are also estimated for recreational trout anglers whose activities may be interrupted by frog conservation activities resulting in a decrease in the number of trout fishing trips. This second scenario concludes that fishing trips may decrease by as many as 7,100 to 14,300 trips per year. If fewer recreational fishing trips occur to areas within critical habitat, local establishments providing services to anglers may be indirectly affected by mountain yellow-legged frog conservation activities. Decreased visitation may reduce the amount of money spent in the region across a variety of industries, including food and beverage stores, food service and drinking places, accommodations, transportation and rental services.

The draft economic analysis uses regional economic modeling—in particular a software package called IMPLAN—to estimate the total economic effects of the reduction in economic activity in recreational fishing-related industries in the counties (Los Angeles and Riverside Counties) associated with mountain yellow-legged frog conservation activities. Based on the 2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California, average expenditures per fishing trip are approximately $38 (in 2005 dollars), with the bulk of these expenditures occurring in the food service and gasoline industries. This per-trip estimate of expenditures is combined with the number of fishing trips potentially lost due to frog conservation activities (7,100 to 14,300 trips per year) to estimate total expenditures of $271,000 to $543,000 due to recreational trout fishing in proposed critical habitat areas. According to IMPLAN, these recreational fishing-related expenditures contribute between $471,000 and $943,000 per year to the regional economy. When compared to the total output of the industry sectors directly impacted by these expenditures (e.g., groceries, restaurants, gasoline stations, and lodging) in the regional economy of Los Angeles and Riverside Counties (or $29.4 billion), the potential loss generated by a decrease in recreational trout fishing trips is less than one-hundredth of one percent.

The economic analysis also estimates welfare losses to rock climbers as the result of a temporary 1-year closure of Williamson Rock, adjacent to Little Rock Creek (Subunit 1C) in Los Angeles County. The analysis concludes that a 1-year closure will result in the loss of approximately 10,600 to 14,600 rock climbing trips in 2006. If fewer rock climbing trips occur to areas within proposed critical habitat, local establishments providing services to rock climbers may be indirectly affected by frog conservation activities. Decreased visitation may reduce the amount of money spent in the region across a variety of industries, including food and beverage stores, food service and drinking places, and gas and transportation services.

To determine the potential regional economic impacts of decreases in rock climbing trips, the draft economic analysis again used IMPLAN to quantify the dollar value of goods and services produced and employment generated by consumer expenditures. Ideally, this analysis would develop and use a per-trip estimate of expenditures for rock climbing based on the existing economics literature. However, no such data are available. Instead, this analysis uses the average expenditures of approximately $26.23 per trip reported by the 2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California. This per-trip estimate of expenditures is then combined with the number of rock climbing trips potentially lost due to frog conservation activities (a 1-year loss of 10,600 to 14,600 trips per year) to estimate total expenditures of $278,000 to $382,000 due to rock climbing in proposed critical habitat areas. According to IMPLAN, these rock climbing-related expenditures contribute between $480,000 and $660,000 per year to the regional economy. When compared to the total output of the industry sectors directly impacted by these expenditures (e.g., groceries, restaurants, and gasoline stations) in the regional economy of Los Angeles County (or $21.6 billion), the potential loss generated by a decrease in rock climbing trips is less than one-hundredth of one percent.

We may exclude areas from the final designation if it is determined that designation of critical habitat in these localized areas would have an impact to a substantial number of businesses and a significant proportion of their annual revenues. Based on the above data, we have determined that this proposed designation would not result in a significant economic impact on a substantial number of small entities. As such, we are certifying that this proposed designation of critical habitat would not result in a significant economic impact on a substantial number of small entities. Please refer to Appendix A of our draft economic analysis of the proposed designation for a more detailed discussion of potential economic impacts to small business entities.

Executive Order 13211

On May 18, 2001, the President issued Executive Order (E.O.) 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule is considered a significant regulatory action under E.O. 12866 because it raises novel legal and policy issues. On the basis of our draft economic analysis, the proposed critical habitat designation is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant action, and no Statement of Energy Effects is required. Please refer to Appendix A of our draft economic analysis of the proposed designation for a more detailed discussion of potential effects on energy supply.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, Tribal governments, or the private sector and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments" with two exceptions. It excludes "a condition of federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding" and the State, local, or tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. Non-Federal entities that receive Federal funding, assistance, permits, or otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat. However, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) The draft economic analysis does not identify or examine small governments that fall within proposed critical habitat because there were no estimates of impacts to small governments. Consequently, we do not believe that this rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing critical habitat for the mountain yellow-legged frog. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. In conclusion, the designation of critical habitat for the mountain yellow-legged frog does not pose significant takings implications.

Author

The primary authors of this notice are the staff of the Carlsbad Fish and Wildlife Office (see **ADDRESSES** 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 26, 2006.

Matt Hogan,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E6–10458 Filed 6–30–06; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 71, No. 127
Monday, July 3, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Extension of Public Comment Period on Draft ''Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects''

AGENCY: Advisory Council on Historic Preservation.

ACTION: Extension of public comment period.

SUMMARY: The Advisory Council on Historic Preservation has extended the public comment period regarding its previously published draft ''Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects''.

DATES: Comments must be received on or before July 28, 2006.

ADDRESSES: Address all comments to the Archeology Task Force, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax (202) 606–8672. Comments may also be submitted by electronic mail to: *archeology@achp.gov*. Please note that all responses become part of the public record once they are submitted.

FOR FURTHER INFORMATION CONTACT: Dr. Tom McCulloch, (202) 606–8505. Further information may be found in the ACHP Web site: *http://www.achp.gov*.

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) has extended until July 28, 2006, the public comment period on the draft ''Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects.''

That draft was published for public comment in the **Federal Register** on March 14, 2006 (71 FR 13066–13070). That notice is available on the ACHP Web site at *http://www.achp.gov*.

The ACHP's Task Force on Archeology will use the public input it receives to finalize the draft policy before presenting it to the full ACHP membership for consideration and possible adoption.

Dated: June 28, 2006.

John M. Fowler,

Executive Director.

[FR Doc. 06–5946 Filed 6–30–06; 8:45 am]

BILLING CODE 4310–K6–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 27, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Health Screening Questionnaire.

OMB Control Number: 0596–0164.

Summary of Collection: The Protection Act of 1922 (16 U.S.C. 594) authorizes the Forest Service to fight fires on National Forest System lands. Individuals must complete the Health Screening Questionnaire (HSQ) when seeking employment as a new firefighter with the Forest Service or recertification as a Forest Service firefighter. Potential applicants are to complete forms FS–5100–30, Work Capacity Test and FS–5100–31, Health Screening Questionnaire, which are necessary to obtain their health screening information.

Need and Use of the Information: FS will collect information to determine whether an individual being considered for a position in Wildland Firefighting can carry out those duties in a manner that will not place the candidate unduly at risk due to inadequate physical fitness and health. If the information is not collected, the Government's liability risk is high, special needs of one individual may not be known, or the screening of an applicant's physical suitability would be greatly inhibited.

Description of Respondents: Individuals or households; Federal Government.

Number of Respondents: 1,500.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 250.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–10336 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 27, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Application for Return of Exported Product.

OMB Control Number: 0583–NEW.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. In accordance with 9 CFR 327.17, 381.209, and 590.965, exported products returned to this country are exempt from FSIS import inspection requirements upon notification to and approval from the Agency's Office of International Affairs (OIA). Returned product may, however, require re-inspection at a federally inspected facility for food safety and food defense determinations.

Need and Use of the Information: FSIS will collect information using FSIS form 9010–1, ''Application for the Return of Exported Products to the United States.'' The purpose of the form is to allow OIA to decide whether re-inspection of the returned product is needed and to notify the appropriate FSIS office where to perform the re-inspection of the product, if necessary.

Description of Respondents: Business or other for-profit.

Number of Respondents: 500.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 8,333.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–10337 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 28, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Tuberculosis, TB in Cattle, Bison, and Goats.

OMB Control Number: 0579–0146.

Summary of Collection: The United States Department of Agriculture is responsible for, among other things preventing the interstate spread of pests and diseases of livestock within the United States and for conducting eradication programs. In connection with this mission, the Animal and Plant Health Inspection Service (APHIS) participates in the Cooperative State-Federal Bovine Tuberculosis Eradication Program, which is a national program to eliminate bovine tuberculosis from the United States. The tuberculosis regulations, contained in 9 CFR part 77, provide several levels of tuberculosis risk classifications to be applied to States and zones within States, and classify States and zones according to their tuberculosis risk. The zoning, testing and movement activities will require the use of several information collection activities.

Need and Use of the Information: APHIS will collect the following information: (1) Submission of a formal request that a zone within a given State is given a different tuberculosis status than the rest of the State, (2) an epidemiological review of reports of all testing for all zones within the State within 30 days of testing, (3) the submission of an annual report to APHIS in order to qualify for renewal of accredited free State or zone status, (4) the completion of a certificate of tuberculin test that must accompany certain regulated animals that are moved interstate, (5) the retention, for 2 years of any certificates documenting the movement of regulated animals into and out of zones; and (6) the creation of a tuberculosis herd management plan as a tool for eradicating the disease within a State or zone. Without the information APHIS would not be able to operate an effective tuberculosis surveillance, containment, and eradication program.

Description of Respondents: Business or other for-profit; Farms; State, Local or Tribal Government.

Number of Respondents: 200.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 600.

Title: Horse Protection Regulations.

OMB Control Number: 0579–0056.

Summary of Collection: 9 CFR part 11, Regulations, implement the Horse Protection Act of 1970 (Pub. L. 91–540), as amended July 13, 1976 (Pub. L. 94–360), and are authorized under section 9 of the Act. The Horse Protection Legislation was enacted to prevent showing, exhibiting, selling, or auctioning of ''sore'' horses, and certain transportation of sore horses in connection therewith at horse shows, horse exhibitions, horse sales, and horse auctions. A sore horse is a horse that has received pain-provoking practices that cause the horse to have an accentuated, high stepping gait. Sored horses cannot be entered in an event by any person, including trainers, riders, or owners. Management of shows, sales, exhibitions, or auctions must identify sored horses to prevent their participation under the act.

Need and Use of the Information: APHIS will collect information at specified intervals from Horse Industry Organizations (HIO) and show managements. HIOs must maintain an acceptable Designated Qualified Person program and recordkeeping system as outlined in the regulations. Information provided by the HIOs through designated qualified persons allows APHIS to monitor whether enforcement of the Horse Protection Act, its regulations, and certifying programs are effective.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 1.514.

Frequency of Responses: Recordkeeping; Reporting: Quarterly; Monthly; Annually.

Total Burden Hours: 2,357.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–10389 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 28, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Economic Research Service

Title: Food Security Supplement to the Current Population Survey.

OMB Control Number: 0536–0043.

Summary of Collection: The Food Security Supplement is sponsored by the Economic Research Service (ERS) as a research and evaluation activity authorized under Section 17 of the Food Stamp Act of 1977 as amended. ERS is collaborating with the Food and Nutrition Service (FNS) and the Bureau of Census to continue this program of research and development. The Food Stamp Program (FSP) is currently the primary source of nutrition assistance for low-income Americans enabling households to improve their diet by increasing their food purchasing power. As the nation's primary public program for ensuring food security and alleviating hunger, the Food Stamp Program needs to regularly monitor food security conditions among its target population. This need requires that USDA continue basic data collection, analysis, and evaluation.

Need and Use of the Information: ERS will collect information from the Current Population Survey Food Security Supplement to routinely obtain data from a large, representative national sample in order to develop a measure that can be used to track the prevalence of food insecurity and hunger within the U.S. population, as a whole, and in selected population subgroups, and to continue development and improvement of methods for measuring these conditions. The data collected will partially fulfill the requirements of the Congressionally mandated 10-Year Plan for the National Nutrition Monitoring and Related Research Program.

Description of Respondents: Individuals or Households.

Number of Respondents: 55,360.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 7,039.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–10391 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

Emergency Storage of Grain Collateral for Marketing Assistance Loans

AGENCY: Commodity Credit Corporation, Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) announces, for the 2006 crops of wheat, corn, and other feed grains, the acceptance of collateral for marketing assistance loans, warehouse receipts issued by a warehouse storing such commodity in outside storage, subject to the conditions outlined in this notice. This notice is intended to ensure adequate availability of storage space at harvest for producers seeking warehouse-stored marketing assistance loans for grain.

DATES: *Effective Date:* July 3, 2006.

FOR FURTHER INFORMATION CONTACT: Howard Froehlich, Warehouse and Inventory Division, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., STOP 0553, Washington, DC 20250–0553, telephone (202) 720–7398, FAX (202) 690–3123, e-mail: *Howard.Froehlich@wdc.usda.gov.* Persons with disabilities who require alternative means for communication for regulatory information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

To be eligible for a Marketing Assistance Loan under the loan provisions of 7 CFR part 1421, an eligible commodity must be stored in approved storage, which is either on-farm storage, or an approved warehouse that meets the CCC standards for approval of warehouses. Further, in accordance with the CCC Charter Act (15 U.S.C. 714 *et seq.*), CCC enters into storage agreements with private grain and rice warehouse operators to provide for the storage of commodities owned by CCC or pledged as security to CCC for marketing assistance loans.

To ease the demands made on approved warehouse space for the 2006 crop, the CCC will accept as collateral for marketing assistance loans for corn, wheat, and other feed grains, warehouse receipts issued by a warehouse that is storing such commodity in outside storage if the warehouse has executed a Uniform Grain and Rice Storage Agreement (UGRSA) with CCC and if the warehouse is either:

1. A Federally-licensed warehouse under the United States Warehouse Act (USWA) and is in compliance with the provisions of its USWA license; or

2. For all other warehouses, the warehouse is in compliance with State laws allowing the outside storage of such commodities.

USWA Emergency Storage Requirements

Warehouse operators requesting emergency storage space under the USWA must:

1. Receive USWA licensing authority approval for the use of emergency storage space;

2. Meet USWA's security, net worth, bonding, and insurance requirements as required for conventional storage space;

3. Provide written justification that a need for emergency storage exists in the local area including the exact location and quantity requested;

4. Meet USWA's requirement that emergency storage space be accessible for examination purposes;

5. Receive USWA approval for the emergency storage space prior to using such space;

6. Maintain a separate inventory record of all grain stored in emergency storage space as well as account for such grain in the Daily Position Record;

7. Agree that all emergency storage space will be deleted from the license no later than March 31, 2007; and

8. Emergency storage is limited to wheat, corn, and other feed grains unless otherwise allowed by the USWA.

Warehouse Operator's Liability

The use of emergency storage space does not relieve warehouse operators of their obligations under the USWA, State licensing authority (as applicable), or the UGRSA. Warehouse operators are responsible for the quantity and quality of grain stored in emergency storage space to the same extent as their liability for conventional storage space.

Signed at Washington, DC, June 23, 2006.

Teresa C. Lasseter,

Administrator, Farm Service Agency, and Executive Vice-President, Commodity Credit Corporation.

[FR Doc. E6–10367 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Thursday July 13, 2006 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: July 13, 2006.

ADDRESSES: Forest Supervisor's Office, 1101 US Hwy 2 West, Libby, Montana.

FOR FURTHER INFORMATION CONTACT: Barbara Edgmon, Committee Coordinator, Kootenai National Forest at (406) 283–7764, or e-mail *bedgmon@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda topics include vote to reallocate funds to complete approved projects, receiving proposals for 2007, and receiving public comment. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: June 26, 2006.

Thomas Puchlerz,

Acting Forest Supervisor.

[FR Doc. 06–5953 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 105–393), the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting, which is open the public.

DATES: Wednesday, July 19, 2006, beginning at 10:30 a.m.

ADDRESSES: Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval of project proposals, and is an open public forum.

FOR FURTHER INFORMATION CONTACT: Doug Gochnour, Designated Federal Officer, at 208–392–6681 or e-mail *dgofchnour@fs.fed.us.*

Dated: June 28, 2006.

Richard A. Smith,

Forest Supervisor, Boise National Forest.

[FR Doc. 06–5973 Filed 6–30–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Office 4, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2002) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than the last day of July 2006,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period
Antidumping Duty Proceedings	
Brazil: Silicon Metal, A–351–806	7/1/05–6/30/06
Chile: IQF Red Raspberries, A–337–806	7/1/05–6/30/06
Finland: Purified Carboxymethylcellulose, A–405–803	12/27/04–6/30/06
France: Stainless Steel Sheet and Strip in Coils, A–427–814	7/1/05–6/30/06
Germany: Stainless Steel Sheet and Strip in Coils, A–428–825	7/1/05–6/30/06
India: Polyethylene Terephthalate (Pet) Film, A–533–824	7/1/05–6/30/06
Iran: In-Shell Pistachio Nuts, A–507–502	7/1/05–6/30/06
Italy:	
Certain Pasta, A–475–818	7/1/05–6/30/06
Stainless Steel Sheet and Strip in Coils, A–475–824	7/1/05–6/30/06
Japan:	
Clad Steel Plate, A–588–838	7/1/05–6/30/06
Polyvinyl Alcohol, A–588–861	7/1/05–6/30/06
Stainless Steel Sheet and Strip in Coils, A–588–845	7/1/05–6/30/06
Mexico:	
Purified Carboxymethylcellulose, A–201–834	12/27/04–6/30/06
Stainless Steel Sheet and Strip in Coils, A–201–822	7/1/05–6/30/06
Republic of Korea: Stainless Steel Sheet and Strip in Coils, A–580–834	7/1/05–6/30/06
Russia:	
Ferrovanadium and Nitrided Vanadium, A–821–807	7/1/05–6/30/06
Solid Urea, A–821–801	7/1/05–6/30/06
Sweden: Purified Carboxymethylcellulose, A–401–808	12/27/04–6/30/06
Taiwan: Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/05–6/30/06
Thailand:	
Butt-Weld Pipe Fittings, A–549–807	7/1/05–6/30/06
Canned Pineapple, A–549–813	7/1/05–6/30/06
Furfuryl Alcohol, A–549–812	7/1/05–6/30/06
The Netherlands: Purified Carboxymethylcellulose, A–421–811	12/27/04–6/30/06
The People's Republic of China:	
Butt-Weld Pipe Fittings, A–570–814	7/1/05–6/30/06
Persulfates, A–570–847	7/1/05–6/30/06
Saccharin, A–570–878	7/1/05–6/30/06
The United Kingdom: Stainless Steel Sheet and Strip in Coils, A–412–818	7/1/05–6/30/06
Turkey: Certain Pasta, A–489–805	7/1/05–6/30/06
Ukraine: Solid Urea, A–823–801	7/1/05–6/30/06
Countervailing Duty Proceedings	
India: Polyethylene Terephthalate (Pet) Film, C–533–825	1/1/05–12/31/05
Italy: Certain Pasta, C–475–819	1/1/05–12/31/05
Turkey: Certain Pasta, C–489–806	1/1/05–12/31/05
Suspension Agreements	
Russia: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, A–821–809	1/1/05–12/31/05

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at *http://ia.ita.doc.gov.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of July 2006. If the Department does not receive, by the last day of July 2006, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the U.S. Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 28, 2006.

Thomas F. Futtner,

Acting Office Director, AD/CVD Operations, Office 4, Import Administration.

[FR Doc. E6–10380 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* July 3, 2006.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than May 31, 2007.

	Period to be reviewed
Antidumping Duty Proceedings	
Belgium: Stainless Steel Plate in Coils, A–423–808	5/1/05–4/30/06
Ugine & ALZ Belgium	
Canada: Certain Softwood Lumber [1], A–122–838	5/1/05–4/30/06
465016 BC Ltd. (aka 465016 Ltd.)	
582912 BC Ltd. (dba Paragon Wood Products Lumby)	
582912 BC Ltd. (dba Paragon Wood-Lumby Div.)	
Abitibi-Consolidated Company of Canada	
Abitibi-Consolidated Inc.	
Abitibi-LP Engineered Wood II Inc.	
Abitibi-LP Engineered Wood Inc.	
AJ Forest Products Ltd.	
Alberta Spruce Industries, Ltd.	
Alexandre Cote Ltee.	
Allmac Lumber Sales Ltd.	
Allmar International	
Alpa Lumber Mills Inc.	
Alpine Forest Trading Inc.	
American Bayridge Corporation	
Anderson Pacific Forest Products Ltd.	
Apollo Forest Products Ltd.	
Aquila Cedar Products Ltd.	
Arbec Forest Products Inc.	
Arbutus Manufacturing Ltd.	
Armand Duhamel & Fils Inc.	
Aspen Planers Ltd.	
Atco Lumber Ltd.	
Atikokan Forest Products Ltd.	
Atlantic Warehousing Ltd.	
Atlas Lumber Alberta Ltd.	

	Period to be reviewed
AWL Forest Products	
B & L Forest Products Ltd.	
Bakerview Forest Products Inc.	
Bardeaux et Cedres St-Honore Inc.	
Barette-Chapais Ltee.	
Barrett Lumber Company (Barrett Lumber Company Limited)	
Barry Maedel Woods & Timber	
Bathurst Lumber	
Bathurst Lumber, Division of UPM-Kymmene Miramichi Inc.	
Bayside Reman Services, Ltd.	
Beaubois Coaticook Inc.	
Bel Air Forest Products Inc.	
Bel Air Lumber Mills, Inc.	
Bermorg LLC	
Bishop Lumber Co. Ltd.	
Blackville Lumber	
Blackville Lumber, Division of UPM Miramichi	
Blackville Lumber, Division of UPM-Kymmene Miramichi Inc.	
Blanchette et Blanchette Inc. (Blanchette & Blanchette Inc.)	
Bois Bonsai Inc.	
Bois BSL Inc.	
Bois Cobodex (1995) Inc.	
Bois De L'est FB Inc.	
Bois d'oeuvre Cedrico inc. (Cedrico Lumber Inc.)	
Bois Fontaine Inc.	
Bois Granval G.D.S. Inc.	
Bois Kheops Inc.	
Bois Marsoui G.D.S. Inc.	
Bois Neos Inc.	
Bois Nor Que Wood Inc.	
Bois Omega Ltee.	
Boisaco Inc.	
Bonnyman & Byers Limited (Bonnyman & Byers Ltd.)	
Boscus Canada Inc.	
Boucher Bros. Lumber Ltd.	
Bowater Canadian Forest Products Incorporated	
Bowater Incorporated	
Bridgeside Forest Industries Ltd. (Bridgeside Higa Forest Industries, Ltd.)	
Brink Forest Products Ltd.	
Brittania Lumber Company Limited	
Brown & Rutherford Co. Ltd.	
Brunswick Valley Lumber Inc. (Brunswick Valley Lumber)	
Buchanan Distribution Inc.	
Buchanan Forest Products Ltd.	
Buchanan Lumber	
Buchanan Lumber Sales Inc.	
Buchanan Northern Hardwoods Inc.	
Burrows Lumber Inc.	
Burrows Lumber (US) Inc.	
Busque & Laflamme Inc.	
BW Creative Wood Industries Ltd.	
Byrnexco Inc.	
C & C Lath Mill Ltd.	
C&C Wood Products Ltd.	
C.E. Harrison & Sons Limited (C. Ernest Harrison & Sons Ltd.)	
Caledonia Forest Products Ltd.	
Cambie Cedar Products Ltd.	
Canadian Forest Products Ltd.	
Canadian Forest Products Ltd., Uneeda Wood Products Division	
Canadian Lumber Company Ltd.	
Canadian Overseas Log & Lumber, Ltd.	
Canasia Forest Industries Ltd	
Canfor Corporation	
Canfor Uneeda/Uneeda Wood Products	
Canfor Wood Products Marketing Ltd.	
CanWel Building Materials Ltd.	
Canyon Lumber Company Ltd.	
Cardinal Lumber Manufacturing and Sales Inc.	
Careau Bois Inc.	
Carrier & Begin Inc.	
Carrier Forest Products Ltd.	
Carrier Lumber Ltd.	
Carson Lake Lumber Limited	

	Period to be reviewed
Cascadia Forest Products Ltd.	
Cattermole Timber	
CDS Lumber Products Ltd.	
Cedartone Specialties Ltd.	
Central Cedar Ltd.	
Centurion Lumber Manufacturing (1983) Ltd.	
Chaleur Sawmills Associes (Chaleur Sawmills, Chaleur Sawmills Associates, Scierie Chaleur Associes)	
Chasyn Wood Technologies Inc.	
Cheslatta Forest Products Ltd.	
Chipman Sawmill Inc.	
Choicewood Products Inc.	
City Lumber Sales & Services Limited	
Clair Industrial Development Corp. Ltd.	
Claude Forget Inc.	
Clermond Hamel Ltee.	
Clotures Rustiques L.g. Inc.	
Coast Clear Wood Ltd.	
Colonial Fence MFG. Ltd. (Colonial Fence Mfg. Ltd.)	
Comeau Lumber Ltd. (Comeau Lumber Limited)	
Commonwealth Plywood Co. Ltd. (dba Bois Clo-Val, Les Entreprises Atlas, and W.C. Edwards Lumber)	
Cooper Creek Cedar Ltd.	
Cottle's Island Lumber Co. Ltd. (Cottles Island Lumber Company Limited)	
Coulsen Manufacturing Ltd.	
Cowichan Lumber Ltd.	
Crystal Forest Industries Ltd.	
Cushman Lumber Company Inc.	
Cushman Lumber Company Ltd.	
D.S. Lumber Sales Ltd.	
Daaquam Lumber Inc. (aka Bois Daaquam Inc.)	
Dakeryn Industries Ltd.	
Davron Forest Products Ltd.	
Deep Cove Forest Products	
Deep Cove Lumber	
Delco Forest Products Ltd.	
Delta Cedar Products	
Delta Pacific Lumber Sales, Inc.	
Deniso Lebel Inc.	
Devon Lumber Co. Ltd.	
Doman Forest Products Limited	
Doman Industries Limited	
Doman-western Lumber Ltd.	
Domexport, Inc.	
Domino Forest Products Inc.	
Domtar Inc.	
Doubletree Forest Products Company Ltd.	
Downie Timber Ltd.	
Dubreuil Forest Products Limited	
Dunkley Lumber Ltd.	
E. Stirling Wood Products Ltd.	
E. Tremblay et fils ltee. (aka Scierie Tremblay)	
Eacan Timber Canada Ltd.	
Eacan Timber Ltd. (Eacan Timber Limited)	
Eacan Timber USA Ltd.	
East Fraser Fiber Co., Ltd.	
Eastwood Forest Products Inc.	
Ed Bobcel Lumber 1993 Ltd.	
Edwin Blaikie Lumber Ltd.	
Elmira Wood Products	
Elmsdale Lumber Co., Ltd. (Elmsdale Lumber Company)	
ER Probyn Export Ltd.	
Errington Cedar Products Ltd.	
Excel Forest Products	
F W Taylor Lumber Company	
F.L. Bodogh Lumber Co. Ltd.	
Falcon Lumber Limited	
Faulkener Wood Specialties Ltd.	
Fawcett Lumber Co.	
Fawcett Quality Lumber Products	
Federated Co-operatives Limited	
Felix Wood Products of Canada	
Fenclo Ltee.	
Finmac Lumber Limited	
Fletcher Lumber	

	Period to be reviewed
Fontaine Inc. (dba J.A. Fontaine et fils Incorporee)	
Foothills Forest Products Inc.	
Forest Products Northwest, Inc.	
Forex Log & Lumber, Ltd.	
Fort St. James Forest Products Ltd.	
Forwest Wood Specialties Inc.	
Forwood Forest Products Inc.	
FPS Canada Inc.	
Fraser Pacific Forest Products Inc.	
Fraser Pacific Lumber Company	
Fraser Papers Inc.	
Fraser Plaster Rock	
Fraser Pulp Chips Ltd.	
Fraser Timber Limited	
Fraserview Cedar Products Ltd.	
Fraserwood Industries Ltd.	
G.A. Grier (1991) Inc. (G.A. Grier 1991 Inc.)	
G.A.G. Sales, Inc. (G.A.G. Sales Inc.)	
G.D.S. Valoribois Inc.	
G.L. Sawmill Ltd.	
Galloway Lumber Co. Ltd.	
Gerard Crete & Fils Inc. (aka Gerard Crete & Sons Inc.)	
Gestion Natanis Inc.	
Gestion S. Crete Inc.	
Gestofor, Inc.	
Gilbert Smith Forest Products Ltd.	
Goldwood Industries Ltd.	
Goodfellow Inc.	
Gordon Buchanan Enterprises Ltd.	
Gorman Bros. Lumber Ltd.	
Great Lakes MSR Lumber Ltd.	
Great West Timber Limited	
Greenwood Forest Products (1983) Ltd.	
Groupe Lebel (2004) Inc.	
H.A. Fawcett & Son Limited	
H.J. Crabbe & Sons Ltd.	
H.S. Bartram (1984) LTD	
Haida Forest Products Ltd.	
Hainesville Sawmill Ltd.	
Halo Sawmill Limited Partnership	
Halo Sawmills	
Hanson's Sawmill	
Harry Freeman & Son Limited (Harry Freeman and Son Limited, Harry Freeman & Son Ltd., Harry Freeman & Sons Ltd.)	
Hawk Brothers Lumber Co., Ltd.	
Hefler Forest Products Ltd.	
Herridge Trucking & Sawmilling Ltd.	
Hi-Knoll Cedar Inc.	
Hilmoe Forest Products Ltd.	
Holdright Lumber Products Limited	
Howe Sound Forest Products (2005) Ltd.	
Hudson Mitchell & Sons Lumber Inc.	
Hughes Lumber Specialties Inc.	
Hy Mark Wood Products Inc.	
Hyak Specialty Wood Products Ltd.	
Industrie Bois Lamontagne Inc.	
Industries G.D.S. Inc.	
Industries P.F. Inc.	
Industries Perron Inc.	
International Forest Products Ltd.	
International Forest Products Ltd. (Interfor), MacKenzie Sezai Division	
Interpac Log & Lumber Ltd.	
Iron Mountain Trading Inc.	
Ivor Forest Products Ltd.	
J&G Log and Lumber Ltd.	
J&G Log Works Ltd.	
J.A. Turner & Sons (1987) Limited (J.A. Turner & Sons (1987) Ltd.)	
J.D. Irving, Limited	
J.H. Huscroft Ltd.	
J.S. Jones Timber	
Jackpine Engineered Wood Products	
Jackpine Forest Products Ltd.	
Jackpine Group of Companies	

	Period to be reviewed
Jamestown Lumber Company Limited (Jamestown Lumber Company Ltd., Jamestown Lumber Co. Ltd.)	
Jasco Forest Products Ltd.	
Jeffrey Hanson	
John W. Jamer Ltd.	
JR Remanufacturing Inc.	
Kalesnikoff Lumber Co. Ltd.	
Kebois Limited (Kebois Ltee)	
Kenora Forest Products Ltd.	
Kenwood Lumber Ltd.	
Kermode Forest Products Ltd.	
Kispiox Forest Products Ltd.	
Kitwanga Lumber Company	
Kitwanga Mills Ltd	
Kootenay Innovative Wood Ltd.	
KP Wood Ltd.	
Kruger, Inc.	
Krystal Klear Marketing Inc.	
L&M Lumber Ltd.	
La Crete Sawmills Ltd.	
Lafontaine Lumber Inc.	
Lakeland Mills Ltd.	
Lakeside Timber Ltd.	
Lamco Forest Products	
Landmark Truss & Lumber Inc.	
Langevin Forest Products, Inc.	
Langley Timber Ltd	
Lattes Waska Laths Inc.	
Lawsons Lumber Company Ltd.	
Lecours Lumber Co. Limited	
Ledwidge Lumber Co., Ltd.	
Leggett & Platt (B.C.) Ltd.	
Leggett & Platt Canada Co.	
Leggett & Platt Ltd.	
Leggett & Platt, Inc.	
LeggettWood	
Leonard Ellen Canada (1991) Inc.	
Les Bois d'Oeuvre Beaudoin & Gauthier	
Les Bois Indifor Lumber Inc.	
Les Bois K–7 Lumber Inc.	
Les Bois Lac Frontiere Inc.	
Les Bois S&P Grondin Inc. (aka Les Bois Grondin Inc.)	
Les Chantiers Chibougamau Ltee	
Les Pallettes BB Inc. (aka B.B. Pallets Inc.)	
Les Placements Jean-paul Fontaine Ltee	
Les Produits Forestiers D.G. Ltee	
Les produits forestiers Dube inc. (Dube Forest Products)	
Les Produits Forestiers F.B.M. Inc.	
Les Produits Forestiers Miradas Inc. (aka Miradas Forest Products Inc.)	
Les Scieries du Lac St-Jean Inc.	
Les Scieries J. Lavoie Inc.	
Leslie Forest Products Ltd.	
Ligni Bel Ltd.	
Lignum Ltd.	
Lindal Cedar Homes Company	
Lindsay Lumber Ltd.	
Liskeard Lumber Limited	
Long Lake Forest Products Inc.	
Long Lake Forest Products Inc. (Nakina Division)	
Louisiana-Pacific Canada Ltd.	
Louisiana-Pacific Corporation	
Lulumco inc.	
LumberPlus Industries Inc.	
Lyle Forest Products Ltd.	
M & G Higgins Lumber Ltd.	
M.L. Wilkins & Son Ltd. (M.L. Wilkins and Son Ltd.)	
MacTara Limited	
Maedel Wood & Timber Sales (div. of T.S.P. Systems Ltd.)	
Maher Forest Products, Ltd.	
Maibec Industries Inc. (aka Industries Maibec Inc.)	
Mainland Sawmill	
Mainland Sawmill (Division of Terminal Forest Products)	
Manitou Forest Products Ltd.	
Manning Diversified Forest Products Ltd.	

	Period to be reviewed
Maple Creek Saw Mills Inc.	
Marcel Lauzon Inc.	
Marine Way Industries Inc.	
Marwood Ltd.	
Marwood Ltd.—Central Blissville	
Materiaux Blanchet Inc.	
Max Meilleur et fils ltee	
McKenzie Forest Products Inc.	
MDFP Sales	
MF Bernard Inc.	
Mid America Lumber	
Mid Valley Lumber Specialties Ltd.	
Midway Lumber Mills Ltd.	
Mill & Timber Products Ltd.	
Millar Western Forest Products Ltd.	
Millco Wood Products Ltd.	
Miramichi Lumber Products	
Mirax Lumber Products Ltd.	
Mobilier Rustique (Beauce) Inc.	
Monterra Lumber Mills Limited	
Mountain View Specialties	
Mountain View Specialty Products Inc.	
MPH Forest Products Ltd.	
Murray Bros. Lumber Company Limited	
N.F. Douglas Lumber Ltd. (N.F. Douglas Lumber Limited)	
Nechako Lumber Co., Ltd.	
Newcastle Lumber Co., Inc.	
Nexfor Inc.	
Nicholson and Cates Limited	
Nickel Lake Lumber	
Noble Custom Cut Ltd.	
Norbord Industries Inc.	
NorSask Forest Products Inc	
North American Forest Products Ltd.	
North American Forest Products Ltd. (Belanger Division)	
North American Hardwoods Ltd.	
North Atlantic Lumber Inc.	
North Enderby Distribution Ltd.	
North Enderby Timber Ltd.	
North Mitchell Lumber Company Ltd.	
North of 50	
North Shore Timber Ltd.	
North Star Wholesale Lumber Ltd.	
Northern Sawmills Inc.	
Northland Forest Products Ltd.	
Northwest Specialty Lumber	
Olav Haavaldsrud Timber Company Limited	
Olympic Industries Inc.	
Optibois Inc.	
Oregon Canadian Forest Products	
P. Proulx Forest Products Inc. (aka Proulx, Proulx Forest Products Inc., and Produits Forestiers P. Proulx Inc.)	
Pacific Coast Timber Inc.	
Pacific Lumber Company	
Pacific Lumber Remanufacturing Inc.	
Pacific Specialty Wood Products Ltd. (Clearwood Industries Inc.)	
Pallan Timber Products (2000) Ltd.	
Pallan Timber Products Ltd.	
Palliser Lumber Sales Ltd.	
Parallel Wood Products, Ltd.	
Pat Power Forest Products Corporation	
Patrick Lumber Company	
Paul Vallee Inc.	
Peak Forest Products Ltd.	
Pharlap Forest Products Inc.	
Phoenix Forest Products Inc.	
Pope & Talbot Inc. (and its wholly owned subsidiary Pope & Talbot Ltd.)	
Porcupine Wood Products Ltd.	
Port Moody Timber Ltd.	
Portbec Forest Products Ltd. (aka Les Produits Forestiers Portbec Ltee.)	
Power Wood Corp.	
Precibois Inc.	
Preparabois Inc.	
Produits Forestiers Berscifor Inc.	

	Period to be reviewed
Produits Forestiers La Tuque Inc.	
Produits Forestiers Petit-Paris Inc.	
Produits Forestiers Saguenay Inc.	
PRO-Lumber Inc. (Pro-Lumber Inc., Pro Lumber Inc.)	
Promobois G.D.S. Inc.	
Prudential Forest Products Limited	
Quadra Wood Products Ltd.	
R. Fryer Forest Products Limited	
Raintree Lumber Specialties Ltd.	
Ratcliff Forest Products Inc.	
Redtree Cedar Products Ltd.	
Redwood Value Added Products, Inc.	
Rembos Inc.	
Rene Bernard Inc.	
RichWood Trading Ltd.	
Ridge Cedar Ltd.	
RIDGETIMBER Trading Inc.	
RIDGETIMBER Trading Ltd.	
Ridgewood Forest Products Limited	
Rielly Industrial Lumber Inc.	
Riverside Forest Products Ltd.	
Riverside Marketing and Sales	
Rojac Cedar Products Inc.	
Rojac Enterprises Inc.	
Roland Boulanger & Cie Ltee	
Russell White Lumber Limited	
S&R Sawmills Ltd.	
Salmon Arm	
Saran Cedar	
Sauder Industries Limited	
Sauder Industries Ltd.—Cowichan Division	
Sawarne Lumber Co. Ltd.	
Scierie A&M St-Pierre Inc.	
Scierie Adrien Arseneault Ltee.	
Scierie Alexandre Lemay et fils inc.	
Scierie Dion et fils Inc.	
Scierie Duhamel Sawmill Inc.	
Scierie Gallichan	
Scierie Gauthier Ltee	
Scierie La Patrie, Inc.	
Scierie Landrienne, Inc.	
Scierie Lapointe & Roy Ltee	
Scierie Leduc, Division of Stadacona L.P.	
Scierie Leduc, Division of Stadaconia Inc.	
Scierie Norbois Inc.	
Scierie Nord-Sud (North-South Sawmill Inc.)	
Scierie St-Elzear Inc.	
Scierie Tech	
Scierie West Brome Inc.	
Scieries du Lac St. Jean Inc.	
Seed Timber Co. Ltd.	
Selkirk Specialty Wood Ltd.	
Sexton Lumber Co. Limited	
Seycove Forest Products Limited	
Seymour Creek Cedar Products Ltd.	
Shawood Lumber Inc.	
Sigurdson Bros. Logging Company Ltd. (aka Sigurdson Brothers Logging Company Ltd.)	
Silvermere Forest Products Inc.	
Sinclar Enterprises Ltd.	
Skagit Industries	
Skaha Forest Products Ltd.	
Skana Forest Products Ltd.	
Slocan Forest Products Ltd.	
Societe en Commandite Scierie Opitciwan	
Solid Wood Products Inc.	
South Beach Trading Inc.	
South-East Forest Products Ltd.	
Spray Lake Sawmills (1980) Ltd.	
Spray Lake Sawmills Ltd.	
Springer Creek Forest Products Ltd.	
Spruce Forest Products Ltd.	
Spruce Products	
Spruceland Millworks (Alberta)	

	Period to be reviewed
Spruceland Millworks Inc.	
St. Anthony Lathing Ltd.	
Stag Timber	
Stuart Lake Lumber Co. Ltd.	
Stuart Lake Marketing Co. Ltd.	
Stuart Lake Marketing Corporation (aka Stuart Lake Marketing Inc.)	
Suncoast Lumber & Milling	
Suncoast Lumber & Milling (div. of 407 Holdings Ltd.)	
Sundance Forest Industries Ltd.	
Swiftwood Forest Products Limited	
Sylvanex Lumber Products Inc.	
Synergy Pacific Engineered Timber Ltd.	
T.F. Specialty Sawmill	
T.P. Downey & Sons Ltd.	
Taiga Building Products	
Taiga Forest Products	
Tall Tree Lumber Co.	
Taylor Lumber Company Ltd. (Taylor Lumber Co. Ltd., Taylor Lumber Company Limited)	
Teal Cedar Products Ltd.	
Teal-Jones Group	
Teal-Jones Sales Ltd.	
Teeda Corp	
Tembec Inc.	
Tembec Industries Inc.	
Terminal Forest Products (Terminal Sawmill Division)	
Terminal Forest Products Ltd.	
TFL Forest Ltd. (aka TimberWest Forest Corp. and Timber West Forest Company)	
The Pas Lumber Co. Ltd.	
The Teal Jones Group–Stag Timber Division	
Timber Ridge Forest Products Inc.	
Timberworld Forest Products Inc.	
T'loh Forest Products Limited Partnership	
Tolko Industries Ltd.	
Tolko Marketing & Sales Ltd.	
Top Quality Lumber Ltd.	
TPI Timber Products International (1975) Ltd.	
Trans-Pacific Trading Ltd.	
Treeline Wood Products Ltd.	
Triad Forest Products, Ltd.	
Triple Five Quality Wood Inc.	
Twin Rivers Cedar Products Ltd.	
Tyee Timber Products Ltd.	
Uniforet Inc.	
Uniforet Scierie-Pate Inc.	
Uphill Wood Supply Inc.	
UPM Bathurst	
UPM Blackville	
UPM Miramichi	
UPM-Kymmene Miramichi Inc.	
Usine Sartigan Inc.	
Vancouver Specialty Cedar Products Ltd.	
Vanderhoof Specialty Wood Products Inc.	
Vandermeer Forest Products (Canada) Ltd.	
Vanderwell Contractors (1971) Ltd.	
Vanport Canada, Co.	
Velcan Forest Products Inc.	
Vernon Kiln and Millwork Ltd.	
Visscher Lumber Inc.	
W.I. Woodtone Industries Inc.	
Wakefield Cedar Ltd.	
Wakefield Cedar Products Ltd.	
Welco Lumber Corporation	
Weldwood of Canada Ltd.	
Wentworth Lumber Ltd.	
West Bay Forest Products and Manufacturing Ltd.	
West Chilcotin Forest Products Ltd.	
West Fraser Mills Ltd.	
Western Forest Products Inc.	
Western Forest Products Limited	
Westex Timber Mills Ltd	
Westmark Products Ltd.	
Weston Forest Corp.	
Westshore Specialties Ltd. (dba Sunbury Cedar Sales)	

	Period to be reviewed
West-Wood Industries Ltd.	
Westwood Manufacturing Ltd.	
Weyerhaeuser Company	
Weyerhaeuser Company Limited	
Weyerhaeuser Saskatchewan Limited	
WFP Forest Products Limited	
WFP Lumber Sales Limited	
WFP Western Lumber Ltd.	
Wilfrid Paquet & Fils Ltee	
Williams Brothers Limited	
Williamsburg Woods & Garden Inc.	
Winnipeg Forest Products, Inc.	
Winton Global Lumber Ltd.	
Woodko Enterprises, Ltd.	
Woodline Forest Products Ltd.	
Woodtone Industries Inc.	
Woodwise Lumber Limited	
Wynndel Box & Lumber Co. Ltd.	
Republic of Korea: Certain Polyester Staple Fiber, A–580–839	5/1/05–4/30/06.
Huvis Corporation	
Dongwoo Industry Company	
Taiwan: Polyester Staple Fiber, A–583–833	5/1/05–4/30/06.
Far Eastern Textile Ltd.	

	Period/class or kind
Antifriction Bearings Proceedings and Firms Period/Class or Kind	
France: A–427–801	5/1/05–4/30/06
SKF France S.A. and SKF Aerospace France	Ball
SNR Roulements	Ball
Alcatel Vacuum Technology	Ball
INA	Ball
Germany: A–428–801	5/1/05–4/30/06
ABB Turbo Systems Limited	Ball
Gabreuder Reinfort GmbH & Co., KG	Ball
INA-Schaeffler KG	Ball
NTN Kugellagerfabrik (Deutschland) Gmbh	Ball
SKF GmbH	Ball
Italy: A–475–801	5/1/05–4/30/06
FAG Italia S.p.A	Ball
SKF Industrie S.p.A	Ball
Japan: A–588–804	5/1/05–4/30/06
Aisin Seiki Company, Ltd	Ball
Asahi Seiko Co., Ltd	Ball
Canon, Inc.	Ball
JTEKT Corporation (formerly known as Koyo Seiko Co., Ltd)	Ball
Minebea Co., Ltd	Ball
Mori Seiki Co., Ltd	Ball
Nachi-Fujikoshi Corporation	Ball
Nankai Seiko Co., Ltd	Ball
Nippon Pillow Block Company, Ltd	Ball
NSK Ltd	Ball
NTN Corporation	Ball
Osaka Pump Co., Ltd	Ball
Takeshita Seiko, Co., Ltd	Ball
Tottori Yamakai Bearing Seisakusho, Ltd	Ball
Sapporo Precision, Inc	Ball
Toyota Industries Corporation	Ball
Singapore: A–599–801	5/1/05–4/30/06
NMB/Pelmec	Ball
United Kingdom: A–412–801	5/1/05–4/30/06
Alcatel Vacuum Technology	Ball
NSK Bearings Europe	Ball
The Barden Corporation (U.K.), Ltd	Ball
SKF Aeoengine Bearings UK	Ball
Countervailing Duty Proceedings	
Canada: Certain Softwood Lumber, C–122–839	4/1/05–3/31/06

	Period/class or kind
Suspension Agreements	
None.	

[1] For the antidumping duty review of certain softwood lumber from Canada (A–122–838), firms should be advised that they have 30 days from the date of publication of this notice to make the Department of Commerce (the Department) aware of any corrections that need to be made to their company's name. The names appear here exactly as they will be identified to U.S. Customs and Border Protection (CBP). Corrections may include alternative spellings, and any additional names which a company uses to identify itself to CBP. This is not, however, an opportunity to include in the review additional firms for which a review was not requested. The Department may not be able to consider changes requested after the 30 day period has elapsed, and under no circumstances will any such changes result in a change to the automatic liquidation instructions.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States*, 291 F.3d 806 (Fed. Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: June 28, 2006.

Thomas F. Futtner,

Acting Office Director, AD/CVD Operations, Office 4, Import Administration.

[FR Doc. E6–10381 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Upcoming Sunset Reviews.

SUPPLEMENTARY INFORMATION:

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for August 2006

The following Sunset Reviews are scheduled for initiation in August 2006 and will appear in that month's Notice of Initiation of Five-year Sunset Reviews.

Antidumping Duty Proceedings	Department Contact
Foundry Coke from China (A–570–862)	Jim Nunno (202) 482–0783
Solid Agricultural Grade Ammonium Nitrate from Ukraine (A–823–810)	Brandon Farlander (202) 482–0182
Certain Hot–Rolled Carbon Steel Flat Products from Argentina (A–357–814)	Zev Primor (202) 482–4114
Certain Hot–Rolled Carbon Steel Flat Products from South Africa (A–791–809)	Dana Mermelstein (202) 482–1391
Steel Concrete Reinforcing Bars from Belarus (A–822–804)	Brandon Farlander (202) 482–0182
Steel Concrete Reinforcing Bars from China (A–570–860)	Brandon Farlander (202) 482–0182
Steel Concrete Reinforcing Bars from Indonesia (A–560–811)	Brandon Farlander (202) 482–0182
Steel Concrete Reinforcing Bars from Latvia (A–449–804)	Brandon Farlander (202) 482–0182
Steel Concrete Reinforcing Bars from Moldova (A–841–804)	Brandon Farlander (202) 482–0182
Steel Concrete Reinforcing Bars from Poland (A–455–803)	Brandon Farlander (202) 482–0182
Steel Concrete Reinforcing Bars from South Korea (A–580–844)	Brandon Farlander (202) 482–0182
Steel Concrete Reinforcing Bars from Ukraine (A–823–809)	Brandon Farlander (202) 482–0182
Countervailing Duty Proceedings.	
Certain Hot–Rolled Carbon Steel Flat Products from Argentina (C–357–815)	Brandon Farlander (202) 482–0182
Suspended Investigations.	
No suspended investigations are scheduled for initiation in August 2006..	

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3--Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin''). The Notice of Initiation of Five-year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 28, 2006.

Thomas F. Futtner,

Acting Office Director,AD/CVD Operations, Office 4, Import Administration.

[FR Doc. E6–10388 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–848

Notice of Rescission of Antidumping Duty New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On April 29, 2005, in response to requests from Jiangsu Jiushoutang Organisms–Manufacturers Co. Ltd. (''Jiangsu JOM''), Shanghai Sunbeauty Trading Co., Ltd.(≥Shanghai Sunbeauty''), and Qingdao Wentai Trading Co. Ltd. (''Wentai''), the Department of Commerce (''the Department'') initiated new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (''PRC''). The period of review (''POR'') is September 1, 2004, through February 28, 2005. For the reasons discussed below, we are rescinding these new shipper reviews.

EFFECTIVE DATE: July 3, 2006.

FOR FURTHER INFORMATION CONTACT: Scot Fullerton or P. Lee Smith, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–1386 or (202) 482–1655, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The product covered by this order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the U.S. Customs Service in 2000, and HTSUS items 0306.19.00.10 and 0306.29.00, which are reserved for fish and crustaceans in general. The HTSUS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Background

On March 17, 2005, the Department received properly filed requests for a new shipper review from Shanghai Sunbeauty and Jiangsu JOM. On March 18, 2005, the Department received a properly filed request for a new shipper review from Wentai. On April 29, 2005, the Department published its initiation of these new shipper reviews for the period September 1, 2004, through February 28, 2005. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of New Shipper Antidumping Administrative Reviews*, 70 FR 23987 (May 6, 2005).

On June 2, 2005, the Department received Jiangsu JOM, Shanghai Sunbeauty and Wentai's section A questionnaire responses. On June 22, 2005, the Department received Jiangsu JOM and Shanghai Sunbeauty's section C & D questionnaire responses. On June 30, 2005, the Department received Wentai's section C & D questionnaire responses. On July 21, 2005, the Department issued its first supplemental questionnaires to Jiangsu JOM and Shanghai Sunbeauty. On July 25, 2005, the Department issued its first supplemental questionnaire to Wentai. On August 12, 2005, Wentai submitted its response to the Department's first supplemental questionnaire. On August 17, 2005, Jiangsu JOM and Shanghai Sunbeauty submitted their responses to the Department's first supplemental questionnaire. On August 18, 2005, Jiangsu JOM submitted a supplement to their August 17, 2005, submission. On September 19, 2005, the Department issued its second supplemental questionnaire to Jiangsu JOM and Shanghai Sunbeauty. On September 20, 2005, the Department issued its second supplemental questionnaire to Wentai. On October 3, 2005, Jiangsu JOM and Shanghai Sunbeauty submitted their responses to the Department's second supplemental questionnaires. On October 5, 2005, Wentai submitted its response to the Department's second supplemental questionnaire. On October 21, 2005, the Department rejected Jiangsu JOM's response to the Department's second supplemental questionnaire. On October 26, 2005, Jiangsu JOM resubmitted its response to the Department's second supplemental questionnaire.

On October 14, 2005, the Department extended the due date for the preliminary results of this new shipper review by 120 days from the original October 26, 2005, deadline until February 23, 2006. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limit of Preliminary Results of New Shipper Review*, 70 FR 61117 (October 20, 2005).

From October 18 through October 21, 2005, the Department conducted verification of Jiangsu JOM's questionnaire responses at the company's facilities in Xinghua City, Jiangsu, China. See Verification Report for Jiangsu Jiushoutang Organisms Manufacturers Co. Ltd., dated February 17, 2006. From January 23 through January 24, 2006, the Department conducted verification of Jiangsu JOM's affiliated U.S. importer, Easy River Seafood Corp. (''Easy River''), in Alhambra, CA. *See Verification Report for Easy River Seafood Corp.*, dated February 17, 2006.

From October 31 through November 1, 2005, the Department conducted verification of Shanghai Sunbeauty's questionnaire responses at the company's sales office in Shanghai, China. *See Verification Report for Shanghai Sunbeauty Trading Co. Ltd.*, dated February 17, 2006. From November 3 through November 4, 2005, the Department conducted verification of Shanghai Sunbeauty's questionnaire responses relating to its producer for the POR, Wuwei Xinhua Food Co. Ltd. (''Wuwei Xinhua''), in Wuwei County, Anhui Province, China. *See Verification*

Report for Wuwei Xinhua Food Co. Ltd., dated February 21, 2006. From January 26 through January 27, 2006, the Department conducted verification of Shanghai Sunbeauty's affiliated importer, Seawind Inc. (''Seawind''), in Redmond, WA. *See Verification Report for Seawind Inc.*, dated February 17, 2006.

From January 19 through 20, 2006, the Department conducted verification of Qingdao Wentai's questionnaire responses at the company's facilities in Qingdao, Shandong Province, China. *See Verification Report for Qingdao Wentai Trading Co. Ltd.*, dated February 17, 2006. The Department also conducted verification at the Qingdao Wentai's producer, Nanxian Shunxiang Aquatic Products Foodstuffs Co., Ltd.'s (''Shunxiang'') facilities in Nanzhou Town, Hunan Province, China, from January 16 to January 17, 2006. *See Verification Report for Nanxian Shunxiang Aquatic Products Foodstuffs Co. Ltd.*, dated February 17, 2006.

On February 23, 2006, the Department completed its preliminary *bona fides* analysis for Jiangsu JOM's, Shanghai Sunbeauty's, and Wentai's single sales to the United States and stated the Department's preliminary intention to rescind the new shipper reviews of all three companies. *See Memorandum to James C. Doyle, Director, Office 9, from Scot T. Fullerton and Prentiss Lee Smith, Case Analysts, Office 9: Bona Fides Analysis and Intent to Rescind New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China for Jiangsu Jiushoutang Organisms–Manufactures Co., Ltd.*, dated February 23, 2006 (''*Jiangsu JOM Bona Fides Memo*''), *Memorandum to James C. Doyle, Director, Office 9, from Scot T. Fullerton and Prentiss Lee Smith, Case Analysts, Office 9: Bona Fides Analysis and Intent to Rescind New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China for Shanghai Sunbeauty Trading Co. Ltd.*, dated February 23, 2006 (''*Shanghai Sunbeauty Bona Fides Memo*''), and *Memorandum to James C. Doyle, Director, Office 9, from Scot T. Fullerton and Prentiss Lee Smith, Case Analysts, Office 9: Bona Fides Analysis and Intent to Rescind New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China for Qingdao Wentai Trading Co. Ltd.*, dated February 23, 2006 (''*Wentai Bona Fides Memo*'').

In concurrence with issuing its preliminary results, the Department provided interested parties with an opportunity to submit comments on the Department's *bona fides* analysis memos. Shanghai Sunbeauty provided comments on the Department's *Shanghai Sunbeauty Bona Fides Memo* on April 7, 2006, and Jiangsu JOM provided comments on the Department's *Jiangsu JOM Bona Fides Memo* on April 7, 2006. Wentai provided comments on the Department's *Wentai Bona Fides Memo* on April 7, 2006, which the Department rejected on April 13, 2006, for containing untimely new factual information. Wentai resubmitted its comments on April 14, 2006. The Crawfish Processors Alliance, the Louisiana Department of Agriculture and Forestry, and Bob Odom, Commissioner, collectively provided rebuttal comments on April 14, 2006.

Rescission of Review

Concurrent with this notice, we are issuing an issues and decision memorandum detailing our analysis of the comments received regarding our decision to preliminarily rescind the reviews for all three companies based on the non–*bona fide* nature of their sales. *See Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration to David M. Spooner, Assistant Secretary for Import Administration: Issues and Decision Memorandum for the Final Results in the 2004/2005 Semiannual New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China* dated June 23, 2006 (''*Decision Memo*'').

In evaluating whether or not a sale is commercially reasonable, and therefore *bona fide*, the Department has considered, *inter alia*, such factors as (1) the timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was at arms–length. *See e.g., Tianjin Tiancheng Pharmaceutical Co., Ltd. v. U.S.*, 366 F. Supp. 2d 1246, 1249 (CIT 2005) (''*TTPC*''), citing *Am. Silicon Techs. v. U.S.*, 110 F. Supp. 2d 992, 995 (CIT 2000). However, the analysis is not limited to these factors alone. The Department examines a number of factors, all of which may speak to the commercial realities surrounding the sale of subject merchandise. While some *bona fides* issues may share commonalities across various Department cases, each one is company–specific and may vary with the facts surrounding each sale. *See Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304 (July 11, 2003) and accompanying Issues and Decision Memorandum, at 20. The weight given to each factor considered will depend on the circumstances surrounding the sale. *See TTPC*, 366 F. Supp. 2d at 1263.

As discussed in detail in the *Decision Memo*, the Department has determined that the sale made by Jiangsu JOM was not *bona fide* because: 1) the price and quantity for Jiangsu JOM's sale of crawfish tail meat were atypical of its post–POR sales and of other exports from the PRC of the subject merchandise into the United States during the POR; 2) Jiangsu JOM's failed to disclose relationships between it and other crawfish tail meat exporters and producers; 3) Jiangsu JOM completely changed its U.S. customer base after the POR sale; as well as 4) other indicia of a non–*bona fide* transaction.

As discussed in detail in the *Decision Memo*, the Department has determined that the sale made by Shanghai Sunbeauty was not *bona fide* because: 1) the price and quantity for Shanghai Sunbeauty's sale of crawfish tail meat were atypical of its post–POR sales and of other exports from the PRC of the subject merchandise into the United States during the POR;

2) Seawind's POR purchase and cash deposit was atypical; 3) the source and timeliness of payment from the POR customer was atypical; as well as 4) other indicia of a non–*bona fide* transaction.

As discussed in detail in the *Decision Memo*, the Department has determined that the sale made by Wentai was not *bona fide* because: 1) the price and quantity for Wentai's sale of crawfish tail meat were atypical vis–a-vis other exports from the PRC of the subject merchandise into the United States during the POR; 2) the circumstances surrounding the single POR sale and its negotiation were unusual; 3) the exporter and producer failed to report certain business relationships; as well as 4) the atypical circumstances surrounding the formation of Wentai and Shunxiang.

Wentai, Shanghai Sunbeauty, and Jiangsu JOM each only made a single, non–bona fide sale during the POR. Therefore, the Department is rescinding these reviews because there are no reviewable sales during the POR. *See TTCP*, 366 F. Supp. 2d at1249. Because the Department is rescinding the new shipper reviews, we are not making a determination as to whether Jiangsu JOM, Shanghai Sunbeauty, and Wentai qualify for separate rates. Therefore, Jiangsu JOM, Shanghai Sunbeauty, and Wentai will remain part of the PRC–wide entity.

Notification

The Department will notify U.S. Customs and Border Protection that bonding is no longer permitted to fulfill security requirements for shipments by Jiangsu JOM, Shanghai Sunbeauty, and Wentai of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this rescission notice in the **Federal Register**, and that a cash deposit of 223.01 percent *ad valorem* should be collected for any entries exported by Jiangsu JOM, Shanghai Sunbeauty, and Wentai.

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material 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 sanctions.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: June 23, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–10375 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–822, A–583–820)

Continuation of Antidumping Duty Orders: Certain Helical Spring Lock Washers from the People's Republic of China and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (''the Department'') and the International Trade Commission (''ITC'') that revocation of the antidumping duty orders on certain helical spring lock washers from the People's Republic of China (''PRC'') and Taiwan would likely lead to continuation or recurrence of dumping, and material injury to an industry in the United States, the Department is publishing notice of continuation of these antidumping duty orders.

EFFECTIVE DATE: July 3, 2006.

FOR FURTHER INFORMATION CONTACT: Jim Nunno, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–0783.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2006, the Department initiated and the ITC instituted sunset reviews of the antidumping duty orders on certain helical spring lock washers from the PRC and Taiwan pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). [1]

As a result of its reviews, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins likely to prevail were the orders to be revoked.[2] On June 20, 2006, the ITC published its determination that, pursuant to section 751(c) of the Act, revocation of the antidumping duty orders on certain helical spring lock washers from the PRC and Taiwan would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Orders

The products covered by both antidumping duty orders are certain helical spring lock washers of carbon steel, of carbon alloy steel, or of stainless steel, heat–treated or non–heat-treated, plated or non–plated, with ends that are off–line. Certain helical spring lock washers are designed to: (1) function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screws or bolts; and (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper.

Certain helical spring lock washers subject to these orders are currently classifiable under subheading 7318.21.0030 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

On September 30, 1997, the Department determined that certain helical spring lock washers which are imported into the United States in an uncut, coil form are within the scope of the orders. *See Notice of Scope Rulings*, 62 FR 62288 (November 21, 1997).

Determination

As a result of the determinations by the Department and the ITC that revocation of these antidumping duty orders would likely lead to continuation or recurrence of dumping, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on certain helical spring lock washers from the PRC and Taiwan.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6)(A) of the Act, the Department intends to initiate the next five-year reviews of these orders not later than June 2011.

These five-year (sunset) reviews and this notice are in accordance with section 751(c) of the Act.

Dated: June 27, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–10382 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–DS–S

[1] *See Initiation of Five-Year (''Sunset'') Reviews*, 70 FR 91 (January 3, 2006); and *Helical Spring Lock Washers From China and Taiwan*, Investigations Nos. 731-TA-624 and 625 (Second Review), 71 FR 133 (January 3, 2006).

[2] *See Certain Helical Spring Lock Washers from the People's Republic of China and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 27227 (May 10, 2006).

[3] *See Helical Spring Lock Washers From China and Taiwan*, Investigation Nos. 701-TA-624 and 625 (Second Review), 71 FR 35449 (June 20, 2006).

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–863)

Honey from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 3, 2006.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Patrick Edwards, AD/CVD Operations, Office 7, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0405 or (202) 482–8029, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 25, 2006, the Department initiated new shipper reviews of honey from the People's Republic of China in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act). *See Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 71 FR 5051 (January 31, 2006). The reviews were initiated based on timely requests received from Inner Mongolia Altin Bee–Keeping Co., Ltd., Dongtai Peak Honey Industry Co., Ltd., Qinhuangdao Municipal Dafeng Industrial Co., Ltd., and Tianjin Eulia Honey Co. Ltd, in accordance with 19 CFR 351.214(c). The preliminary results are currently due no later than July 24, 2006.

Extension of Time Limits for Preliminary Results

Section 751(a)(2)(B)(iv) of the Act requires the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated. The Department may, however, extend the deadline for completion of the preliminary results of a new shipper review to 300 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act, and 19 CFR 351.214(i)(2).

The Department has determined that it is not practicable to complete this review within the current time limit due to complex issues in the case and the late verification schedule. Accordingly, the Department is extending the time limit for the completion of the preliminary results until November 21, 2006, which is the first business day 300 days from the date on which this new shipper review was initiated, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2). The final results, in turn, will be due 90 days after the date of issuance of the preliminary results, unless extended.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 21, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E6–10376 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–533–810)

Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 7, 2006, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar from India. The period of review is February 1, 2004, through January 31, 2005. This review covers sales of stainless steel bar from India with respect to Chandan Steel, Ltd. We provided interested parties with an opportunity to comment on the preliminary results of this review, but received no comments. The final results do not differ from the preliminary results of this review. We will instruct U.S. Customs and Border Protection to assess antidumping duties on the subject merchandise exported by this company.

EFFECTIVE DATE: July 3, 2006.

FOR FURTHER INFORMATION CONTACT: Scott Holland, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–1279.

SUPPLEMENTARY INFORMATION:

Background

Since the publication of the preliminary results of this review (*see Stainless Steel Bar from India: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 11390 (March 7, 2006) (''*Preliminary Results*'')), the following events have occurred: the Department of Commerce (''the Department'') invited interested parties to comment on the preliminary results of this review. No comments were received.

Scope of the Order

Merchandise covered by the order is shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold–finished SSBs that are turned or ground in straight lengths, whether produced from hot–rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi–finished products, cut–to-length flat–rolled products (*i.e.*, cut–to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes, and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SSB manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of this proceeding. See Memorandum to Barbara E. Tillman, *Antidumping Duty Orders on Stainless Steel Bar from India and Stainless Steel Wire Rod from India: Final Scope Ruling* (May 23, 2005). The ruling is on file in the Central Records Unit, Room B–099 of the main Department building (''CRU'').

Period of Review

The period of review (''POR'') is February 1, 2004, through January 31, 2005.

Partial Rescission of Review

According to 19 CFR 351.213(d)(3), the Department will rescind an administrative review in whole or only with respect to a particular exporter or producer, if we conclude that, during the POR, there were no entries, exports, or sales of the subject merchandise, as the case may be. In the *Preliminary Results*, the Department preliminarily found that Ferro Alloys Corporation, Ltd. (''Facor'') reported no entries of subject merchandise to the United States during the POR, a fact which the Department confirmed by conducting an inquiry with U.S. Customs and Border Protection (''CBP''). Therefore, pursuant to 19 CFR 351.213(d)(3), and consistent with the *Preliminary Results*, we are rescinding this review with respect to Facor.

Final Results of the Review

These final results remain unchanged from the *Preliminary Results*. We provided an opportunity for parties to comment on our preliminary results and received no comments. Therefore, we find that the following percentage margin exists for the period February 1, 2004, through January 31, 2005:

Exporter/Manufacturer	Margin
Chandan Steel, Ltd.	21.02

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. For Chandan, we will instruct CBP to liquidate entries at the rate indicated above. The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of these final results of review.

In accordance with the Department's clarification of its assessment policy (*see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003)), in the event any entries were made during the period of review through intermediaries under the CBP case number for Facor, the Department will instruct CBP to liquidate such entries at the all–others rate in effect on the date of entry.

Cash Deposit Rates

The following antidumping duty deposits will be required on all shipments of SSB from India entered, or withdrawn from warehouse, for consumption, effective on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed company will be the rate listed above (except no cash deposit will be required if a company's weighted–average margin is *de minimis, i.e.*, less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 12.45 percent, the ''all others'' rate established in the less than fair value investigation. *See Stainless Steel Bar from India; Final Determination of Sales at Less Than Fair Value*, 59 FR 66915 (December 28, 1994). These cash deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding APOs

This notice also serves as the only reminder to parties subject to administrative protective orders (''APOs'') 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.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 27, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–10386 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–834)

Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On May 12, 2006, the Department of Commerce (the Department) published a notice of initiation and preliminary results of its changed circumstances review of the antidumping duty order on stainless steel sheet and strip in coils (SSSSC) from the Republic of Korea (Korea). *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) (*Preliminary Results*). We have now completed that review. For these final results, as in the *Preliminary Results*, we determine that: 1) Hyundai Steel Company (Hyundai) is the successor–in-interest to INI Steel Company (INI), formerly Inchon Iron and Steel Co., Ltd. (Inchon), a respondent in the less–than–fair–value (LTFV) investigation; and 2) SSSSC produced and exported by Hyundai should be excluded from the antidumping duty order.

EFFECTIVE DATE: March 10, 2006

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Brianne Riker, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0656 and (202) 482–0629, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1999, the Department published in the **Federal Register** (64 FR 40555) the antidumping duty order on SSSSC from Korea. Inchon was excluded from the order because its dumping margin was de minimis in the LTFV investigation. In 2001, INI requested that the Department conduct a changed circumstances review to confirm that INI was the successor–in-interest to Inchon. On June 28, 2002, the Department found that INI was the successor–in-interest to Inchon and that INI should be excluded from the antidumping duty order on SSSSC from

Korea consistent with the exclusion determination for Inchon in the LTFV investigation. See Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, 67 FR 43583 (June 28, 2002).

On March 22, 2006, Hyundai submitted a written request that the Department conduct a changed circumstances review to confirm that Hyundai is the successor–in-interest to INI and that subject merchandise produced by this entity should not be subject to antidumping duties.

On May 12, 2006, the Department published a notice of initiation and preliminary results of its changed circumstances review of the antidumping duty order on SSSSC from Korea. *See Preliminary Results*. In that determination, we preliminarily found that Hyundai is the successor–in-interest to INI. Interested parties were invited to comment on the preliminary results. No party submitted comments.

Scope of Order

The products covered 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 millimeters in width and less than 4.75 millimeters 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,[1] 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 Department's written description of the merchandise subject to the 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 millimeters 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 millimeters); 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 millimeters and a thickness of 0.266 millimeters 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).

Flapper valve steel is also excluded from the scope. 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, 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 that is 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 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 millimeters, and with a mass of 225 kilograms or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of two millimeter depth. The material must exhibit residual stresses of two millimeters maximum deflection, and flatness of 1.6 millimeters over 685 millimeters 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 one percent, manganese of no more than one 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 seven to 10 percent cobalt, with the remainder of iron, in widths 228.6 millimeters or less, and a thickness between 0.127 and 1.270 millimeters. 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.''[2]

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 specification B344 and containing, by weight, 36 percent

[1] 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.

[2] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

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 1,390 degrees Celsius and displays a creep rupture limit of four kilograms per square millimeter at 1,000 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.''[3]

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 as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and seven 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 1,700 Mpa and ultimate tensile strengths as high as 1,750 Mpa after aging, with elongation percentages of 3 percent or less in 50 millimeters. It is generally provided in thicknesses between 0.635 and 0.787 millimeters, and in widths of 25.4 millimeters. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[4]

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).[5] 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 processing, and is supplied as, for example, ''GIN6.''

[3] ''Gilphy 36'' is a trademark of Imphy, S.A.

[4] ''Durphynox 17'' is a trademark of Imphy, S.A.

[5] This list of uses is illustrative and provided for descriptive purposes only.

Final Results of Review

Based on our analysis in the *Preliminary Results*, we find that Hyundai is the successor–in-interest to INI. Based on evidence on the record, we find that Hyundai's organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged since its name change from INI. Further, we find that Hyundai operates as the same business entity as INI. Because INI is excluded from the antidumping duty order on SSSSC from Korea, we will apply this determination retroactively and will instruct U.S. Customs and Border Protection to liquidate, without regard to antidumping duties, all unliquidated entries of subject merchandise produced and exported by Hyundai, and entered, or withdrawn from warehouse, for consumption on or after March 10, 2006, the date of INI's name change to Hyundai, in accordance with past precedent. *See Stainless Steel Wire Rod from Italy: Notice of Final Results of Changed Circumstances Antidumping Duty Review*, 71 FR 24643 (Apr. 26, 2006); *Certain Hot–Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Final Results of Changed–Circumstances Antidumping and Countervailing Duty Administrative Reviews*, 64 FR 66880 (Nov. 30, 1999).

Notification

This notice also serves as a final reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 352.305(a)(3). Timely notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 751(b)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.216.

Dated: June 27, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–10387 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Notice of Intent To Conduct Restoration Planning

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), along with the other natural resource trustees, has determined that the impacts of the November 26, 2004, discharge of crude oil from the *M/T ATHOS I (Athos),* over which such trustees have jurisdiction, warrant conducting a natural resource damage assessment that will include restoration planning. NOAA is hereby providing notice of efforts to plan restoration actions for injuries resulting from this incident. The purpose of this restoration planning is to evaluate potential injuries to natural resources and services, and use that information to determine the need for and scale of restoration actions.

FOR FURTHER INFORMATION CONTACT: For further information, contact Jim Hoff at: NOAA, Damage Assessment Center, Room 10218, 1305 East-West Highway, Silver Spring, MD 20910–3281, 301–713–3038, x 188 (ph), 301–713–4387 (fax), *James.Hoff@noaa.gov.*

SUPPLEMENTARY INFORMATION: On November 26, 2004, the *Athos,* registered under the flag of Cyprus, owned by Frescati Shipping Company, Ltd., and operated by Taskos Shipping and Trading, discharged approximately 264,000 gallons of crude oil into the Delaware river and nearby tributaries. The owner and operator of the vessel may be ''Responsible Parties'' for this incident as defined by the Oil Pollution Act (OPA) 33 U.S.C. 2701 *et seq.* The final determination of liability for this incident is being considered by the U.S. Coast Guard. Numerous natural resources, including aquatic habitat and animals and the recreational uses they support, were exposed to the toxic and smothering effects of the oil discharged from the Athos. Adult and larval fish and shellfish, including the federally-endangered shortnose sturgeon winter in certain areas of the Delaware River, and the waters around Little Tinicum Island are known to contain high numbers of pre-spawn and spawning striped bass in April and May. Delaware Bay supports commercial and natural oyster beds, commercial blue crab, horseshoe crab, and whelk fisheries, as well as a variety of recreational fisheries. Several rare tidal marsh plants are also found in the region, including wild rice, waterhemp ragweed, Walter's barnyard grass, swamp-beggar-ticks, and marsh fleabane. Fresh to saltwater wetlands wild rice marshes, sand beaches, mud flats, and tidal creeks are among the environmentally important shorelines potentially affected by the spill. Bird and wildlife resources at risk include migrating marsh birds, egret and heron rookeries, eagles and osprey, and migratory shorebirds. The federally-threatened piping plover inhabits the Lower Delaware Bay. There are also a variety of mink, otter, turtles, and terrestrial fauna that use the affected area. Many types of recreation are also popular along the Delaware River in the areas affected by the spill, waterfowl hunting, boating, fishing, crabbing, as well as beach and other shoreline use.

Under OPA, state and Federal agencies and Indian tribes are designated as natural resource trustees, responsible for assessing natural resource losses and restoring those losses to baseline conditions, *i.e.*, the condition that would have been had the incident not occurred. Trustees for the *Athos* incident are the U.S. Department of Commerce, NOAA; U.S. Department of the Interior (DOI), Fish and Wildlife Service; Commonwealth of Pennsylvania, Department of Conservation and Natural Resources, Department of Environmental Protection, Game Commission, and Fish and Boat Commission; State of New Jersey, Department of Environmental Protection; and State of Delaware, Department of Natural Resources and Environmental Control. By agreement of the trustees, NOAA is serving as the lead administrative trustee. The trustees are designated pursuant to 33 U.S.C. 2706(b), Executive Order 12777, and the National Contingency Plan, 40 CFR 300.600 and 300.605. State laws (7 Del. C. Chapters 60, 62, and 91; N.J.S.A. § 13:lD—9f and 9q,; N.J.S.A. § 58:10–23.11 *et seq.*; N.J.S.A. § 58:1OA–1 *et seq;* 35 P.S. § 6020.301(14); 30 Pa. C.S.A. § 2506; 35 P.S. § 691.605; 71 P.S. § 1340.101 *et seq.*) describe state trust resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. DOI, through the involvement of the U.S. Fish and Wildlife Service, is trustee for natural resources described within the National Contingency Plan, 40 CFR 300.600(b)(2) and (3), which include the following and their supporting ecosystems: migratory birds, anadramous fish, endangered species and marine mammals, federally owned minerals, certain federally managed water resources, and natural resources located on, over, or under land administered by the DOI. NOAA's trust resources include, but are not limited to, commercial and recreational fish species, anadramous and catadromous fish species, marshes and other coastal habitats, marine mammals, and endangered and threatened marine species.

Immediately following the spill, the trustees initiated a number of preassessment data collection activities, pursuant to OPA, to make an initial determination as to whether natural resources or services have been injured or are likely to be injured by the discharge. Specific preassessment activities included shoreline (aerial and ground) and resource (*e.g.*, bird and wildlife, horseshoe crab, etc.) surveys and ephemeral data collection (*e.g.*, water, sediment, and fish and shellfish tissue samples). The trustees' Preassessment Data Report details these preassessment data collection efforts, and provides laboratory results and supporting information. This Preassessment Data Report is available for review at: *http://www.darrp.noaa.gov/northeast/athos/index.html*.

Findings from the preassessment efforts demonstrate or suggest four general areas of natural resource injuries: (1) Shorelines (marshes, sandy and coarse gravel beaches, tidal flats, etc.); (2) aquatic resources, particularly subtidal benthic habitat; (3) birds and wildlife; and (4) lost interim use of public services (fishing, hunting, and boating). The trustees have implemented or are developing studies to assess the extent of these injuries.

Trustee Determinations: Following the notice of the discharge, the natural resource trustees have made the following determinations required by 15 CFR 990.41(a):

The natural resource trustees have jurisdiction to pursue restoration pursuant to OPA, 33 U.S.C. 2702 and 2706(c); 40 CFR part 300, the OPA Natural Resource Damage Assessments Final Rule, 15 CFR part 990, 61 FR 440 (January 6, 1996); 7 Del. C. Chapters 60, 62, and 91; N.J.S.A. § 13:lD—9f and 9q, N.J.S.A. § 58:10–23.11 *et seq.*; N.J.S.A. § 58:1OA–1 *et seq.*; 35 P.S. § 6020.301(14); 30 Pa. C.S.A. § 2506; 35 P.S. § 691.605; 71 P.S. § 1340.101 *et seq.*

The trustees have further determined that the discharge of crude oil into the Delaware River and its tributaries on November 26, 2004, was an incident, as defined in 15 CFR 990.30.

This discharge was not permitted under state, Federal, or local law.

The discharge was not from a public vessel.

The discharge was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. 1651, *et seq.*

Natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The crude oil discharged contains components that may be harmful to aquatic organisms, birds, wildlife, and vegetation. Vegetation, birds, and or aquatic organisms may have been exposed to the oil from this discharge, and injury to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 CFR 990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 CFR 990.41(b) to proceed with preassessment. The owner and operator, at the invitation of the trustees, pursuant to 15 CFR 990.14(c), agreed to participate in the preassessment.

Determination To Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by the 15 CFR 990.42(a) and are providing notice pursuant to 15 CFR 990.44 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, the extent of which has not been fully determined at this time. The trustees base this determination upon data presented in the Preassessment Data Report, which were collected and analyzed pursuant to 15 CFR 990.43, which demonstrate that resources and services have been injured from this incident including, but not limited to, the following:

(A) *Shorelines:* Preassessment shoreline surveys documented oil over 115 river miles (280 miles of shoreline) from the Tacony-Palmyra Bridge to south of the Smyrna River in Delaware. Data have been collected on types of shorelines impacted and degree(s) of oiling that will be used to define the extent and degree of impact.

(B) *Birds and Wildlife:* Aerial and ground surveys were conducted following the incident assess the species composition and abundance of birds in the spill area, as well as the extent and degree of oiling of non-recovered wildlife. By May 2005, a number of oiled birds were observed; 206 wild birds were collected dead, died at the rehabilitation center, or were unable to be released to the wild, and 337 birds were rehabilitated and released alive. Recovered wildlife that were collected dead or died at the rehabilitation center included three turtles, one squirrel, one opossum, one red fox, and one woodchuck. Two turtles were unable to be released to the wild and were placed domestically. The trustees have developed studies to determine the impact of the incident on birds and wildlife.

(C) *Aquatic resources:* Oil was observed suspended though the water column and on the river bottom. The trustees collected numerous water, sediment, and fish and shellfish tissue samples that will be used to assess the effect of the incident on aquatic resources during the damage assessment.

(D) *Lost Use:* Following the incident, hunting and boating advisories were issued in Delaware and New Jersey, closing certain areas. In Delaware, state lands were closed to hunting as far south as Cedar Swamp Wildlife Area. In New Jersey, the hunting advisory included most areas within five miles of the River from the Tacony-Palmyra Bridge to the nuclear power facility in Salem, NJ. The advisories were in effect for about two weeks.

Although response actions were pursued, the nature of the discharge and the sensitivity of the environment precluded prevention of injuries to some natural resources. The trustees believe that injured natural resources could return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered may include, but are not limited to: Replanting native wetland vegetation in appropriate areas, creation, enhancement or protection of marsh or other habitat with similar service flows, protection of endangered species, removal of dams and installation of fishways to enhance propagation of migratory fish, creation of oyster reef habitat, creation of submerged aquatic vegetation habitat, and creation of bird colony areas.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are bird and marsh habitat injury assessment studies to be used in conjunction with the Resource Equivalency Analysis (REA) and Habitat Equivalency Analysis (HEA), respectively, to determine compensation for injuries to birds and marsh habitats. Models, comparisons to observations of injury resulting from similar incidents, or other methodologies are available for evaluating injuries to the ecosystem.

Public Involvement: Pursuant to 15 CFR 990.44(c), the trustees seek public involvement in restoration planning for this incident, through public review of and comments on the documents contained in the administrative record.. The record is on file at the NOAA Damage Assessment Center in Silver Spring, Maryland, and can be viewed electronically at: *http://www.darrp.noaa.gov/northeast/athos/index.html.*

NOAA, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the [the other trustees], pursuant to the determinations made above and in accordance with 15 CFR 990.44(d), hereby provides this Notice of Intent to Conduct Restoration Planning and invites its participation in conducting the restoration planning for this incident.

Dated: June 27, 2006.

Ken Barton,

Acting Director, Office of Response and Restoration, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E6–10340 Filed 6–30–06; 8:45 am]

BILLING CODE 3510–JE–P

CONSUMER PRODUCT SAFETY COMMISSION

OMB Approval Under the Paperwork Reduction Act; Standard for the Flammability (Open Flame) of Mattress Sets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of OMB approval of collection of information.

SUMMARY: This document announces the Office of Management and Budget's (OMB) approval of the Commission's collection of information requirements contained in the Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633, under OMB Control No. 3041–0133.

FOR FURTHER INFORMATION CONTACT: Linda Glatz, Management and Program Analyst, at 301–504–7671, or e-mail at *lglatz@cpsc.gov*.

SUPPLEMENTARY INFORMATION: On March 15, 2006, the Consumer Product Safety Commission published in the **Federal Register**, 71 FR 13472, a standard for the flammability (open flame) of mattresses pursuant to section 4 of Flammable Fabrics Act, 15 U.S.C. 1193. The standard requires manufacturers (including importers) of mattress sets to perform testing and maintain records of their testing and quality assurance programs, effective July 1, 2007. The Commission submitted the proposed collection of information requirements to OMB for review as required under the Paperwork Reduction Act, 44 U.S.C. 3501–3520. On June 8, 2006, OBM approved the collection of information and issued Control Number 3041–0133, with an expiration date of June 30, 2009. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. We are providing this Notice to inform the public that the Commission has received OMB approval under Control Number 3041–0133.

Dated: June 27, 2006.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E6–10400 Filed 6–30–06; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2006–HA–0015]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by August 2, 2006.

Title, Form and OMB Number: TRICARE DoD/CHAMPUS Medical Claim Patient's Request for Medical Payment; DD Form 2642; OMB Control Number 0720–0006.

Type of Request: Extension.

Number of Respondents: 2,400,000.

Responses per Respondent: 1.

Annual Responses: 2,400,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 600,000.

Needs and Uses: The form is used solely by beneficiaries claiming reimbursement for medical expenses under the TRICARE Program. The information collected will be used by TRICARE/CHAMPUS to determine beneficiary eligibility, other health insurance liability, certification that the beneficiary received the case, and reimbursement for the medical services received.

Affected Public: Individuals and households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, DoD Health Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/ Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: June 26, 2006.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–5948 Filed 6–30–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2006–OS–0024]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by August 2, 2006.

Title and OMB Number: Prospective Department of Defense Studies of U.S. Military Forces: The Millennium Cohort Study; OMB Control Number 0720–0029.

Type of Request: Extension:

Number of Respondents: 34,104.

Responses per Respondent: 1.

Annual Responses: 34,104.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 25,578.

Needs and Uses: The Millennium Cohort Study responds to recent recommendations by Congress and by the Institute of Medicine to perform investigations that systematically collect population-based demographic and health data so as to track and evaluate the health of military personnel throughout the course of their careers and after leaving military service.

Affected Public: Individuals and households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. John Kraemer. Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, DoD Health Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written request for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/ Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: June 26, 2006.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–5949 Filed 6–30–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–21]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/ADM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–21 with attached transmittal, policy justification, and Sensitivity of Technology.

C.R Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

26 JUN 2006

In reply refer to:
I-06/002101

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-21, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Korea for defense articles and services estimated to cost $111 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**
3. **Sensitivity of Technology**

Same ltr to:

House	**Senate**
Committee on International Relations	**Committee on Foreign Relations**
Committee on Armed Services	**Committee on Armed Services**
Committee on Appropriations	**Committee on Appropriations**

Transmittal No. 06-21

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Korea

(ii) Total Estimated Value:

Major Defense Equipment*	$ 91 million
Other	$ 20 million
TOTAL	$111 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 48 SM-2 Block IIIB Tactical STANDARD missiles with Mk 13 Mod 0 canisters, containers, Intermediate-Level Maintenance spares and repair parts, supply support, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical assistance and other related elements of logistics support

(iv) Military Department: Navy (AJI)

(v) Prior Related Cases, if any:
FMS case AHU - $124 million - 10Oct00
FMS case AJA - $ 67 million - 09Jun05

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: 2 6 JUN 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Korea – SM-2 BLOCK IIIB STANDARD Missiles

The Government of Korea has requested a possible sale of 48 SM-2 Block IIIB Tactical STANDARD missiles with Mk 13 Mod 0 canisters, containers, Intermediate-Level Maintenance spares and repair parts, supply support, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $111 million.

The Government of Korea is one of the major political and economic powers in East Asia and the Western Pacific and a key partner of the United States in ensuring peace and stability in that region. It is vital to the U.S. national interest to assist our ally in developing and maintaining a strong and ready self-defense capability, which will contribute to an acceptable military balance in the area. This proposed sale is consistent with those objectives. No foreign policy or military developments affect this proposed sale.

Korea will use these missiles as the primary defensive system aboard its new KDX-III AEGIS destroyer for anti-missile ship protection. Korea has already integrated the SM-2 Block IIIA into its ship combat systems. It will have no difficulty absorbing these additional missiles into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Raytheon Systems Company of Tucson, Arizona. Offset agreements associated with this proposed sale are expected, but at this time the specific offset agreements are undetermined and will be defined in negotiations between the purchaser and contractors.

Implementation of this proposed sale will require the assignment of U.S. Government or contractor representatives for six months to assist in the installation, testing, training, and support requirements.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-21

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex Item No. vii

(vii) Sensitivity of Technology:

1. The possible sale of SM-2 Block IIIB STANDARD missiles will result in the transfer of sensitive technology and information as well as classified and unclassified defense equipment and technical data. The STANDARD missile hardware guidance section and target detection device are classified Secret. The warhead, rocket motor, steering control section, safe and arming device, auto-pilot battery unit, and telemeter are classified Confidential. Certain operating frequencies and performance characteristics are classified Secret. Confidential documentation to be provided includes: parametric documents, general performance data, firing guidance, kinematics information, Intermediate Maintenance Activity (IMA)-level maintenance, and flight analysis procedures.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 06–5947 Filed 6–30–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for Navy Air-to-Ground Training at Avon Park Air Force Range, Florida

AGENCY: Department of the Navy, DOD.

ACTION: Notice of record of decision.

SUMMARY: The Department of the Navy announces its decision to conduct all components of ''air-to-ground ordnance delivery and training'' of integrated and sustainment levels of the Fleet Forces Command's Fleet Readiness Training Program at Avon Park Air Force Range, Florida. Air-to-ground readiness training includes delivery of inert and high-explosive ordnance from tactical jets such as the Navy's Hornet and Super Hornet strike/fighter aircraft.

FOR FURTHER INFORMATION CONTACT: Mr. Will Sloger, Southern Division Naval Facilities Engineering Command (Code ES12), 2155 Eagle Drive, North Charleston, SC 29406, telephone 843–820–5797.

SUPPLEMENTARY INFORMATION: The text of the entire Record of Decision (ROD) is provided as follows: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4332(2)(c), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR parts 1500–1508, the Department of the Navy announces its decision to conduct all components of ''air-to-ground ordnance delivery and training'' of the Fleet Forces Command's Fleet Readiness Training Program (FRTP) at Avon Park Air Force Range (APAFR). The proposed training at APAFR will be accomplished as set out in alternative 6, described in the Final Environmental Impact Statement (EIS) as the preferred alternative.

The Navy proposes to expand APAFR's capabilities to allow delivery of high explosive (HE) ordnance during air-to-ground ordnance delivery training, a critical element of FRTP. Training would originate from afloat Navy carrier strike groups (CSG) operating in either the Atlantic Ocean or the Gulf of Mexico. The purpose of the proposed action is to improve and enhance the number and location of range resources for the FRTP and, consequently, increase its flexibility to conduct training in preparation for deploying CSGs in support of national defense missions. Section 5062 of Title 10 of the United States Code directs the Chief of Naval Operations to organize, train, and equip Naval forces for combat. To fulfill its statutory mission, the Atlantic Fleet needs combat-capable air forces ready to deploy worldwide.

Three FRTP training exercises are typically conducted annually. Depending on world conditions and military requirements, up to six exercises could occur within a given year. At APAFR, each exercise would be expected to use the range for 20 days (10 days for exercise activities, seven days for explosive ordnance disposal [EOD] sweeps, plus a three-day backup).

As part of training conducted during the various phases of the FRTP, the Navy would continue its use of APAFR and other ranges near the Atlantic and the Gulf of Mexico such as the Navy ranges at Rodman, FL and Lake George, FL; the Marine Corps ranges at Townsend, GA (operated by the Georgia

Army National Guard), and Cherry Point, NC; the Mississippi National Guard range at Camp Shelby, MS; and the Air Force range at Dare County, NC for delivery of inert ordnance, and the Air Force's Eglin and Navy's Pinecastle Ranges for both inert and HE deliveries.

The Air Force worked with the Navy as a cooperating agency throughout the NEPA process. They will, as the owner of APAFR, make a decision regarding the Navy's desire to conduct all components of air-to-ground ordnance delivery there. The Air Force intends to document that decision in their own ROD, to be signed after the Navy signs this document.

The Navy used a screening process to identify potential range locations to support and enhance flexibility in executing the FRTP. The first step was to identify the range parameters needed to achieve the proposed improvement and enhancement (number and location) of range resources in support of FRTP aircrew training. These parameters are: (1) Time/distance from CSG operating areas to the range, (2) range dimensions, and (3) airspace.

Initially the Navy identified nine candidate ranges for conducting all components of air-to-ground training exercises associated with the FRTP. Two of the candidate ranges, Pinecastle and Eglin, were eliminated from further consideration as candidates as use of HE ordnance already occurs at these ranges and therefore not serve to improve or enhance range availability for FRTP. Of the seven remaining ranges, six (Rodman, Lake George, Townsend, Dare County, Camp Shelby, Cherry Point) have inadequate range dimensions and therefore failed to meet one of the three training parameters. APAFR was the only range that met all three parameters. The Navy also evaluated other potential options including alternative training technologies (*e.g.*, models/simulators), development of a new range, and use of only inert/practice ordnance. These options did not meet the purpose and need of the aircrew training enhancement objectives because they do not create the same high-stress training environment and/or emotional conditioning required for combat deployment overseas.

A Draft and Final EIS were prepared to assess the impacts of six alternatives within APAFR. Each of these six alternatives provides for a different mix in the use of HE ordnance on the Foxtrot, Echo, Alpha, and Alpha Plus target areas within the APAFR. The comparative analysis of the six alternatives was accomplished by first evaluating elements common to all alternatives and then evaluating the impacts associated with use of HE ordnance. The EIS also evaluated the no-action alternative of not expanding Navy's use of APAFR for delivery of HE ordnance.

Public Involvement: Public involvement was effected through a public and agency scoping process from February through March 2003 that included publication of a Notice of Intent to prepare the EIS in the **Federal Register** and three scoping meetings to actively solicit input from the public, local governments, Federal and State agencies, and environmental groups; An Interagency and Intergovernmental Coordination for Environmental Planning (IICEP) and Agency consultation; a 45-day public comment period that included public hearings in three locations in central Florida to provide an opportunity for the public to evaluate the proposal and analyses contained in the Draft EIS; and a 30-day no action period to allow public review of the Final EIS.

The Final EIS included identification of the preferred alternative, mitigation measures to reduce environmental consequences, errata, and public and agency comments on the Draft EIS and responses to those comments.

Alternatives Analyzed: Six air-to-ground training alternatives within APAFR were identified and carried forward for detailed analyses in the EIS. Each of the six alternatives provided a different mix in the use of proposed HE targets on Foxtrot, Echo, Alpha, and Alpha Plus allowable target placement areas (ATPA) for HE training.

The proposed action also includes common elements that would be implemented along with the selected air-to-ground HE ordnance alternative. The common elements include delivery of air-to-ground inert/practice munitions on existing targets in the Bravo, Foxtrot, Charlie, and Echo impact areas at APAFR. Some training not involving air-to-ground deliveries (e.g. combat search-and-rescue) would occur outside the impact areas. The common elements and the locations where training would occur, while consistent with existing training activities at APAFR, would represent an increase in the amount of Navy training occurring at APAFR.

The Navy used an operational risk management analysis (ORMA) to assess the risks associated with the use of HE ordnance and to identify, evaluate, and recommend control measures that would be needed to limit or deny access to particular parts of the APAFR hazard area in conjunction with HE ordnance air-to-ground training. The Air Force, as the owner of APAFR, determined the necessary control measures based on the ORMA recommendations and other factors such as feasibility, security, and cost. Control measures, which will be incorporated into APAFR's supplement to Air Force Instruction 13–212, *Range Planning and Operations*, include: access restrictions, mandatory EOD escort, and geographic limitations on civilian activities such as hunting/fishing, grazing, and camping. These measures will reduce potential risks to all personnel who work on or visit APAFR.

The Navy and the Air Force identified alternative six, use of Alpha Plus, as the preferred alternative in the Draft and Final EIS. The Alpha Plus range consists of the existing Alpha range and an additional 612 acres (248 hectares) in Management Unit 6 to the north of Alpha, an area that has been closed to the public since 1996. Within the Alpha Plus range, an allowable target placement area (ATPA) has been defined with a 300-foot perimeter buffer zone to account for the overall accuracy of non-guided and guided delivery ordnance. The environmentally preferred alternative is alternative five, use of the Alpha range only for HE ordnance. However, alternative five, due to its modest dimensions and limited ability to support target development and placement, limits training and operational flexibility. The preferred alternative would have slightly greater impact than the environmentally preferred alternative in the following areas: Noise, earth resources, water resources, land use and recreation, biological resources, environmental justice, and military activities. The no-action alternative would have the least potential for adverse environmental consequences.

The location of the Alpha Plus ATPA in the center of APAFR reduces the effect of training on the natural and human environment both on and off the base. The most noticeable effect off-base is noise.

Decision: After considering the potential environmental consequences of the Preferred Alternative, the five alternative training scenarios, and the no-action alternative, as well as other factors related to national defense, the Navy has decided to implement the Preferred Alternative to expand live ordnance air-to-ground training capabilities at APAFR utilizing the Alpha Plus Range. This action will also improve and enhance the Atlantic Fleet's depth of range resources and increase its flexibility to conduct training. The 1,162 acres (420 ha) within the Alpha Plus Range provide substantial target diversity options to maximize training benefits to Navy pilots. The size of Alpha Plus ensures that adequate room is available, based on training requirements, for a sufficient number of targets and for proper separation distance between targets. Adequate room is also available for future target relocation based on training requirements.

Consequences: In the EIS, the Navy analyzed the environmental impacts that could occur as a result of implementing the common elements combined with each of the six APAFR alternatives. This Record of Decision will focus on the impacts associated with the preferred alternative, use of Alpha Plus. The EIS analyzed environmental impacts and the potential magnitude of those impacts relative to 13 categories of environmental resources: Airspace, noise, range safety, earth resources, water resources, air quality, land use and recreation, biological resources, socioeconomics, cultural resources, environmental justice, hazardous waste and materials, and military activities. Annual use of APAFR by the Navy for integrated and sustainment training would vary depending on, among other things, the availability of other East Coast ranges for training. To account for that variability, the impact analysis in the EIS considers both typical (three exercises) and maximum (six exercises) annual use.

A discussion of those resource categories where the potential for significant impacts was identified or that were the subject of substantial comments follows.

Airspace: Overall use of the designated altitude reservation airspace blocks and Restricted Airspace on APAFR would increase during any Navy exercise, but maximum use of any specific airspace element at one time would not exceed airspace capacity or the ability of controllers to manage the traffic. No changes to airspace would be required for implementation. No adverse impacts to the airspace use and management are anticipated.

Noise: The noise exposure level on the ground at APAFR will be affected by aircraft operations in the Military Operating Areas (MOAs) and Restricted Airspace, and air-to-ground ordnance deliveries. The Federal Aviation Administration, other federal agencies, the Air Force, and the Navy identify the day/night average noise level (DNL) 65-dBA contour as a threshold level above which human exposure to aircraft noise may cause a significant impact. Noise generated from aircraft sorties in the MOAs and Restricted Airspace would not exceed the DNL 65-dBA.

Impulsive sounds such as a muzzle blast at a firing point (>62 dBC) would remain within the boundaries of the range, impacting only a very small area of the east clear zone for the runway at the main base, for noise generated from the firing of projectiles from weapons and the detonation of HE ordnance.

The associated overpressure that accompanies the detonation of HE is measured as blast peak overpressure (dBP). The U.S. Department of Labor, Occupational Safety and Health Administration, has identified 140 dBP as the maximum recommended unprotected exposure level necessary to prevent physiological damage to the human eardrum; the 130- and 140-dBP contours would be largely confined to the impact areas or just beyond. The 115-decibel (dBP) peak noise contour from HE detention would extend over the main base and off range, approximately 22,420 acres (9,073ha). Within the affected area, a low to moderate risk of noise complaints could be expected.

Range Safety: There would be minimal increases in the risk of bird/aircraft strikes; the risk of Class A aircraft mishaps due to increased operations would be relatively unchanged. Ground safety risks remain minimal. All weapon safety footprints (hazard areas) for delivered ordnance would remain within the range boundaries. There would be minimal risk to the public, since they will be precluded from the hazard areas during the exercise, and from areas designated as ''off-limits'' permanently. Military and civilian employees and contractors would have EOD escorts when entering designated off-limits areas.

Earth Resources: Soils could be disturbed due to target construction, target maintenance, ordnance impacts, ordnance disposal activities, new road and scoring tower construction, upgrades to roads, and road maintenance. The maximum area of soil disturbance, over the life of the action, in the ATPA and buffer zone would be approximately 1,351 acres (547 ha). Removal of vegetation would be limited within the target area. Disking of soil within a target area would occur only for tactical representation.

The Seasonal Soil Compartment Model (SESOIL model) was utilized to calculate the potential for soil contaminant concentrations based on typical and maximum possible usage over a 10-year period that could result from HE ordnance detonations in Alpha Plus and expenditure of small arms rounds and 20-millimeter (mm) cannon munitions at Echo and Foxtrot ranges. Small arms rounds and 20mm cannon munitions at Echo and Foxtrot ranges are the only component of the common elements that could result in the deposition of munitions constituents of concern in soils. Other munitions (e.g., practice bombs) would be cleared from the impact areas on a regular basis and are not expected to adversely contribute to hazardous constituent levels in soils. The estimated concentrations of munitions constituents of concern in soil predicted by the SESOIL model do not exceed Florida's risk based soil cleanup target levels (SCTLs).

Use of HE ordnance could result in deposition of munitions constituents of concern in soil, including metals and explosives constituents. Under the typical and maximum-use scenarios, estimated munitions constituent concentrations are below industrial direct exposure SCTLs. Cyclo-1,3,5-trimethylene-2,4,6-trinitramine (RDX) and 2,4,6-trinitrotuluene (TNT) are the only munitions constituents of concern predicted to exceed groundwater leachability-based SCTLs. Estimated concentrations of metal constituents are not expected to exceed leachability-based SCTLs. Estimated concentrations of aluminum are expected to exceed the soil screening benchmark (SSB) range in certain soil types. Under maximum conditions chromium is expected to exceed the lower end of the SSB range for certain soil types.

Water Resources: No increase in flood hazard is expected as less than 1% of the 100-year floodplain area at APAFR would be impacted. The proposed action is consistent with the mandate of Executive Order (EO) 11988. Target locations and associated construction will avoid wetlands; therefore no permit is presently required in accordance with EO 11990. There is a potential that use of HE could impact wetlands in the future resulting from alteration of hydrology from the displacement/disturbance of soil from direct ordnance delivery activities. The level of impact to wetland areas described in the EIS could occur over a several decade period if the Navy moved targets around within the ATPA to those parts currently identified as wetlands. The reported number of acres impacted assumes that all wetland areas within the ATPA and associated 300-foot buffers would be impacted. The maximum number of acres of wetlands potentially impacted would be 482 acres (195 ha). (The wetland delineation used to determine that acreage was based on photogrametric interpretation, not actual field surveys.) A 2005 wetland delineation of specific portions of the Alpha Plus ATPA, using the methodology established in the *Corps of*

Engineers Wetlands Delineation Manual, indicates the number of acres impacted may be overestimated. There are no plans to move the targets and the Navy would conduct the proper analysis and possible permitting if target movement is required.

Values predicted by the Summers model equation for computing time-varying pollutant concentrations in the aquifer beneath the area of contaminated soil to predict constituents levels in groundwater, as modeled for a 10-year period, are not expected to exceed background concentrations for the small arms/20mm range activities. Maximum-modeled values of lead concentrations deposited to surface water for the common elements are estimated to be well below the surface water ecological screening criteria established for lead by both the FDEP and the U.S. Environmental Protection Agency (USEPA). Comparisons of predicted lead deposition in bottom sediments of water bodies to values presented in the Florida Sediment Quality Assessment Guidelines for inland waters indicates no ecological concern associated with the lead concentration in sediments.

Concentrations of RDX and TNT, from use of HE ordnance, were calculated in surface runoff using the highest soil concentration predicted by the SESOIL model. Predicted concentrations under both the typical- and maximum-use did not exceed the FDEP surface water quality clean-up target levels available for these constituents. RDX could potentially migrate through the soil column and into groundwater at concentrations above the cleanup target levels. No drinking water standard has been established for this constituent. Given that surficial groundwater at the site is not currently used as potable supply, as well as the low potential for contaminants to reach the underlying potable water supply because of confining layers and exercise coincident unexploded ordnance clearance activities, risk to human receptors from groundwater exposure will be minimal. Risk to ecological receptors from exposure to contaminants is expected to be negligible as ecological receptors are not typically exposed to groundwater.

Deposition of metal contaminates are not predicted to result in elevated surface water concentration. The results of the Summers model indicate that aluminum, chromium, or nickel from ordnance are not expected to leach to groundwater at levels that would exceed established FDEP groundwater criteria or standards in either the typical- or maximum-use scenarios. Although the predicted aluminum concentrations are higher than the Florida drinking water standard and groundwater cleanup target levels, the predicted value will not exceed the accepted background screening value established for APAFR.

Air Quality: Emissions from the common elements represent less than a 1% increase for all criteria pollutants, except lead. Lead emissions would increase 10% and 20% over baseline levels for typical and maximum use of the range, respectively. This increase will remain within the boundaries of APAFR. However, the impacts to air quality or to human health resulting from the increased lead emissions will be negligible because modeled lead concentrations were well below the National Ambient Air Quality Standards (NAAQS).

Use of HE will result in an 18% (typical) to 34% (maximum) increase in particulate matter equal to or less than 10 microns in diameter (PM_{10}), and an insignificant increase (<1%) for other criteria pollutants, such as ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide. The PM_{10} emission increases over the baseline do not require a new air permit. The increases represent less than 1% of the PM_{10} emissions for either Polk or Highlands Counties. Emissions of chromium and nickel pollutants will be negligible; therefore, on-range and off-range chemical exposures pose an insignificant impact to air quality or human health.

Since APAFR is in attainment for all criteria pollutants and implementation of the preferred alternative would not cause an exceedance of the NAAQS, a conformity determination is not required.

Land Use and Recreation: Approximately 22,420 acres (9,073 ha) outside APAFR boundaries would be impacted by the 115-dBP impulsive noise contour from HE detonation, including 150 residences. The entire on-base cantonment area, including the State of Florida Department of Corrections operated Avon Park Correctional Institution (1200–1300 inmates) and the Avon Park Youth Academy (200 youths), would be exposed to impulsive noise levels, that is the instantaneous sound generated by an explosion, greater than 115 dBP only when HE ordnance is expended during an exercise. Off-base land surrounding the range predominately support agriculture, rangeland, forestry, and wetlands. Ordnance noise increases are not expected to impact land use patterns, ownership, management, or plans and are not considered significant. A low to moderate risk of noise complaints is expected from the use of HE.

Current land use within APAFR will be impacted by the proposed action. Short-term (60 to 120 days per year) impacts include the closure of a portion of or all areas of APAFR outside the main base during Navy training exercises. Long-term impacts include access restrictions to military, civilian employees, APAFR contractors, and the public for safety reasons within designated areas. Approximately 4,561 total acres (1,824 ha) will be designated off-limits for public users of the range. Access restrictions will affect APAFR's recreation, grazing, and forest management and other land management programs. All access decisions, both short-term and long-term, will be subject to the discretion of the APAFR Commander based on the ORMA, current training requirements, and past training activities.

Biological Resources: Construction and maintenance of targets and use of the ATPAs will, over time, result in the degradation or loss of wildlife habitats. The primary impacts would be to the cutthroat grass and scrub communities. 369 acres (148 ha) of cutthroat grass community and 343 acres (137 ha) of scrub community will potentially be impacted. Timber, including planted pines and natural stands, will be harvested by APAFR within the public off-limits areas before the implementation of the proposed action. The total number of acres of timber to be impacted will be 2,388 acres; of that 1,970 acres are planted pine and 418 acres natural stand. Planned removal of planted pine stands will provide some potential ecological benefits related to habitat improvement to the Florida grasshopper sparrow (FGS) and Florida scrub-jay (FSJ) when the timber is removed.

Effects to the 14 species listed under the Endangered Species Act that may occur or are known to occur at APAFR are addressed in the Biological Opinion (BO) issued by the U.S. Fish And Wildlife Service (USFWS) in June 2005. Two plant species, hairy jointweed (also known as wireweed) and pigeonwing, are federally listed as endangered and threatened, respectively, under the Endangered Species Act. Dropping HE at Alpha Plus may affect, and would be likely to adversely affect both the hairy jointweed and the pigeonwing.

Twelve listed animal species may occur or are known to occur in the vicinity of APAFR. The USFWS has concluded the Navy's proposed action will have ''no effect'' on: The Everglade snail kite, the sand skink, the bluetail mole skink, and the Highlands tiger beetle. USFWS also concluded alternative 6 ''may affect, but is not likely to adversely affect'' these species: Red-cockaded woodpecker, woodstork, Audubon's crested caracara, bald eagle, and the Florida panther.

USFWS reached a determination of ''may affect, likely to adversely affect'' for the following species: The eastern indigo snake, the Florida scrub-jay, and the Florida grasshopper sparrow. In an Incidental Take Statement to the BO, the USFWS authorized incidental take of these three species resulting from implementation of alternative 6.

No significant adverse impacts to migratory birds are expected from implementation of the proposed action. Declines in populations of game species (e.g., deer, feral hog, and mourning dove) at APAFR are not expected as a result of the Navy's action. Non-game species that are not afforded special protection by government (i.e., not federally and state-listed species) generally occur in populations able to tolerate localized declines. Local population declines, however, are not anticipated as a result of the Navy's proposed action at APAFR.

Socioeconomics: The proposed action will not substantially affect regional socioeconomics. APAFR runs a variety of public natural resource and recreation programs that earn income for the range and are linked to the regional economy. Reductions in the recreation, cattle-grazing, and timber harvesting programs at APAFR as a result of short-term and long-term access restrictions will be negligible when combined to the region as a whole. No significant adverse impact on the local economy and surrounding communities is anticipated.

Cultural Resources: The Navy performed Phase I field work for unsurveyed areas within the off-limits area. Compliance with section 106 of the National Historic Preservation Act (NHPA) was completed with a Memorandum of Agreement signed by the SHPO, Navy, and Air Force. Compliance efforts included consultation with the Florida SHPO and American Indian tribes; cultural resources inventory, and identification; and evaluation of identified resources for National Register of Historic Property (NRHP) eligibility. No impacts to cultural resources are expected.

Environmental Justice: Resource topics anticipated to have the greatest potential for impacts on human populations include noise, safety, and land use and recreation. Based on a review of the impacts, there will not be any disproportionately high or adverse impact on minority and low-income populations.

Hazardous Materials and Hazardous Waste Management: There will be an increase in the quantity of waste generated from target maintenance; however, expected increases will have minimal impact on the current waste management or disposal process. A premature/inaccurate ordnance release or a weapon system malfunction could result in HE ordnance accidentally landing on Environmental Restoration Program/Compliance Sites at APAFR. Range scrap/debris will be generated as a result of air-to-ground training and will be collected and removed on a scheduled basis.

Military Activities: On-ground military training activities will be permanently restricted from the 5,638 acres (2,282 ha) off-limits area. Remaining impact areas at Bravo/Foxtrot and Charlie/Echo will receive higher utilization because of the common element activities, but due to the existing low utilization (27% for each; 4,132 hours of remaining capacity) the impact areas will remain well below capacity. Therefore, the decrease in range time capacity will not jeopardize existing mission activities and additional training can be accomplished within on-ground safety limitations.

Agency Consultation and Coordination: The Navy.

The Navy consulted and coordinated with Federal and State agencies regarding the Proposed Action at APAFR throughout the Environmental Impact Analyses Process. Agencies reviewing biological and cultural resources were contacted early in the environmental planning process and received IICEP notification in February 2003. Formal section 7 consultation, in compliance with the Endangered Species Act, was initiated with the U.S. Fish and Wildlife Service (USFWS) in January 2005. The USFWS concluded formal consultation when it issued a Biological Opinion in June 2005 with a determination of effect to each of the 14 listed species that may occur or are known to occur at APAFR. By letter dated March 25, 2005, the State of Florida agreed that the Navy's proposed training is consistent with the Florida Coastal Management Program. Section 106 consultation was initiated with the Florida SHPO in April 2005, pursuant to the NHPA. Section 106 consultation was completed with the signing of a Memorandum of Agreement in August 2005.

Mitigation Measures: Measures to avoid or minimize environmental impact from the Navy's proposed training activities at APAFR were incorporated into the basic proposed action as noted in 40 CFR 1502.14. These include actions, described below, designed to achieve reductions in the effect Navy training has on APAFR and the local community.

Range Safety: The following mitigative actions will be taken to minimize safety risk: Provide EOD personnel to minimize adverse impacts associated with ground safety and explosive safety by escorting personnel into the Alpha Plus off-limits area, as necessary; use only impact fuses for delivery of HE ordnance; no use of HE ordnance between 10 pm and 7 am; live guided bomb unit (GBU) drops would be limited to official daylight hours.

Earth Resources: The following mitigative actions will be taken to minimize impacts to earth resources: Construct access roadways of materials resistant to erosion and rutting; monitor areas susceptible to erosion and rutting; limit vegetation clearing to only what is necessary to have tactically representative targets; limit soil disking to that required to support maintenance of targets and create firebreaks; use APAFR guidelines for erosion control.

Water Resources: The mitigative actions taken to protect water resources at APAFR would be all of those listed to protect earth resources.

Land Use and Recreation: The Navy will provide EOD personnel to minimize adverse impacts associated with ground safety and explosive safety by escorting personnel into the Alpha Plus off-limits area, as necessary. The Navy will provide advance notification of desired training periods to assist APAFR in scheduling range assets.

Biological Resources: The following mitigative actions (listed as Terms and Conditions in the BO) will be taken to reduce potential environmental consequences to biological resources:

Vehicle and equipment operators will be notified to avoid all snakes and burrows if at all possible. Target and construction maintenance teams will be educated to recognize the eastern indigo snake. If any snake is encountered, it will be avoided or allowed to leave the area on its own before vehicle or equipment use is resumed.

Range personnel will conduct monitoring and management activities within the ATPAs, buffers, and public off-limit areas, including those areas where EOD escort is required. In addition, because implementation of the proposed action would result in the continuous presence of EOD personnel on the range, APAFR staff may conduct research activities currently prohibited due to the lack of EOD personnel in the HE areas on Bravo and Echo Ranges.

Firebreaks will be in place around the entire Alpha Plus ATPA prior to the implementation of the Navy action.

The Navy will support the Air Force's invasive exotic species monitoring and control program within the ATPAs, buffers, and public off-limit areas.

The Navy will assist the Air Force in monitoring and control of the feral hog populations within the ATPA, buffers, and public off-limit areas.

The Navy will coordinate with the Air Force to ensure that annual reports summarizing efforts to monitor the effects to listed species and their habitats are submitted by October 1st of each year.

Upon locating a dead, injured, or sick individual of a federally listed species, notification must be made to the nearest USFWS Law Enforcement Office.

Socioeconomics: The Navy will provide EOD personnel to APAFR in an effort to minimize adverse impacts associated with reduced range access. No other mitigative actions are proposed.

Cultural Resources: To minimize adverse impacts to potential cultural resources, the Navy will, according to the Memorandum of Agreement, ensure that the following measure will be carried out in consultation with the SHPO: if the Navy encounters unanticipated historic properties or effects, reasonable efforts will be made to avoid, minimize, or mitigate adverse effects pursuant to 36 CFR 800.13(b).

Hazardous Materials and Hazardous Waste Management: To minimize the potential for detonation of HE ordnance on the OB/OD TTF site northeast of the Alpha impact area, but within the greater Alpha Plus ATPA, the Navy has been working with the FDEP and Air Force on the removal of the OB/OD landfill unit. The removal action will be completed prior to the first exercise. No other adverse impacts are expected, therefore, there are no recommended mitigative actions to reduce or eliminate environmental impacts from the proposed action.

Military Activities: The following mitigative actions will be taken to reduce potential impacts to military activities that are currently conducted on the range:

Each Navy HE training event will be conducted within a block of no more than 10 days.

All known unexploded ordnance (UXO) will be disposed of within seven days of the 10-day HE block of range time, with roads being cleared first.

Navy training exercises will be coordinated with other on-ground training missions, such as missions that are part of the Avon Park Air Ground Training Complex.

Comments Received on the Final EIS: The Navy received a single letter regarding the Final EIS during the 30-day No Action Period. The letter, from the USEPA, concluded that EPA's initial concerns regarding the Draft EIS had been adequately addressed in the Final EIS but continued to emphasize the need to ensure functional replacement for the wetlands' value lost from this action.

As previously discussed in the Water Resources subsection of the Consequences section, the Navy has chosen several target locations within the Alpha Plus ATPA for initial target placement. A wetland delineation was performed for the area encompassed by these locations. The USACOE concluded that no jurisdictional wetlands existed within these areas, therefore no permit is required under the Clean Water Action Section 404 permitting process. If in the future the Navy feels it needs to move target locations within the ATPA, it will ensure that the process for addressing impacts to wetlands is followed.

Navy also received a comment letter from the Florida State Clearinghouse after the 30-day No-Action Period ended, forwarding comments from the Florida Department of Environmental Protection (FDEP).

FDEP repeated two comments made during their earlier review of the Draft EIS. They requested an Environmental Monitoring Plan (EMP) to formally establish baseline water quality conditions, parameters, and annual reporting requirements. FDEP also reiterated prior concern about the former open burn/open detonation (OB/OD) site within the Alpha Plus area. A formal EMP is not necessary to assure compliance with applicable statutes.

Modeling and analysis done in support of the EIS indicated a small possibility of munitions constituents of concern making their way to the surficial aquifer but it is not anticipated to impact groundwater resources used for potable purposes. The Navy's assessment is based on a number of factors. While the modeling contains the assumption that no UXO cleanup would be done during a 10-year period of maximum use, the Navy has committed to completing UXO clearance after every exercise. Additionally, there is an intermediate aquifer that isolates the Floridan aquifer from the surficial aquifer. The Navy will also work closely with the Air Force to implement DoD Instruction (DODI) 4715.14. This instruction requires military ranges to assess whether a release of munitions constituents of concern has occurred off range and the risk to human health and the environment. When finished, the Air Force is required to release the results to the public.

The Navy, as stated earlier in this ROD, has committed to funding the removal of the OB/OD landfill units located in the Alpha Plus ATPA and is working with FDEP to ensure full compliance. Removal of this unit, which is the only RCRA permitted unit within the Alpha Plus ATPA, will be complete in 2006. Response actions regarding impacts to any of the environmental restoration program sites in APAFR resulting from Navy training activities, including an inadvertent impact of ordnance, would be coordinated with the EPA, the FDEP, and other relevant stakeholders.

Summary: In determining how best to expand APAFR's capabilities to allow the Navy to conduct all components of ''air-to-ground ordnance delivery and training'' of integrated and sustainment levels of the FRTP at the range, a critical element of which is delivery of HE ordnance, I considered impacts to the following areas: Airspace, noise, range safety, earth resources, water resources, air quality, land use and recreation, biological resources, socioeconomics, cultural resources, environmental justice, hazardous waste and materials, and military activities. I have also taken into consideration the Navy's consultation with the USFWS regarding endangered species, the SHPO regarding cultural resources, and the USACOE regarding wetlands. I have also considered the comments sent to the Navy by the regulatory community, state and local governments, and the public. After carefully weighing all of these factors, I have determined that alternative 6, use of the Alpha Plus range for HE air-to-ground ordnance delivery combined with the common element activities, will best meet the needs of the Navy while minimizing the environmental impacts associated with the re-introduction of HE ordnance to the APAFR.

Dated: June 21, 2006.

BJ Penn,

Assistant Secretary of the Navy (Installations and Environment).

[FR Doc. E6–10356 Filed 6–30–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 2, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 27, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Planning, Evaluation and Policy Development

Type of Review: Revision.

Title: Data Collection for the Evaluation of the Improving Literacy Through School Libraries Program.

Frequency: One-time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 881.

Burden Hours: 808.

Abstract: This submission requests approval for an evaluation of the Improving Literacy through School Libraries Program (LSL). LSL, established under the No Child Left Behind Act of 2001 (NCLB), is designed to improve the literacy skills and academic achievement of students by providing them with access to up-to-date school library materials, technologically advanced school library media centers, and professionally certified school library media specialists. The evaluation of this program is authorized by NCLB Title I, Part B, Subpart 4.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3066. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–10363 Filed 6–30–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement; Overview Information, Charter Schools Program (CSP)

Notice inviting applications for new awards for fiscal year (FY) 2006.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.282B and 84.282C.

Dates: Applications Available: July 3, 2006.

Deadline for Transmittal of Applications: August 17, 2006.

Deadline for Intergovernmental Review: September 8, 2006.

Eligible Applicants: Planning and Initial Implementation (CFDA No. 84.282B): Non-State educational agency (non-SEA) eligible applicants in States with a State statute specifically authorizing the establishment of charter schools and in which the SEA elects not to participate in the CSP or does not have an application approved under the CSP program.

Note: *Eligible applicant* is defined in section 5210(3) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA). The following States currently have approved applications under the CSP: Alaska, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Wisconsin. In these States, non-SEA eligible applicants interested in participating in the CSP should contact the SEA for information related to the State's CSP subgrant competition.

Dissemination (CFDA No. 84.282C): Charter schools, as defined in section 5210(1) of the ESEA.

Note: A charter school may apply for funds to carry out dissemination activities, whether or not the charter school previously applied for or received funds under the CSP for planning or implementation, if the charter school has been in operation for at least three consecutive years and has demonstrated overall success, including—

(1) Substantial progress in improving student academic achievement;

(2) High levels of parent satisfaction; and

(3) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

Estimated Available Funds: $4,000,000.

Estimated Range of Awards: $130,000–$175,000 per year.

Estimated Average Size of Awards: $150,000 per year.

Estimated Number of Awards: 20–40.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months under CFDA No. 84.282B. Up to 24 months under CFDA No. 84.282C.

Note: Planning and implementation grants awarded by the Secretary to non-SEA eligible applicants will be awarded for a period of up to 36 months, no more than 18 months of which may be used for planning and program design and no more than two years of which may be used for the initial implementation of a charter school. Dissemination grants are awarded for a period of up to two years.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the CSP is to increase national understanding of the charter school model and to expand the number of high-quality charter schools available to students across the Nation by providing financial assistance for the planning, program design, and initial implementation of charter schools, and to evaluate the effects of charter schools, including their effects on students, student academic achievement, staff, and parents.

Non-SEA eligible applicants that propose to use grant funds for planning, program design, and implementation must apply under CFDA No. 84.282B. Non-SEA eligible applicants that request funds for dissemination activities must submit their applications under CFDA No. 84.282C.

Priority: Under these competitions we are particularly interested in applications that address the following priority.

Invitational Priority: For FY 2006 this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an applicant that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

The applicant proposes to plan, design, and implement, or in the case of a dissemination grant, disseminate information about, a high-quality charter high school in a geographic area in which a large proportion or number of public schools has been identified for improvement, corrective action, or restructuring under Title I, Part A of the ESEA.

Program Authority: 20 U.S.C. 7221–7221j.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply only to institutions of higher education.

Note: The regulations in 34 CFR part 99 apply only to educational agencies or institutions.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $4,000,000.

Estimated Range of Awards: $130,000–$175,000 per year.

Estimated Average Size of Awards: $150,000 per year.

Estimated Number of Awards: 20–40.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months under CFDA No. 84.282B. Up to 24 months under CFDA No. 84.282C.

Note: Planning and implementation grants awarded by the Secretary to non-SEA eligible applicants will be awarded for a period of up to 36 months, no more than 18 months of which may be used for planning and program design and no more than two years of which may be used for the initial implementation of a charter school. Dissemination grants are awarded for a period of up to two years.

III. Eligibility Information

1. *Eligible Applicants:* Planning and Initial Implementation (CFDA No. 84.282B): Non-SEA eligible applicants in States with a State statute specifically authorizing the establishment of charter schools and in which the SEA elects not to participate in the CSP or does not have an application approved under the CSP program.

Note: *Eligible applicant* is defined in section 5210(3) of the ESEA. The following States currently have approved applications under the CSP: Alaska, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Wisconsin. In these States, non-SEA eligible applicants interested in participating in the CSP should contact the SEA for information related to the State's CSP subgrant competition.

Dissemination (CFDA No. 84.282C): Charter schools, as defined in section 5210(1) of the ESEA.

Note: A charter school may apply for funds to carry out dissemination activities, whether or not the charter school previously applied for or received funds under the CSP for planning or implementation, if the charter school has been in operation for at least three consecutive years and has demonstrated overall success, including—

(1) Substantial progress in improving student academic achievement;

(2) High levels of parent satisfaction; and

(3) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

2. *Cost Sharing or Matching:* These competitions do not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Erin Pfeltz, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W255, Washington, DC 20202–5970. Telephone: (202) 205–3525 or by e-mail: *erin.pfeltz@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 a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. The Secretary strongly encourages applicants to limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A "page" is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The suggested page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

3. *Submission Dates and Times:* Applications Available: July 3, 2006.

Deadline for Transmittal of Applications: August 17, 2006.

Applications for grants under these competitions must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements in this notice.*

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: September 8, 2006.

4. *Intergovernmental Review:* These competitions are subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about

Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for these competitions.

5. *Funding Restrictions: Use of Funds for Post-Award Planning and Design of the Educational Program and Initial Implementation of the Charter School.* A non-SEA eligible applicant receiving a grant under this program may use the grant funds only for—

(a) Post-award planning and design of the educational program, which may include (i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and (ii) professional development of teachers and other staff who will work in the charter school; and

(b) Initial implementation of the charter school, which may include (i) informing the community about the school; (ii) acquiring necessary equipment and educational materials and supplies; (iii) acquiring or developing curriculum materials; and (iv) other initial operational costs that cannot be met from State or local sources.

Use of Funds for Dissemination Activities. A charter school may use these funds to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school through such activities as—

(a) Assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers and that agree to be held to at least as high a level of accountability as the assisting charter school;

(b) Developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

(c) Developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

(d) Conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under these competitions must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.* Applications for grants under the Charter School Program, CFDA Numbers 84.282B and 84.282C must be submitted electronically using the Grants.gov Apply site at: *http://www.grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Charter School Program at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted, and must be date/time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date/time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date/time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://Grants.ed.gov/help/GrantsgovSubmissionProcedures. pdf.*

• To submit your application via Grants.gov, you must complete all of the steps in the Grants.gov registration process (see *http://www.Grants.gov/GetStarted*). These steps include (1) registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/assets/GrantsgovCoBrandBrochure8X11.pdf.* You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgment from

Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically, or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice. If you submit an application after 4:30 p.m., Washington, DC time, on the deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**, and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number (if available). We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: Extensions referred to in this section apply only to the unavailability of or technical problems with the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Erin Pfeltz, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W255, Washington, DC 20202–5970. FAX: (202) 205–5630.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.* If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.282B or 84.282C), 400 Maryland Avenue, SW., Washington, DC 20202–4260 or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.282B or 84.282C), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.282B or 84.282C), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: Non-SEA eligible applicants applying for CSP grant funds must address both the statutory application requirements and the selection criteria described in the following paragraphs. Each applicant applying for CSP grant funds may choose to respond to the application requirements in the context of its responses to the selection criteria.

The statutory application requirements for all applicants submitting under CFDA Nos. 84.282B and 84.282C are listed in paragraph (a) in this section.

The selection criteria for non-SEA applicants for *Planning, Program*

Design, and Implementation Grants (CFDA No. 84.282B) are listed in paragraph (b) in this section.

The selection criteria for non-SEA applicants for *Dissemination Grants (CFDA No. 84.282C)* are listed in paragraph (c) in this section.

(a) *Application Requirements (CFDA Nos. 84.282B and 84.282C).* (i) Describe the educational program to be implemented by the proposed charter school, including how the program will enable all students to meet challenging State student academic achievement standards, the grade levels or ages of students to be served, and the curriculum and instructional practices to be used;

(ii) Describe how the charter school will be managed;

(iii) Describe the objectives of the charter school and the methods by which the charter school will determine its progress toward achieving those objectives;

(iv) Describe the administrative relationship between the charter school and the authorized public chartering agency;

(v) Describe how parents and other members of the community will be involved in the planning, program design, and implementation of the charter school;

(vi) Describe how the authorized public chartering agency will provide for continued operation of the charter school once the Federal grant has expired, if that agency determines that the charter school has met its objectives;

(vii) If the charter school desires the Secretary to consider waivers under the authority of the CSP, include a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

(viii) Describe how the grant funds will be used, including how these funds will be used in conjunction with other Federal programs administered by the Secretary;

(ix) Describe how students in the community will be informed about the charter school and be given an equal opportunity to attend the charter school;

(x) Describe how a charter school that is considered an LEA under State law, or an LEA in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act; and

(xi) If the eligible applicant desires to use grant funds for dissemination activities under section 5202(c)(2)(C), describe those activities and how those activities will involve charter schools and other public schools, LEAs, developers, and potential developers.

(b) *Selection Criteria (CFDA No. 84.282B).* The following selection criteria are from the authorizing statute for this program and 34 CFR 75.210 of EDGAR.

The maximum possible score for all the criteria in this section is 130 points.

The maximum possible score for each criterion is indicated in parentheses following the criterion.

In evaluating an application from a non-SEA eligible applicant for Planning, Program Design, and Implementation, the Secretary considers the following criteria:

(i) The quality of the proposed curriculum and instructional practices (20 points).

Note: The Secretary encourages the applicant to describe the educational program to be implemented by the proposed charter school, including how the program will enable all students to meet challenging State student academic achievement standards, the grade levels or ages of students to be served, and the curriculum and instructional practices to be used.

(ii) The degree of flexibility afforded by the SEA and, if applicable, the LEA to the charter school (10 points).

Note: The Secretary encourages the applicant to include a description of how the State's law establishes an administrative relationship between the charter school and the authorized public chartering agency and exempts the charter school from significant State or local rules that inhibit the flexible operation and management of public schools.

The Secretary also encourages the applicant to include a description of the degree of autonomy the charter school will have over such matters as the charter school's budget, expenditures, daily operation, and personnel in accordance with its State's charter school law.

(iii) The extent of community support for the application (20 points).

Note: The Secretary encourages the applicant to describe how parents and other members of the community will be informed about the charter school, and how students will be given an equal opportunity to attend the charter school.

(iv) The ambitiousness of the objectives for the charter school (10 points).

Note: The Secretary encourages the applicant to describe the objectives for the charter school and how these grant funds will be used, including how these funds will be used in conjunction with other Federal programs administered by the Secretary, in meeting these objectives.

(v) The quality of the strategy for assessing achievement of those objectives (20 points).

(vi) The likelihood that the charter school will meet those objectives and improve educational results for students during and after the period of Federal financial assistance (10 points).

(vii) The extent to which the proposed project encourages parental involvement (10 points).

Note: The Secretary encourages the applicant to describe how parents and other members of the community will be involved in the planning, program design, and implementation of the charter school.

(viii) The qualifications, including relevant training and experience, of the project director; and the extent to which the applicant encourages applications for employment from persons who are members of groups that traditionally have been underrepresented based on race, color, national origin, gender, age, or disability (10 points).

(ix) The contribution the charter school will make in assisting educationally disadvantaged and other students to achieve to State academic content standards and State student academic achievement standards (20 points).

(c) *Selection Criteria (CFDA No. 84.282C).* The following selection criteria are from the authorizing statute for this program and 34 CFR 75.210 of EDGAR.

The maximum possible score for all the criteria in this section is 110 points.

The maximum possible score for each criterion is indicated in parentheses following the criterion.

In evaluating an application from a non-SEA eligible applicant for a dissemination grant, the Secretary considers the following criteria:

(i) The quality of the proposed dissemination activities and the likelihood that those activities will improve student achievement (30 points).

Note: The Secretary encourages the applicant to describe the objectives for the proposed dissemination activities and the methods by which the charter school will determine its progress toward achieving those objectives.

(ii) The extent to which the school has demonstrated overall success, including—

(1) Substantial progress in improving student achievement (10 points);

(2) High levels of parent satisfaction (10 points); and

(3) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school (10 points).

(iii) The extent to which the results of the proposed project will be disseminated in a manner that will enable others to use the information or strategies (20 points).

(iv) The qualifications, including relevant training and experience, of the project director and the extent to which the applicant encourages applications for employment from persons who are members of groups that traditionally have been underrepresented based on race, color, national origin, gender, age, or disability (10 points).

(v) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (20 points).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we will notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. For specific requirements on grantee reporting, please go to the ED Performance Report Form 524B at *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The goal of the CSP is to support the creation and development of a large number of high-quality charter schools that are free from State or local rules that inhibit flexible operation, are held accountable for enabling students to reach challenging State performance standards, and are open to all students. The Secretary has set three performance indicators to measure this goal: (1) The number of States, including the District of Columbia and Puerto Rico, with charter school laws, (2) the number of charter schools in operation around the Nation, and (3) the percentage of charter school students who are achieving at or above the proficient level on State examinations in mathematics and reading. Additionally, the Secretary has established the following measure to examine the efficiency of the CSP: Federal cost per student in implementing a successful school (defined as a school in operation for three or more years).

All grantees will be expected to submit an annual performance report documenting their contribution in assisting the Department in meeting these performance measures.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Erin Pfeltz, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W255, Washington, DC 20202–5970. Telephone: (202) 205–3525 or by e-mail: *erin.pfeltz@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 in this section.

VIII. Other Information

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 28, 2006.

Christopher J. Doherty,

Acting Assistant Deputy Secretary Office of Innovation and Improvement.

[FR Doc. E6–10396 Filed 6–30–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Upward Bound Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for Postsecondary Education proposes to establish a priority under the Upward Bound Program. We are proposing to establish this priority to focus Federal resources on students most in need of academic assistance and to increase the effectiveness of the Upward Bound Program. We propose this priority to increase the number of low-income, first generation students with the ''greatest academic need'' for program services that participate in the Upward Bound program, and to provide all Upward Bound participants an opportunity to receive services for four years.

DATES: We must receive your comments on or before August 2, 2006.

ADDRESSES: Address all comments about this proposed priority to Geraldine Smith, U.S. Department of Education, 1990 K Street, NW., room 7020, Washington, DC 20006–8512. If you prefer to send your comments through the Internet, use the following address: *TRIO@ed.gov.*

You must include the term ''Upward Bound Comments'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Gaby Watts. Telephone: (202) 502–7545 or via Internet: *gaby.watts@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 contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 7020, 1990 K Street, NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

The Upward Bound Program is one of eight programs known as the Federal TRIO Programs. Under the Upward Bound Program, the Department provides discretionary grants to institutions of higher education, public and private agencies and organizations, and combinations of institutions, agencies and organizations. The Upward Bound Program supports projects that are designed to generate, in eligible students, the skills and motivation necessary for success in education beyond secondary school. Projects under the Upward Bound Program provide, among other services, instruction in reading, writing, mathematics, science, study skills, and other subjects necessary for success in education beyond high school.

An assessment of the Upward Bound Program using the Office of Management and Budget's Program Assessment Rating Tool resulted in an ''Ineffective'' rating because the program has not been able to demonstrate positive overall results. In 1991, Mathematica Policy Research, Inc., under contract to the Department of Education, initiated an ongoing evaluation of Upward Bound, based on a random assignment design. A 2004 report titled, *The Impacts of Regular Upward Bound: Results from the Third Follow-Up Data Collection (''The Study'')*, found that the overall impact of Upward Bound programs on the high school and early college outcomes of participants was not significantly different from those of a control group. However, the Study did indicate that Upward Bound has a statistically significant positive impact on students with lower educational expectations. For students with lower educational expectations, i.e., students who did not expect to complete a bachelor's degree when they applied to Upward Bound, participation in the program more than doubles the likelihood those students attend a four-year college or university, raising the enrollment rate from 18 percent to 38 percent. For this group of students, participation in Upward Bound also improves high school preparation for postsecondary education, increasing the total number of academic credits earned in high school and the number of Advanced Placement credits earned. It also increases early college persistence. The Study may be reviewed at: *http://www.ed.gov/rschstat/eval/highered/upward/upward-3rd-report.html.*

It is difficult, however, to screen applicants based on their educational expectations. There is no reliable way of objectively determining a person's expectation. If it became common knowledge that students with lower expectations were more likely to be admitted than were students with higher expectations, applicants would have a strong incentive to understate their educational expectations in the application process. We do know that low educational expectations are more prevalent among students with high academic risk for failure. Therefore, we propose this priority to target the program to students with a high academic risk for failure.

Under this proposed priority, otherwise eligible students deemed to have ''high academic risk for failure'' would be those who—

1. Have not achieved at the proficient level on State assessments in reading/language arts for grade eight;
2. Have not achieved at the proficient level on State assessments in math for grade eight; or
3. Have a grade point average of 2.5 or less (on a 4.0 scale) for the most recent school year for which grade point averages are available.

These criteria are consistent with the overall purpose and goals of the Upward Bound Program. Section 402C(a) of the HEA requires Upward Bound projects to be designed to generate skills and motivation necessary for success in education beyond secondary school. The Department's regulations for the Upward Bound Program in 34 CFR 645.3 implement this statutory goal in the eligibility requirements for participating in an Upward Bound project. Those requirements specify, among other things, that a student must have a need for academic support, as determined by the grantee, in order to pursue successfully a program of education beyond high school. Commonly used criteria for determining a student's ''need for academic support'' are the student's GPA and performance on standardized tests.

In addition, by using State academic achievement assessments to determine student eligibility for services, Upward Bound projects will be able to align their programs with the requirements and activities supported by the No Child Left Behind Act of 2001.

The Study also revealed that, among Upward Bound participants, 35 percent participate for 1 to 12 months, 28 percent participate for 13 to 24 months and 36 percent participate for 25 or more months. The Study found that 40 percent complete the program, that is, participate in Upward Bound through high school graduation. Students who applied for Upward Bound in the summer after completing eighth grade typically spent more time in Upward Bound than other participants (42 months). The Study concluded that, for students who participated in Upward Bound for less than two years, an additional year of Upward Bound participation could raise the postsecondary enrollment rate by as much as nine percentage points. For Upward Bound participants who did not complete the program, the Study found that program completion could raise postsecondary enrollment by as much as 17 percentage points. Therefore, we are proposing in this priority to give students an opportunity to receive a minimum of three years, and potentially four years of Upward Bound services by targeting projects that propose to select all first-time participants from among otherwise eligible students who have completed the 8th grade, but not the 9th grade, in secondary school.

To evaluate the outcomes of projects funded under this priority, the Department plans to conduct a rigorous evaluation of the impacts of the Upward Bound Program. Under 34 CFR 75.591, grantees must cooperate in the evaluation. As specified in the proposed priority, any regular Upward Bound grantee may be selected to participate in the evaluation. Each selected grantee would be required to recruit at least twice as many eligible new students in project year 2007–2008 as the grantee plans to serve in its project. Of that larger pool of eligible new students at least 30 percent must meet the definition of ''high academic risk for failure.'' Grantees selected to participate in the evaluation would be required to refrain from admitting new students into their Upward Bound projects for project year 2007–2008 until the evaluator has completed its data collection and random assignment for those students. Eligible new students will be assigned randomly by the evaluator either to participate in Upward Bound or to serve as part of a control group (not in Upward Bound).

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this proposed priority, we will invite applications through a notice in the **Federal Register**.

Priority

Proposed Absolute Priority: Upward Bound Program Participant Selection

This priority supports Upward Bound Program projects that select first-time participants from otherwise eligible students who have completed the 8th grade but not the 9th grade in secondary school, and that select not less than 30 percent of all first-time participants from students who have ''high academic risk for failure.''

Otherwise eligible students deemed to have ''high academic risk for failure'' are those who—

1. Have not achieved at the proficient level on State assessments in reading/language arts for grade eight;
2. Have not achieved at the proficient level on State assessments in math for grade eight; or
3. Have a grade point average of 2.5 or less (on a 4.0 scale) for the most recent school year for which grade point averages are available.

To meet this priority, an applicant also must agree to conduct its Upward Bound project in a manner consistent with the evaluation that the Department plans to conduct for the Upward Bound Program. An applicant also must agree, if selected to participate in the evaluation, to—

1. Recruit at least twice as many eligible new students in project year 2007–2008 as the grantee plans to serve in its project. Of that larger pool of eligible new students at least 30 percent must meet the definition of ''high academic risk for failure;''
2. Refrain from admitting new students into its Upward Bound project for project year 2007–2008 until the evaluator has completed its data collection and random assignment for those students; and
3. Agree that eligible new students will be assigned randomly by the evaluator either to participate in Upward Bound or to serve as part of a control group (not in Upward Bound).

This proposed absolute priority does not apply to the Veterans Upward Bound projects and Upward Bound Math/Science projects.

Executive Order 12866

This notice of proposed priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priority are those resulting from statutory requirements and those we have determined are necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priority, we have determined that the benefits of the proposed priority justify the costs.

We have also determined that this action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

This Program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Applicable Program Regulations: 34 CFR part 645.

Electronic Access to This Document

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(Catalog of Federal Domestic Assistance Number 84.047A Upward Bound Program)

Program Authority: 20 U.S.C. 1070a–13.

Dated: June 28, 2006.

James F. Manning,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. E6–10398 Filed 6–30–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: The Department gives notice that on November 1, 2005, an arbitration panel rendered a decision in the matter of *Billie Ruth Schlank* v. *District of Columbia Department of Human Services, Rehabilitation Services Administration (Docket No. R–S/04–6).* This panel was convened by the U.S. Department of Education, under 20 U.S.C. 107d–1(a), after the Department received a complaint filed by the complainant, Billie Ruth Schlank.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5022, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7374. 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 contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107d–2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerned alleged violations of the Act (20 U.S.C. 107 *et seq.*), the implementing regulations in 34 CFR part 395, and State rules and regulations by the District of Columbia Department of Human Services, Rehabilitation Services Administration, the State licensing agency (SLA), regarding complainant's bid to operate a cafeteria at the National Imagery Mapping Agency (NIMA) located at the District of Columbia Navy Yard.

A summary of the facts is as follows: Complainant is a licensed vendor in the District of Columbia Department of Human Services, Rehabilitation Services Administration (DCRSA) Randolph-Sheppard vending facility program. In February 2003, DCRSA entered into a subcontracting agreement with the Department of Defense, Department of the Navy (Navy) and the State of Maryland Business Enterprise Program to operate three cafeterias, including a new cafeteria at NIMA, which was to take effect in March 2003. Subsequently, DCRSA, in accordance with its transfer and promotion policies, solicited bids from interested blind vendors to manage the NIMA cafeteria. The SLA's Promotion and Transfer Committee (Committee) makes decisions about a vendor's eligibility to transfer to another facility. Vendors receive points based on their seniority and performance, and the vendor with the highest number of points is given the first opportunity to transfer to a new facility.

In early 2003, the Committee determined that complainant was the second-ranked vendor who had submitted a bid to manage the NIMA cafeteria. However, soon thereafter, the Committee ruled that the highest-ranked vendor was ineligible and that complainant should be selected for the position.

Subsequently, complainant alleged that, although she was the next eligible vendor, the SLA refused to allow her to read the terms of the NIMA cafeteria contract or to visit the facility, both of which are standard procedures when a vendor is bidding on a new facility. On May 14, 2003, complainant requested an administrative review from DCRSA concerning her dissatisfaction with not being allowed to transfer to the NIMA cafeteria as the next eligible vendor. The SLA did not act on complainant's administrative review request. On May 16, 2003, complainant requested from DCRSA a State fair hearing on this matter.

Complainant alleged that DCRSA also did not act on her request for a State fair hearing. Consequently, in July 2003 complainant filed a request for a Federal arbitration with the Secretary of Education alleging DCRSA's failure to provide a State fair hearing to her concerning her bid on the NIMA cafeteria.

In the meantime, the Department of Education, Rehabilitation Services Administration (RSA) corresponded with the SLA requesting that complainant be given a State fair hearing. By letter dated September 10, 2003, the SLA informed RSA that a pre-hearing was scheduled for September 15, 2003, and a State fair hearing was scheduled for September 18, 2003.

On October 28, 2003, a pre-hearing was held by the SLA on complainant's request for a State fair hearing. However, on December 15, 2003, the SLA filed a Motion to Dismiss the complaint with the District of Columbia's Office of Fair Hearings. The hearing officer granted the SLA's Motion to Dismiss, thus canceling the State fair hearing that was scheduled for January 23, 2004. The SLA adopted the hearing officer's decision as final agency action.

By letter dated March 22, 2004, complainant informed the Commissioner of RSA that the hearing officer had dismissed her complaint and that DCRSA had adopted the hearing officer's decision. Complainant requested review by a Federal arbitration panel of that decision. On April 20, 2004, the Commissioner of RSA issued a letter to complainant and the SLA authorizing the convening of a Federal arbitration panel. A hearing on this matter was held on April 26 and May 12, 2005.

Arbitration Panel Decision

The issues heard by the panel were—(1) whether DCRSA improperly refused complainant the right to transfer to the NIMA cafeteria, in violation of the Act and implementing regulations, and (2) whether DCRSA entered into a binding and enforceable agreement with the State of Maryland's Randolph-Sheppard Business Enterprise Program to subcontract the NIMA cafeteria using a teaming partner.

After reviewing all of the records and hearing testimony of witnesses, the panel majority ruled that the complainant was entitled to be assigned as the new vendor at the NIMA cafeteria in March 2003. Moreover, the panel majority found no evidence to support the SLA's contention that the highest-ranked vendor's protest to the Committee regarding the Committee's decision to withdraw the vendor's assignment justified the Committee's failure to assign complainant as the next eligible vendor.

Concerning the second issue regarding the contractual arrangement between DCRSA and the State of Maryland to operate the NIMA cafeteria, the majority of the panel concluded that, since March 2003, DCRSA had acted in a manner that could be reasonably construed as entering into a subcontracting partnership among the State of Maryland's Business Enterprise Program, the teaming partner, and DCRSA.

Specifically, the majority of the panel found that DCRSA had been receiving monthly payments of the vendor's salary from the teaming partner. However, the panel found that DCRSA had not used the money collected from the NIMA cafeteria contract for any services pertaining to the SLA's Randolph-Sheppard program in violation of the Act and regulations.

Accordingly, the panel majority ruled that the complainant was the next eligible vendor and should have been transferred to the NIMA cafeteria. Additionally, the panel majority ruled that complainant was entitled to back pay at the rate of $3,750.00 per month retroactive to March 2003 minus her monthly set-aside fees. Thus, the amount that the complainant should receive is $2,925.00 per month from March 2003 including interest at the statutory rate as well as reasonable costs of attorney fees.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Electronic Access to This Document

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Dated: June 27, 2006.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E6–10397 Filed 6–30–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–115–001]

Duke Energy Oakland LLC; Notice of Filing

June 26, 2006.

Take notice that on May 2, 2006, Duke Energy Oakland LLC filed a refund report pursuant to the Commission's January 23, 2006 Order.

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 July 6, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10332 Filed 6–30–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–52–001]

New York Power Authority v. Consolidated Edison Company of New York, Inc.; Notice of Filing

June 26, 2006.

Take notice that on June 20, 2006, Consolidated Edison Company of New York, Inc. filed a refund report pursuant to the Commission's Order issued on April 12, 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, 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 July 11, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10333 Filed 6–30–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 906–006]

Virginia Electric & Power Co.; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

June 26, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No:* 906–006.

c. *Date Filed:* June 12, 2006.

d. *Applicant:* Virginia Electric and Power Company, doing business as Dominion Virginia Power.

e. *Name of Project:* Cushaw Hydroelectric Project.

f. *Location:* On the James River in near Glasgow, Virginia, in Bedford and Amherst Counties, Virginia. The project's impoundment occupies 4.1 acres of United States Forest Service lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* James Thornton, Dominion Virginia Power, 5000 Dominion Boulevard, 1 NE, Glen Allen, VA 23060 (804) 273–3257.

i. *FERC Contact:* Kristen Murphy, (202) 502–6236 or *kristen.murphy@ferc.gov*.

j. *Cooperating Agencies:* We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC 61,076 (2001).

k. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* August 11, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

m. This application is not ready for environmental analysis at this time.

n. The Cushaw Project consists of the following features: (1) A 1,550-foot-long and 27-foot-high reinforced concrete dam extending diagonally across the James River; (2) a 138-acre reservoir at a surface elevation of 656 feet mean sea level; (3) an integral powerhouse with the dam containing five generating units with a total installed capacity of 7,500 kilowatts; (4) a 2.3–kV cable connecting the powerhouse to the Cushaw substation; and (5) appurtenant facilities. The project is operated in a run-of-river mode, and the average annual electrical generation is approximately 16,971,000 kilowatthours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Virginia State Historic Preservation Officer (SHPO), as required by Section 106 of the National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule and final amendments:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate. The Commission staff proposes to issue one environmental assessment rather than issue a draft and final EA. Comments, terms and conditions, recommendations, prescriptions, and reply comments, if any, will be addressed in an EA. Staff intents to give at least 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the license application.

Issue Deficiency or Acceptance Letter: July 2006.

Issue Scoping Document 1 for comments: August 2006.

Notice of application is ready for environmental analysis: October 2006.

Notice of the availability of the EA: February 2007.

Ready for Commission's decision on the application: June 2007.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Magalie R. Salas,
Secretary.

[FR Doc. E6–10331 Filed 6–30–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 26, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER91–569–033.
Applicants: Entergy Services Inc.
Description: Entergy Services, Inc on behalf of Entergy Arkansas, Inc *et al.* submits a non-material change in status pursuant to requirements of Order 652.
Filed Date: 6/20/2006.
Accession Number: 20060623–0049.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 11, 2006.

Docket Numbers: ER96–496–015; ER99–14–012; ER99–4463–006.
Applicants: Northeast Utilities Service Company.
Description: Northeast Utilities submits certain notifications to the Commission to reflect the acquisition by Hess Corp of the competitive retail businesses operated by Northeast Utilities Enterprise, Inc's subsidiaries.
Filed Date: 6/20/2006.
Accession Number: 20060623–0039.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 11, 2006.

Docket Numbers: ER97–2153–015; ER02–556–007; ER00–2181–003.
Applicants: Amerada Hess Corporation; Select Energy New York, Inc.; Hess Energy, Inc.
Description: Select Energy New York, Inc *et al.* submits a notice of non-material change in status.
Filed Date: 6/20/2006.
Accession Number: 20060623–0045.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 11, 2006.

Docket Numbers: ER05–1089–003.
Applicants: Wisconsin Public Service Corporation.
Description: Wisconsin Public Service Corp submits a settlement payment report in compliance with the Commission's 6/2/06 order.
Filed Date: 6/19/2006.
Accession Number: 20060619–5023.
Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Docket Numbers: ER05–1508–002.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits its Large Generator Interconnection Agreement with Power Partners Midwest, LLC and Interstate Power and Light Company.
Filed Date: 6/21/2006.
Accession Number: 20060623–0056.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 12, 2006.

Docket Numbers: ER06–255–003.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits a Large Generator Interconnection Agreement with FirstEnergy Generation Corp and American Transmission System, Inc.
Filed Date: 6/21/2006.
Accession Number: 20060623–0057.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 12, 2006.

Docket Numbers: ER06–714–001.
Applicants: Midwest Independent Transmission System.
Description: Midwest Independent Transmission System Operator, Inc

submits its Large Generator Interconnection Agreement with FirstEnergy Nuclear Operating Company and American Transmission System, Inc.

Filed Date: 6/21/2006.

Accession Number: 20060623–0040.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 12, 2006.

Docket Numbers: ER06–836–001.

Applicants: Pacific Gas & Electric Company.

Description: Pacific Gas and Electric Co submits a supplement to its 4/4/06 filing of Supplemental Balancing Account Revisions.

Filed Date: 6/22/2006.

Accession Number: 20060623–0085.

Comment Date: 5 p.m. Eastern Time on Thursday, July 13, 2006.

Docket Numbers: ER06–1046–002.

Applicants: Western Kentucky Energy Corp.; LG&E Energy Marketing Inc.; Louisville Gas & Electric Company; Kentucky Utilities Company.

Description: LG&E Energy Marketing, Inc *et al.* submit updated information to inform FERC of certain recent developments in a proceeding pending before the Kentucky Public Service Commission etc.

Filed Date: 6/21/2006.

Accession Number: 20060623–0051.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 12, 2006.

Docket Numbers: ER06–1055–001.

Applicants: Newmont Nevada Energy Investment, LLC.

Description: Newmont Nevada Energy Investment LLC submits revised tariff sheets to its Electric Tariff, Original Volume 1.

Filed Date: 6/21/2006.

Accession Number: 20060623–0047.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 12, 2006.

Docket Numbers: ER06–1098–001.

Applicants: JJR Power LLC.

Description: JJR Power LLC submits an amended Petition of Acceptance of Initial Tariff, Waiver and Blanket Authority.

Filed Date: 6/21/2006.

Accession Number: 20060623–0041.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 12, 2006.

Docket Numbers: ER06–1163–000.

Applicants: American Electric Power Service Corporation.

Description: The American Electric Power Service Corp, on behalf of Ohio Power Co et al submits an interconnection agreement with Duke Energy.

Filed Date: 6/21/2006.

Accession Number: 20060623–0042.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 12, 2006.

Docket Numbers: ER06–1164–000.

Applicants: New York State Electric & Gas Corporation.

Description: New York State Electric & Gas Corp submits a supplement to Rate Schedule 200—Facilities Agreement with New York Power Authority.

Filed Date: 6/19/2006.

Accession Number: 20060623–0048.

Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Docket Numbers: ER06–1165–000.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services, Inc on behalf Alabama Power Co et al submits Revision 3 to the Agreement for Network Integration Transmission Service for Tennessee Valley Authority.

Filed Date: 6/22/2006.

Accession Number: 20060623–0052.

Comment Date: 5 p.m. Eastern Time on Thursday, July 13, 2006.

Docket Numbers: ER06–1166–000.

Applicants: Liberty Power Nevada LLC.

Description: Liberty Power Nevada, LLC submits its petition for acceptance of initial rate schedule (FERC Electric Rate Schedule No. 1), waivers and blanket authority.

Filed Date: 6/22/2006.

Accession Number: 20060626–0163.

Comment Date: 5 p.m. Eastern Time on Monday, July 3, 2006.

Docket Numbers: ER06–1167–000.

Applicants: Liberty Power New Hampshire LLC.

Description: Liberty Power New Hampshire, LLC submits a petition for acceptance of its initial rate schedule (FERC Electric Rate Schedule No. 1), waivers and blanket authority.

Filed Date: 6/22/2006.

Accession Number: 20060626–0161.

Comment Date: 5 p.m. Eastern Time on Monday, July 3, 2006.

Docket Numbers: ER06–1168–000.

Applicants: Liberty Power Pennsylvania LLC.

Description: Liberty Power Pennsylvania, LLC submits a petition of its initial rate schedule (FERC Electric Rate Schedule 1), waivers and blanket authority.

Filed Date: 6/22/2006.

Accession Number: 20060626–0162.

Comment Date: 5 p.m. Eastern Time on Monday, July 3, 2006.

Docket Numbers: ER06–1169–000.

Applicants: Moses Lake Generating LLC.

Description: Moses Lake Generating, LLC submits a notice of cancellation of its market-based rate tariff, FERC Electric Tariff, Original Volume No. 1.

Filed Date: 6/23/2006.

Accession Number: 20060626–0149.

Comment Date: 5 p.m. Eastern Time on Friday, July 14, 2006.

Docket Numbers: ER06–1170–000.

Applicants: Liberty Power Ohio LLC.

Description: Liberty Power Ohio, LLC submits a petition for acceptance of its initial rate schedule (FERC Electric Rate Schedule 1) waivers and blanket authority.

Filed Date: 6/22/2006.

Accession Number: 20060626–0150.

Comment Date: 5 p.m. Eastern Time on Monday, July 3, 2006.

Docket Numbers: ER06–1171–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co submits an Interconnection Facilities Study Agreement with the Nevada Hydro Co Inc.

Filed Date: 6/23/2006.

Accession Number: 20060626–0158.

Comment Date: 5 p.m. Eastern Time on Friday, July 14, 2006.

Docket Numbers: ER06–1172–000.

Applicants: Liberty Power California LLP.

Description: Liberty Power California, LLP submits a petition for acceptance of its initial rate schedule (FERC Electric Rate Schedule 1), waivers and blanket authority.

Filed Date: 6/23/2006.

Accession Number: 20060626–0160.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 5, 2006.

Docket Numbers: ER06–1173–000.

Applicants: Liberty Power Connecticut LLP.

Description: Liberty Power Connecticut, LLP submits a petition for acceptance of its initial rate schedule (FERC Electric Tariff 1), waivers and blanket authority.

Filed Date: 6/23/2006.

Accession Number: 20060626–0159.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 5, 2006.

Docket Numbers: ER06–1174–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits revised tariff to reinstate inadvertently delete language needed to determine sanctions for failure to meet ICAP Bidding requirements.

Filed Date: 6/23/2006.

Accession Number: 20060626–0146.

Comment Date: 5 p.m. Eastern Time on Friday, July 14, 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. E6–10328 Filed 6–30–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6676–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 2006 (71 FR 17845).

Draft EISs

EIS No. 20050540, ERP No. D–FAA–C51029–00, New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign Project, To Increase the Efficiency and Reliability of the Airspace Structure and Air Traffic Control System, NY, NJ and PA.

Summary: EPA expressed environmental concern about cumulative impacts. EPA also requested information on outreach to environmental justice communities impacted by noise and mitigation/minimization of noise exposure to those communities. Rating EC2.

EIS No. 20060154, ERP No. D–NPS–E65081–FL, Castillo de San Marcos National Monument, General Management Plan, Implementation, City of St. Augustine, St. Johns County, FL.

Summary: EPA does not object to the proposed action. Rating LO.

EIS No. 20060170, ERP No. D–COE–K39097–AZ, Rio Salado Oeste Project, Ecosystem Restoration along the Salt River, City of Phoenix, Maricopa County, AZ.

Summary: EPA supports the restoration project and requested more information regarding adaptive management plans. Rating LO.

EIS No. 20060050, ERP No. DR–COE–E34031–FL, Central and Southern Florida Project, Revised Draft Integrated Project Implementation Report, Comprehensive Restoration Plan, Implementation, Everglades Agricultural Area Storage Reservoirs, Palm Beach County, FL.

Summary: While EPA fully supports the construction and operation of the proposed project, it expressed environmental concerns about potential water quality impacts, and requested that additional water quality information be included in the Final EIS. Rating EC1.

Final EISs

EIS No. 20060156, ERP No. F–COE–J39034–MT, Upper Columbia Alternative Flood Control and Fish Operations, Implementation, Libby and Hungry Horse Dams, Columbia River Basin, MT.

Summary: EPA supports the basic goal of operating Libby and Hungry Horse Dams to simulate a more natural hydro graph for aquatic ecosystem benefits. EPA also supports the Flow Implementation Protocol being developed by the Corps and other stakeholders. However, EPA expressed environmental concerns about the potential for the new Libby Dam to result in increased total dissolved gas levels in the Kootenai River that would exceed the state of Montana's Water Quality Standards.

EIS No. 20060157, ERP No. F–IBR–K39076–00, Navajo Reservoir Operations, Proposed Operational Changes to Navajo Dam and Reservoir, Endangered Species Act (ESA), Related Flow Recommendations, Navajo Unit-San Juan River, NM, CO and UT.

Summary: EPA supports the modification of operation of Navajo Dam to meet flow recommendations for the sucker and pikeminnow, and requested additional commitments to mitigation and monitoring for water quality impacts.

EIS No. 20060196, ERP No. F–COE–E34031–FL, South Florida Water Management District (SFWMD), Proposes Construction and Operation Everglades Agricultural Area Reservoir A–1 Project, Lake Okeechobee, Palm Beach County, FL.

Summary: EPA continues to support this element of the original selected alternative as having reasonable and feasible objectives while providing sufficient environmental restoration benefits; therefore, EPA does not object to the proposed action.

EIS No. 20060225, ERP No. F–BLM–K65293–NV, Sheep Complex, Big Springs and Owyhee Grazing Allotments Sensitive Bird Species Project, Determine Impacts of Livestock Grazing, Elko County, NV.

Summary: Modifications to the selected alternative, such as using phased grazing levels and the implementation of monitoring and adaptive management measures that rely on ecosystem goals have addressed

EPA's concerns; therefore, EPA does not object to the proposed action.

Dated: June 28, 2006.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E6–10395 Filed 6–30–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6676–7]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*

Weekly receipt of Environmental Impact Statements

Filed 6/19/2006 through 6/23/2006 pursuant to 40 CFR 1506.9.

EIS No. 20060260, Final EIS, BLM, AK, East Alaska Draft Resource Management Plan (RMP), Provide a Single Comprehensive Land Use Plan, Implementation, Glennallen Field Office District, AK, Wait Period Ends: 7/31/2006. Contact: Bruce Rogers 907–822–3217.

EIS No. 20060261, Final EIS, NPS, UT, Burr Trail Modification Project, Proposed Road Modification within Capitol Reef National Park, Garfield County, UT, Wait Period Ends: July 31, 2006, Contact: Chris Turk 303–969–2832.

EIS No. 20060262, Draft EIS, SFW, CA, San Joaquin Valley Operations and Maintenance Program Habitat Conservation Plan, Application for Incidental Take Permits, San Joaquin, Stanislaus, Merced, Fresno, Kings, Kern Mariposa, Madera and Tulare Counties, CA, Comment Period Ends: 9/28/2006, Contact: Lori Rinek 916–414–6600.

EIS No. 20060263, Final EIS, BIA, MI, Nottawaseppi Huron Band of Potawatomi Indians (the Tribe), Proposes Fee-to-Trust Transfer and Casino Project, Calhoun County, MI, Wait Period Ends: 7/31/2006, Contact: Terrance Virden 612–725–4510.

EIS No. 20060264, Draft EIS, AFS, WY, Lower Valley Energy (LVE) Natural Gas Pipeline Project, Construction and Operation of a Pressurized Natural Gas Pipeline, Special-Use-Authorization, Big Piney and Jackson Ranger Districts, Bridger-Teton National Forest, Sublette and Teton Counties, WY, Comment Period Ends: 8/14/2006, Contact: Teresa Trulock 307–276–3375.

EIS No. 20060265, Draft EIS, EPA and BIA, ND, Mandan, Hidatsa and Arikara (MHA) Nation's Proposed Clean Fuels Refinery Project, Construct and Operate a New 15,000 Barrel Per Day Clean Fuels Refinery and Grow Hay for Buffalo, Fort Berthold Indian Reservation, Ward County, ND, Comment Period Ends: 8/29/2006, Contact: Dana Allen 303–312–6870. US EPA and U.S. DOI's BIA are Co-Lead Agencies for the above project. Agencies contact are: Diane-Mann-Klager (BIA) 605–226–7621 and Monica Morales (EPA) 303–312–6936.

EIS No. 20060266, Draft EIS, DOT, TX, North Corridor Fixed Gudeway Project, Propose Transit Improvements from University of Houston (UH)—Downtown Station to Northline Mall, Harris County, TX, Comment Period Ends: 8/14/2006, Contact: John Sweek 817–978–0550.

EIS No. 20060267, Final EIS, BLM, CA, Ukiah Resource Management Plan Implementation, Several Counties, CA, Wait Period Ends: 8/14/2006, Contact: Eli Ilano 916–978–4427.

EIS No. 20060268, Draft EIS, FHW, DC, 11th Street Bridges Project, Anacostia Freeway I–295/DC 295, to the Southeast/Southwest Freeway (I–695) Improvements, Funding, NPDES Permit, U.S. Army COE Section 10 and 404 Permits, Washington, DC, Comment Period Ends: 8/28/2006, Contact: Michael Hicks 202–219–3513.

EIS No. 20060269, Draft Supplemental, COE, MD, Masonville Dredged Material Containment Facility, New Information, New Source of Dike Building Material from the Seagirt Dredging Project within the Patapsco River, Funding, Baltimore, MD, Comment Period Ends: 8/14/2006, Contact: Jon Romeo 410–962–6079.

EIS No. 20060270, Second Draft Supplemental, COE, FL, Cope Sable Seaside Sparrow Protection, Interim Operation Plan (IOP), Additional Information Alternative 7, Providing Additional Flood Control Capacity, Implementation, Everglades National Park, Miami-Dade County, FL, Comment Period Ends: 8/14/2006, Contact: Dr. Jon Moulding 904–232–2286.

EIS No. 20060271, Draft EIS, CGD, 00, PROGRAMMATIC—Implementation of the U.S. Coast Guard Nationwide Automatic Identification System Project, Providing Vessel Identification, Tracking and Information Exchange Capabilities to Support National Maritime Interests, Comment Period Ends: 8/14/2006, Contact: Anita Allen 202–475–3292.

EIS No. 20060272, Draft EIS, COE, NC, West Onslow Beach and New River Inlet (Topsail Beach) Shore Protection Project, Storm Damages and Beach Erosion Reduction, Funding, Pender County, NC, Comment Period Ends: 8/14/2006, Contact: Jenny Owens 910–251–4757.

EIS No. 20060273, Draft EIS, RUS, MT, Highwood Generating Station, 250-megawatt Coal Fired Power Plant and 6MW of Wind Generation at a Site near Great Falls, Construction and Operation, Licenses Permit, U.S. Army COE Section 10 Permit, Cascade County, MT, Comment Period Ends: 8/15/2006, Contact: Richard Fristik 202–720–5093.

Amended Notices

EIS No. 20060184, Draft EIS, COE, MD, Masonville Dredge Material Containment Facility (DMCF), Construction from Baltimore Harbor Channel north of Point-Rock Point Line, U.S. Army COE Section 10 and 404 Permits, Baltimore, MD, Comment Period Ends: 8/14/2006, Contact: Jon Romeo 410–962–6079. Revision to FR Published on 5/19/2006: Comment Period extended from 7/7/2006 to 8/14/2006.

EIS No. 20060218, Draft EIS, FHW, NY, Williamsville Toll Barrier Improvement Project, Improvements from New York Thruway, Interstate 90 between Interchange 48A and 50, Funding, Erie and Genesee Counties, NY, Comment Period Ends: August 21, 2006, Contact: Amy Jackson-Grove 518–431–4125. Revision to FR Notice Published 6/2/2006: Correction to Comment Period from 7/24/2006 to 8/21/2006.

EIS No. 20060220, Draft EIS, BLM, ID, Snake River Birds of Prey National Conservation Area, Resource Management Plan, Implementation, Ada, Canyon, Elmore, Owyhee Counties, ID, Comment Period Ends: 8/31/2006, Contact: Mike O'Donnell 208–384–3315. Revision to FR Notice Published 6/2/2006: Extending Comment Period from 8/17/2006 to 8/31/2006.

Dated: June 28, 2006.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E6–10394 Filed 6–30–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve 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.

Request for Comment on Information Collection Proposal

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collections of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before September 1, 2006.

ADDRESSES: You may submit comments, identified by *Reg P,* by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *FAX:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Michelle Long, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Collection of Information

Report title: Reporting and Disclosure Requirements Associated with Regulation P.

Agency form number: Reg P.

OMB control number: 7100–0294.

Frequency: Reporting, on-occasion; and disclosure, annually.

Reporters: State member banks, subsidiaries of state member banks, bank holding companies and it's subsidiaries or affiliates, branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, corporations operating under section 25 or 25A of the Federal Reserve Act, and customers of these financial institutions.

Estimated annual number of institution respondents: Initial notice, 1,311; annual notice and change in terms, 6,692; opt-out notice, 1,197.

Estimated average time per response per institution: Initial notice, 80 hours; annual notice and change in terms, 8 hours; opt-out notice, 8 hours.

Estimated subtotal annual burden hours for institutions: 167,992 hours.

Estimated annual number of consumer respondents: 402,675.

Estimated average time per consumer response: 30 minutes.

Estimated subtotal annual burden hours for consumers: 201,338 hours.

Estimated total annual burden hours: 369,330 hours.

General description of report: This information collection is mandatory (12 U.S.C. 248) and the Gramm-Leach-Bliley Act (Pub. L. 106–102, Sec. 504). Since the Federal Reserve does not collect any information, no issue of confidentiality normally arises.

Abstract: The information collection pursuant to Regulation P is triggered by the establishment of a relationship between a customer and a financial institution. The regulation ensures that financial institutions provide customers notice of the privacy policies and practices of financial institutions and a means to prevent the disclosure of nonpublic personal information, in certain circumstances. Where applicable, financial institutions are required to provide an initial notice and an annual notice of their privacy policies and practices, opt-out notices, and revised notices containing changes in policies and procedures.

Board of Governors of the Federal Reserve System, June 27, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–10339 Filed 6–30–06; 8:45 am]

BILLING CODE 6210–01–P

OFFICE OF GOVERNMENT ETHICS

Agency Information Collection Activities: Submission for OMB Review; Proposed Collection; Comment Request for Modified OGE Form 201 Ethics Act Access Form

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics is submitting to the Office of Management and Budget (OMB) a proposed modified OGE Form 201 for review and three-year approval under the Paperwork Reduction Act. The OGE Form 201 is used by persons for requesting access to executive branch public financial disclosure reports and other covered records. OGE is proposing three modifications to the form: clarifying the prohibited uses statement; updating the Privacy Act Statement summary; and updating the edition date. The modified form, once approved, will replace the existing one.

DATES: Comments by the agencies and the public on this proposal are invited and should be received by August 2, 2006.

ADDRESSES: Comments should be sent to Rachel F. Potter, Desk Officer for OGE, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Paul D. Ledvina, Records Officer, Information Resources Management Division, Office of Government Ethics; Telephone: 202–482–9300; TDD: 202–482–9293; fax: 202–482–9237. A copy of the proposed modified OGE Form 201 may be obtained, without charge, by contacting Mr. Ledvina.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is submitting to OMB a proposed modified OGE Form 201 ''Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records'' for review and three-year approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Once finally approved by OMB and adopted by OGE, the modified version of this OGE form will replace the existing version.

The Office of Government Ethics, which is the supervising ethics office for the executive branch of the Federal Government under section 109(18)(D) of the Ethics in Government Act (the Ethics Act), 5 U.S.C. appendix, § 109(18)(D), has developed the OGE Form 201 (OMB control # 3209–0002) for branchwide use. The form collects information from, and provides certain information to, persons who seek access to SF 278 reports and other covered records. The form reflects the requirements of the Ethics Act and OGE's implementing regulations that must be met by a person before access can be granted. These requirements relate to information about the identity of the requester, as well as any other person on whose behalf a record is sought, and a notification of prohibited uses of SF 278 reports. See section 105(b) and (c) of the Ethics Act, 5 U.S.C. app., § 105(b) and (c), and 5 CFR 2634.603(c) and (f) of OGE's executive branchwide regulations thereunder.

Executive branch departments and agencies are encouraged to utilize the OGE Form 201, but they can, if they so choose, continue to use or develop their own forms as long as they contain all the required information and meet all the legal requirements therefor.

Proposed Modifications

First, OGE proposes rewording the prohibited uses statement on the form in order to clarify that the submitter's signature denotes awareness of the prohibited uses of SF 278 reports. In addition, OGE proposes moving the statement on the form so that it precedes the signature and date block.

Second, OGE proposes modifying the Privacy Act Statement in part II.A. of the OGE Form 201. In 2003, OGE updated the OGE/GOVT–1 executive branchwide system of records notice (covering Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records, in which completed OGE Form 201s are maintained). See 68 FR 3097–3109, at 3100 (January 22, 2003), as corrected at 68 FR 24744 (May 8, 2003). That revised system notice included three additional routine uses for records in the system. OGE has already added summaries of them to the OGE Form 201 Privacy Act Statement (see the listed additional disclosures (uses) #s 7–9). However, the summary of the sixth routine use listed on the OGE Form 201 still needs to be updated to reflect the 2003 revision of the underlying routine use, which OGE's second proposed modification to the form would do.

Third, OGE proposes updating the edition date on pages one and two of the OGE Form 201.

Reporting Burden

OGE estimates that an average of 365 OGE Form 201s will be filed throughout the executive branch each year by members of the public (primarily by news media, public interest groups and private citizens) for the next three years. This figure is based on the number of OGE Form 201s filed by members of the public at OGE (221 for 2003, 143 for 2004, and 206 for 2005) and at departments and agencies from the rest of the executive branch (244 for 2003, 140 for 2004, and 140 for 2005), as reported on OGE's annual agency ethics program questionnaires. The branchwide three-year total amounts to 1,094 forms. OGE has divided that number by three to give the projected annual average of 365 forms for the next three years (2006–2008).

The estimated average amount of time to complete the form, including review of the instructions, remains at ten minutes. Thus, the estimated annual public burden for the OGE Form 201 (throughout the executive branch) is 61 hours (365 forms x 10 minutes per form—number rounded up). This is an increase from the current burden of 37 hours. The current burden accounts for public filers whose OGE Form 201s were filed each year only with OGE. The proposed estimate of burden hours includes OGE Form 201s or equivalent access forms filed by members of the public with departments and agencies throughout the executive branch (including OGE). The annual estimates above differ from those reported in the first round FR notice (374 filers; 63 burden hours), because 2005 branchwide figures are now available in addition to those for 2003 and 2004.

Web Site Distribution of Blank Forms

The OGE Form 201 as modified will continue to be made available free-of-charge as a downloadable and fillable Portable Document Format (PDF) file to the public as well as departments and agencies on OGE's Internet Web site at *http://www.usoge.gov.*

OGE will also continue to permit departments and agencies to use the copy of the OGE Form 201, once modified, as available on OGE's Web site or to develop and utilize their own electronic versions of the modified OGE form, as long as they precisely duplicate the original to the extent possible. Agencies can also develop their own access forms, provided all the information required by the Ethics Act and OGE regulations is placed on such forms, along with the appropriate Privacy Act and paperwork notices with any attendant clearances being obtained by the agencies therefor.

For now, OGE itself accepts filing of a completed OGE Form 201 by mail, FAX, or in person, but does not permit E-mail or Internet online transmission. Similarly, requested copies of reports or other covered records are supplied by OGE as hard (paper) copies.

Consideration of Comments

On November 2, 2005, OGE published its first round notice of the forthcoming request for paperwork clearance for the proposed modified OGE Form 201. See 70 FR 66437–66438, as corrected at 70 FR 67538 (November 7, 2005). The Office of Government Ethics did not receive any comments in response to that notice, though three agencies requested a copy of the proposed revised form.

In this second notice, public comment is again invited on the proposed modified OGE Form 201 as set forth in this notice, including specifically views on: The need for and practical utility of this proposed modified collection of information; the accuracy of OGE's burden estimate; the enhancement of quality, utility and clarity of the information collected; and the minimization of burden (including the use of information technology). The Office of Government Ethics, in consultation with OMB, will consider all comments received, which will become a matter of public record.

Approved: June 26, 2006.

Robert I. Cusick,

Director, Office of Government Ethics.

[FR Doc. E6–10345 Filed 6–30–06; 8:45 am]

BILLING CODE 6345–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the President's Council on Physical Fitness and Sports

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the President's Council on Physical Fitness and Sports will hold a meeting. This meeting is open to the public. A description of the Council's functions is included also with this notice.

Date and Time: July 26, 2006, from 8:30 a.m. to 4 p.m.

ADDRESSES: Department of Health and Human Services, Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Melissa Johnson, Executive Director, President's Council on Physical Fitness and Sports, Hubert H. Humphrey Building, Room 738H, 200 Independence Avenue, SW., Washington, DC 20201, (202) 690–5187.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports (PCPFS) was established originally by Executive Order 10673, dated July 16, 1956. PCPFS was established by President Eisenhower after published reports indicated that American boys and girls were unfit compared to the children of Western Europe. The Council has undergone two name changes and several reorganizations since its inception. Authorization to continue Council operations has been given at appropriate intervals by subsequent Executive Orders. Authority to continue Council operations was most recently directed by Executive Order 13385, dated September 29, 2005. Presently, the PCPFS serves as a program office that is located organizationally in the Office of Public Health and Science within the Office of the Secretary in the U.S. Department of Health and Human Services.

On June 6, 2002, President Bush signed Executive Order 13256 to reestablish the PCPFS. Executive Order 13256 was established to expand the focus of the Council. This directive instructed the Secretary to develop and coordinate a national program to enhance physical activity and sports participation. The Council currently operates under the stipulations of the new directive. The primary functions of the Council include to: (1) Advise the President, through the Secretary, on the progress made in carrying out the provisions of the enacted directive and recommend actions to accelerate progress; (2) advise the Secretary on ways and means to enhance opportunities for participation in physical fitness and sports, and, where possible, to promote and assist in the facilitation and/or implementation of such measures; (3) to advise the Secretary regarding opportunities to extend and improve physical activity/fitness and sports programs and services at the national, state and local levels; and (4) to monitor the need for the enhancement of programs and educational and promotional materials sponsored, overseen, or disseminated by the Council, and advise the Secretary, as necessary, concerning such needs.

The PCPFS holds at a minimum, one meeting in the calendar year to (1) assess ongoing Council activities and (2) discuss and plan future projects and programs.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the meeting. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person.

Dated: June 27, 2006.

Melissa Johnson,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. E6–10347 Filed 6–30–06; 8:45 am]

BILLING CODE 4150–35–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science; Privacy Act of 1974; New System of Records

AGENCY: Medical Reserve Corps (MRC) Program, Office of Force Readiness and Deployment (OFRD), Office of the Surgeon General (OSG), Office of Public Health and Science (OPHS), Office of the Secretary, Department of Health and Human Services.

ACTION: Notification of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Office of Public Health and Science (OPHS) is publishing notice of a proposal to add a new system of records, 09–90–0160, ''Medical Reserve Corps Unit Information, HHS/OPHS/OSG.''

DATES: OPHS invites interested parties to submit comments on the proposed internal and routine uses on or before August 2, 2006. As of the date of publication of this Notice, OPHS has sent a Report of New System of Records to Congress and to the Office of Management and Budget (OMB). The New System of Records will be effective 40 days from the date submitted to OMB unless OPHS receives comments that would result in a contrary determination.

ADDRESSES: Please address comments to Privacy Act Officer, 200 Independence Ave., SW., Room 645F, Washington, DC 20201. (202) 690–7453.

Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Director, Medical Reserve Corps Program, Office of the Surgeon General, Department of Health and Human Services, 5600 Fishers Lane, Room 18C–14, Rockville, MD 20857. (301) 443–4951.

SUPPLEMENTARY INFORMATION: The Office of the Surgeon General is developing a new system of records, 09–90–0160, ''Medical Reserve Corps Unit Information, HHS/OPHS/OSG,'' that will collect and maintain information about MRC units registered with the OSG/MRC program office. Information gathered will include unit demographics, contact information (regular and emergency), volunteer numbers, activity updates and samples of best practices/lessons learned. MRC unit leaders are asked to update this information at least quarterly. In addition, information pertaining to MRC members who are able and willing to be utilized outside their local jurisdiction will be collected (this subset of the MRC will be known as the ''PHS Auxiliary'').

Appropriate safeguards are in place to protect the integrity and privacy of the system. Access to records is limited to MRC program staff, and contractors, consultants or grantees who have been engaged by the Department to assist with the MRC program and who need access to the records in order to perform the activity. All computer equipment and files are stored in areas where fire and life safety codes are strictly enforced, and computer networks and web-accessible systems are password protected.

It is anticipated that disclosure may be made to U.S. Government employees, as well as to contractors, consultants or grantees, who have been engaged by the Department to assist with the MRC program. Routine uses of the collected data will allow for the successful coordination of the program, and adequate reporting to applicable agencies/organizations.

This system of records is required to comply with the implementation directives of the Act, Public Law 108–20.

The following notice is written in the present tense, rather than in the future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system becomes effective.

Dated: June 23, 2006.

John O. Agwunobi,

ADM, USPHS, Assistant Secretary for Health.

[FR Doc. E6–10346 Filed 6–30–06; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–06–0278)

Agency Forms Undergoing Paperwork Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

National Hospital Ambulatory Medical Care Survey [OMB No. 0920–0278]—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Hospital Ambulatory Medical Care Survey (NHAMCS) has been conducted annually since 1992. The purpose of the NHAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The target universe of the NHAMCS is in-person visits made to outpatient departments (OPDs) and emergency departments (EDs) of non-Federal, short-stay hospitals (hospitals with an average length of stay of less than 30 days) or those whose specialty is general (medical or surgical) or children's general.

The NHAMCS was initiated to complement the National Ambulatory Medical Care Survey (NAMCS, OMB No. 0920–0234) which provides similar data concerning patient visits to physicians' offices. The NAMCS and NHAMCS are the principal sources of data on approximately 90 percent of ambulatory care provided in the United States.

The NHAMCS provides a range of baseline data on the characteristics of the users and providers of ambulatory medical care. Data collected include patients' demographic characteristics, reason(s) for visit, physicians' diagnosis(es), diagnostic services, medications, and disposition. These data, together with trend data, may be used to monitor the effects of change in the health care system, for the planning of health services, improving medical education, determining health care work force needs, and assessing the health status of the population. In addition, a Cervical Cancer Screening Supplement (CCSS) will be added to collect information on cervical cancer screening practices from hospital OPD clinics. It will allow the CDC/National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) to evaluate cervical cancer screening methods and the use of human papilloma virus (HPV) tests.

Users of NHAMCS data include, but are not limited to, congressional offices, Federal agencies, state and local governments, schools of public health, colleges and universities, private industry, nonprofit foundations, professional associations, clinicians, researchers, administrators, and health planners. There are no costs to the respondents other than their time. The total estimated annualized burden hours are 7,313.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Hospital Chief Medical Officer	Hospital Induction form (NHAMCS—101)			
	Ineligile	50	1	15/60
	Eligible	420	1	1
Ancillary Service Executive	Ambulatory Unit Induction form (ED) (NHAMCS—101/U).	400	1	1
Ancillary Service Executive	Ambulatory Unit Induction form (OPD) (NHAMCS—101/U).	250	4	1

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Physician/Registered Nurse/Medical Record Clerk.	ED Patient Record form (NHAMCS—100 ED).	220	100	6/60
Medical Record Clerk	Pulling and re-filing ED Patient Record	180	100	1/60
Physician/Registered Nurse/Medical Record Clerk.	OPD Patient Record form (NHAMCS—100 OPD).	125	200	6/60
Medical Record Clerk	Pulling and re-filing OPD Patient Record	125	200	1/60
Physician	Cervical Cancer Screening Supplement (CCSS) (NHAMCS form 906).	200	1	15/60
Physician Assistant/Nurse Practitioner/Nurse Midwife.	Cervical Cancer Screening Supplement (CCSS) (NHAMCS form 906).	50	1	15/60

Dated: June 22, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–10358 Filed 6–30–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–06–06BK]

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

Assessment of Occupational Exposure Management—New—Division of Healthcare Quality Promotion (DHQP), National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention, (CDC).

Background and Brief Description

The Division of Healthcare Quality Promotion (DHQP), (CDC), defines its primary mission as the protection of patients and healthcare personnel through the promotion of safety, quality, and value in the healthcare delivery system. One priority is preventing transmission of blood borne pathogens to healthcare personnel during delivery of medical care. The purpose of this project is to conduct an assessment of personnel safety in healthcare settings in the United States, specifically management of occupational blood exposures as part of a larger plan to prevent the transmission of bloodborne pathogens. While the United States Public Health Service protocols on management of occupational exposure are widely distributed, the awareness and implementation of these protocols by providers of health services are unknown.

CDC has undertaken the task of conducting a survey assessing occupational exposure management programs that will address safety for healthcare personnel. The survey is intended to assess surveillance reporting, laboratory diagnostic capacity, general policies on managing exposures, staffing health consultants, staff training, and provision of counseling for exposed workers. The results of the survey will be used to ensure that surveillance activities, reporting procedures for occupational exposures, on-site laboratory services, and occupational exposure management policies are consistent with national guidelines. Results will also be used to provide facilities with up-to-date information on infection control.

Respondents from each of the four healthcare settings will be asked to complete the survey. The anticipated number of respondents is shown below. Only one response is requested from each respondent. The estimated average length of time necessary to complete a survey is 20 minutes. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (hours)
Acute-Care Facilities	865	1	20/60	288
Ambulatory Surgery Centers	353	1	20/60	118
Long-term Care Facilities	3634	1	20/60	1211
Dialysis Centers	468	1	20/60	156

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (hours)
Total	5320	1	....	1773

Dated: June 26, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–10359 Filed 6–30–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): Increasing Adolescent Immunization Coverage in School-Based Health Centers, Request for Applications (RFA) IP 06–003, and Feasibility of Delivering New Adolescent Vaccines in Complementary Health Care Settings, RFA IP 06–004

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Increasing Adolescent Immunization Coverage in School-Based Health Centers, RFA IP 06–003, and Feasibility of Delivering New Adolescent Vaccines in Complementary Health Care Settings, RFA IP 06–004.

Time and Date: 1 p.m.–4 p.m., July 7, 2006 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: ''Increasing Adolescent Immunization Coverage in School-Based Health Centers,'' RFA IP 06–003, and ''Feasibility of Delivering New Adolescent Vaccines in Complementary Health Care Settings,'' RFA IP 06–004. Due to programmatic matters, this **Federal Register** Notice is being published on less than 15 calendar days notice to the public (41 CFR 102–3.150(b)).

For Further Information Contact: Felix Rogers, M.P.H., PhD, Scientific Review Administrator, Office of Extramural Research, CDC, 1600 Clifton Road NE., Mailstop D72, Atlanta, GA 30333, Telephone 404–639–6101.

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. 06–5972 Filed 6–30–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control Initial Review Group

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: National Center for Injury Prevention and Control (NCIPC) Initial Review Group (IRG), Environmental Health Review Workgroup.

Times and Dates: 10 a.m.–12 p.m., July 18, 2006.

Place: Teleconference.

Status: Closed: 10 a.m. to 12 p.m., July 18, 2006.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services (HHS), and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including state and local government agencies, to conduct specific public health research that focuses on environmental health problems and strategies to mitigate or prevent them.

Matters to be Discussed: Agenda items include an overview of the environmental health program, discussion of the review process and panelists responsibilities, and the review of, and vote on, applications. Beginning at 10:30 a.m., July 18, through 12 p.m., July 18, the group will review individual research grant and cooperative agreement applications submitted in response to two Fiscal Year 2006 Requests for Applications (RFAs) related to the following individual research announcements: #EH06–001, ''Mental Health of Humanitarian Aid Workers''; and #EH06–002, ''Measuring the Psychological Impact on Communities Affected by Landmines.''

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5, U.S.C., and the determination of the Director, Management Analysis and Services Office, CDC, pursuant to section 10(d) of Public Law 92–463.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Gwendolyn H. Cattledge, PhD, M.S.E.H., Executive Secretary, NCIPC IRG, CDC, 4770 Buford Highway, NE, M/S K02, Atlanta, Georgia 30341–3724, telephone 770/488–4655.

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 26, 2006.

Kathy Skipper,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–10353 Filed 6–30–06; 8:45 am]

BILLING CODE 4163–18–P

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: 2006 Client/Patient Sample Survey—New

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) will conduct a sample survey of mental health programs (i.e., inpatient, residential, and less than 24-hour care) within specialty mental health organizations. These organizations include psychiatric hospitals, general hospitals with separate psychiatric services, multiservice mental health organizations, residential treatment centers, and freestanding outpatient clinics and partial care organizations.

A sample of approximately 2,500 mental health organizations/programs will provide information on an average sample of 8 admissions and 8 persons under care in the programs. National estimates will be generated on the number of persons admitted to and under care in these organizations, and on the sociodemographic, clinical, and service use characteristics of these persons. This survey will update a previous sample survey conducted in 1997 (OMB No. 0930–0114).

In addition, the 2006 survey will include a consumer survey for the sampled adults under care in the less than 24-hour programs to obtain consumers' perceptions of care received. Respondents will have the option of responding electronically.

The annual burden estimate is shown below:

Respondent	Number of respondents	Number of responses per respondent	Average burden/ response (hrs.)	Total annual burden (hrs.)
Mental Health Organization/Program	2,500	1	5.25	13,125
Consumer	6,000	1	0.25	1,500
Total	8,500			14,625

Written comments and recommendations concerning the proposed information collection should be sent by August 2, 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 27, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–10351 Filed 6–30–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2382–06; DHS Docket No. USCIS–2006–0005]

RIN 1615–ZA34

Automatic Extension of Employment Authorization Documentation for El Salvadoran TPS Beneficiaries

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This Notice alerts the public that Employment Authorization Documents (EADs) issued under the designation of El Salvador for TPS and bearing an expiration date of either July 5, 2006 or September 9, 2006 are automatically extended until March 9, 2007. Prior to the most recent extension of El Salvador for Temporary Protected Status (TPS), the designation of El Salvador for TPS was set to expire on September 9, 2006. On June 15, 2006, a Notice was published in the **Federal Register** to inform the public that the Secretary extended the designation of El Salvador for TPS for 12 months until September 9, 2007. The June 15, 2006 Notice set forth procedures for nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) with TPS to re-register and to apply for an extension of their EADs. The June 15, 2006 Notice also automatically extended until March 9, 2007 the validity of EADs issued under the designation of El Salvador for TPS that bear an expiration date of September 9, 2006. Certain El Salvadoran TPS beneficiaries, however, received EADs with an expiration date of July 5, 2006, and thus are not covered by this automatic extension provision. This Notice alerts the public that EADs issued under the designation of El Salvador for TPS and bearing an expiration date of either July 5, 2006 or September 9, 2006 are automatically extended until March 9, 2007 and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended.

FOR FURTHER INFORMATION CONTACT: Matthew Horner, Status and Family Branch, Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529, telephone (202) 272–1505. This is not a toll free number.

DATES: This notice is effective June 29, 2006.

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act
ASC—USCIS Application Support Center
DHS—Department of Homeland Security
EAD—Employment Authorization Document
Secretary—Secretary of Homeland Security
TPS—Temporary Protected Status
USCIS—U.S. Citizenship and Immigration Services

What authority does the Secretary of Homeland Security (Secretary) have to automatically extend the validity of EADs issued under the designation of El Salvador for TPS?

Under section 244 of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a, the Secretary after consultation with appropriate agencies of the Government, is authorized to designate a foreign state (or part thereof) for TPS. 8 U.S.C. 1254a(b)(1). At least 60 days before the expiration of the TPS designation, or any extension thereof, the Secretary, after consultations with appropriate agencies of the Government, must review the conditions in a foreign state designated for TPS to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of the TPS designation. 8 U.S.C. 1254a(b)(3)(A). The Secretary may grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state) and authorize those aliens to engage in employment authorization. 8 U.S.C. 1254a(a)(1). EADs are issued to TPS beneficiaries during the period of designation or extension of such period and the periods of validity of the documentation may be staggered to provide for an orderly renewal of such documentation. 8 U.S.C. 1254a(d)(1), (2).

Why did the Secretary decide to automatically extend the validity of EADs issued under the designation of El Salvador for TPS?

The Secretary recognized that, under the extension and re-registration period beginning July 3, 2006, some El Salvadoran TPS beneficiaries may not receive an extension sticker or a new EAD before their current EADs expire. Therefore, on June 15, 2006, the Secretary automatically extended until March 9, 2007 the validity of EADs issued under the designation of El Salvador for TPS that bear an expiration date of September 9, 2006. 71 FR 34637. Certain El Salvadoran TPS beneficiaries, however, were issued EADs with an expiration date of July 5, 2006, and consequently are not covered by the automatic extension in that June 15, 2006 **Federal Register** Notice. Accordingly, this Notice automatically extends until March 9, 2007 the validity of EADs issued under the designation of El Salvador for TPS which have an expiration date of July 5, 2006 or September 9, 2006.

If I currently have benefits through the designation of El Salvador for TPS, do I need to re-register for TPS?

Yes. If you already have received TPS benefits through the designation of El Salvador for TPS, your benefits will expire on September 9, 2006. Accordingly, individual TPS beneficiaries must comply with the re-registration requirements set forth in the **Federal Register** at 71 FR 34637 on June 15, 2006. The June 15, 2006 Notice as well as the present Notice can be found on the U.S. Citizenship and Immigration Services (USCIS) Web site at *http://www.uscis.gov/graphics/services/tps_elsa.htm* or by contacting Matthew Horner, Service Center Operations, USCIS, (202) 272–1505. Failure to re-register during the re-registration period without good cause will result in the withdrawal of your temporary protected status and possibly your removal from the United States. 8 U.S.C. 1254a(c)(3)(C).

How may employers determine whether an EAD has been automatically extended through March 9, 2007, and is therefore acceptable for completion of the Form I–9?

For purposes of verifying identity and employment eligibility or re-verifying employment eligibility on the Form I–9 until March 9, 2007, employers of El Salvadoran TPS beneficiaries whose EADs have been automatically extended must accept the EAD if presented. An EAD (Form I–766) that has been automatically extended by this Notice or by the Notice published at 71 FR 34637 to March 9, 2007, will actually contain an expiration date of July 5, 2006 or September 9, 2006, and must be a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

In the alternative, any legally acceptable documentation or combination of documents listed in List A, List B, or List C of the Form I–9 may be presented as proof of identity and employment eligibility; it is the choice of the employee.

Employers should not request proof of El Salvadoran citizenship. Employers presented with an EAD that has been extended pursuant to this **Federal Register** Notice, provided it appears to be genuine and to relate to the employee, should accept the EAD as a valid ''List A'' document and should not ask for additional Form I–9 documentation. This **Federal Register** Notice does not affect the right of an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Employers are reminded that the laws prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those setting forth re-verification requirements, see 8 CFR 274a.2(b)(1)(vii). For questions, employers may call the USCIS Office of Business Liaison Employer Hotline at 1–800–357–2099 to speak to a USCIS representative. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155 or 1–800–362–2735 (TDD).

Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688 or 1–800–237–2515 (TDD) for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html.*

How may employers determine an employee's eligibility for employment once the automatic extension has expired, after March 9, 2007, and before the expiration of EADs for El Salvadoran TPS beneficiaries on September 30, 2007?

El Salvadorans with TPS will possess either: (1) An EAD with an expiration date of September 30, 2007; or (2) an EAD with an expiration date of July 5, 2006 or September 9, 2006 and a sticker affixed to it extending the validity of the EAD through September 2007. In either case, the EAD will be a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.'' Either of these EADs must be accepted for the purpose of verifying identity and/or employment authorization. Employers are reminded that the laws prohibiting unfair immigration-related employment practices remain in full force, as described above.

What documents may a qualified individual show to his or her employer as proof of employment authorization and identity when completing Form I–9, Employment Eligibility Verification?

Until March 9, 2007, qualified individuals who have received an automatic extension of their EADs by virtue of this **Federal Register** Notice or the June 15, 2006 Notice published at 71 FR 34637 may present to their employer a TPS-based EAD, as described above, as proof of identity and employment authorization until March 9, 2007 (see section ''How may employers determine an employee's eligibility for employment once the automatic extension has expired, after March 9, 2007, and before the expiration of EADs for El Salvadoran TPS beneficiaries on September 30, 2007''). To minimize confusion over this extension at the time of hire or re-verification, qualified individuals may also present a copy of this **Federal Register** Notice regarding the automatic extension of employment authorization documentation to March 9, 2007.

Qualified individuals will receive either a sticker affixed to his or her current EAD, which extends the validity period of the EAD through the end of September 2007, or a new EAD valid through September 30, 2007. Either an EAD with the extension sticker or a newly issued EAD may be presented as evidence of employment authorization.

In the alternative to the aforementioned options, the employee may choose to present as proof of identity and employment eligibility any legally acceptable document or combination of documents listed in List A, List B, or List C of the Form I–9.

Information concerning the automatic extension of EADs for El Salvadoran TPS beneficiaries will be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov.*

Dated: June 29, 2006.

Emilio Gonzalez,

Director, U.S. Citizenship and Immigration Services.

[FR Doc. 06–5975 Filed 6–29–06; 11:25 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–250–1220–PC–24 1A; OMB Control Number 1004–0165]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted a request to extend the current approved collection to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). On April 21, 2005, the BLM published a notice in the **Federal Register** (70 FR 20766) requesting comment on this information collection. The comment period ended on June 20, 2005. The BLM did not receive any comments. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB must respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0165), at OMB–OIRA via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov.* Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;
2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and
4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Cave Management: Cave Nominations and Confidential Information (43 CFR Part 37).

OMB Control Number: 1004–0165.

Bureau Form Number: None.

Abstract: We integrate cave management into existing planning and management processes and provide protection of cave resource information in order to prevent vandalism and disturbance of significant caves. Federal agencies must consult with ''cavers'' and other interested parties to develop a listing of significant caves.

Frequency: Once, when nominating the cave or requesting confidential cave information.

Description of Respondents: Respondents are cavers and other interested parties.

Estimated Completion Time: 3 hours for each nomination and 30 minutes for each request for confidential cave information.

Annual Responses: 50 cave nominations and 10 requests for confidential cave information.

Application Fee per Response: $0.

Annual Burden Hours: 155.

Bureau Clearance Officer: Ted Hudson, (202) 452–5033.

Dated: February 9, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5958 Filed 6–30–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW72473]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Pathfinder Energy and Wellstar Corporation for noncompetitive oil and gas lease WYW72473 for land in Campbell County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORAMTION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessees agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 18⅔ percent, respectively. The lessees have paid the required $500 administrative fee and $174 to reimburse the Department for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW72473 effective June 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E6–10377 Filed 6–30–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW72460]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Pathfinder Energy and Wellstar Corporation for noncompetitive oil and gas lease WYW72460 for land in Johnson County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORAMTION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessees have agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 18⅔ percent, respectively. The lessees have paid the required $500 administrative fee and $174 to reimburse the Department for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW72460 effective June 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E6–10378 Filed 6–30–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before June 17, 2006.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 18, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

NEBRASKA

Hall County

Giese, Heinrich, House, 2226 South Blaine, Grand Island, 06000641

Rock County

Bassett Lodge and Range Cafe, 205 Clark, Bassett, 06000640

NEW YORK

Essex County

Flat Rock Camp, (Great Camps of the Adirondacks TR), 7 Willsboro Point Rd., Willsboro, 06000642

Onondaga County

Borodino Hall, 1861 E. Lake Rd., Borodino, 06000647

Orange County

Sterling Mountain Fire Observation Tower and Observer's Cabin, Sterling Forest State Park, Greenwood Lake, 06000644

Rockland County

Washington Avenue Soldier's Monument and Triangle, Washington Avenue Triangle (Jct. of ashington and Lafayette Aves.), Suffern, 06000646

Suffolk County

Karpen House, 3 Harber Hill Dr., Lloyd Harbor, 06000643

Ulster County

LeFevre, Abraham and Maria, House, 56 Forest Glen Rd., Gardiner, 06000645

Washington County

Baker—Merrill House, 38 Grove Rd., Easton, 06000650

Hebron Valley Grange No. 1103, 3185 Cty Rte 30, West Hebron, 06000649

Westchester County

St. Augustine's Episcopal Church Complex, 6 Old Post Rd. N., Croton-on-Hudson, 06000648

TENNESSEE

Sumner County

Durham's Chapel Baptist Church, Cemetery and School, (Rural African-American Churches in ennessee MPS) 5055 Old TN 31E, Bethpage, 06000652

TEXAS

Dallas County

Bluitt Sanitarium, 2036 Commerce St., Dallas, 06000651

WEST VIRGINIA

Jefferson County

York Hill, 1583 Ridge Rd., Shenandoah Junction, 06000654

Marion County

Colonial Apartments, 2 E. Garden Ln., Fairmont, 06000653

Mineral County

Travelers Rest, 1 mi. E of Ridgeville on U.S. 50, Burlington, 06000655

A request for REMOVAL has been made for the following resource:

COLORADO

Bent County

Columbian School, 1026 W. 6th St., Las Animas, 04000665

[FR Doc. E6–10322 Filed 6–30–06; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–860 (Review)]

Tin- and Chromium-Coated Steel Sheet From Japan

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty order on tin- and chromium-coated steel sheet from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 1, 2005 (70 FR 38210) and determined on October 4, 2005 that it would conduct a full review (70 FR 60110, October 14, 2005). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 8, 2005 (70 FR 73027). The hearing was held in Washington, DC, on April 27, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on June 26, 2006. The views of the Commission are contained in USITC Publication 3860 (June 2006), entitled *Tin- and Chromium-Coated Steel Sheet from Japan: Investigation No. 731–TA–860 (Review).*

By order of the Commission.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Issued: June 27, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–10342 Filed 6–30–06; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–888–890 (Review)]

Stainless Steel Angle From Japan, Korea, and Spain

AGENCY: International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in April 2006 to determine whether revocation of the antidumping duty orders on stainless steel angle from Japan, Korea, and Spain would be likely to lead to continuation or recurrence of material injury. On June 15, 2006, the Department of Commerce published notice that it was revoking the orders effective May 18, 2006, ''{b}ecause the domestic interested parties did not participate in these sunset reviews * * *'' (71 FR 34599). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject reviews are terminated.

DATES: *Effective Date:* May 18, 2006.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.69 of the Commission's rules (19 CFR 207.69).

Issued: June 27, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–10344 Filed 6–30–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Revision of a Currently Approved Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Training and Technical Assistance Semi-Annual Status Report

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 revision of a currently approved 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 September 1, 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:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Training and Technical Assistance Semi-Annual Status Report.

(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.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Training and Technical Assistance Semi-Annual Status Report will report to the COPS Office on the status of award activities on a semi-annual basis. Secondary: COPS awardees such as universities and non-profit agencies will report to the COPS Office on the status of award activities.

(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 41 respondents semi-annually will complete the form within two hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 164 total annual burden hours.

If additional information is required contact: Lynn Bryant, Deputy 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 27, 2006.

Lynn Bryant,

Department Deputy Clearance Officer, PRA, Department of Justice.

[FR Doc. 06–5941 Filed 6–30–06; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-day notice of information collection under review: Extension of a currently approved collection Hate Crime Incident Report; Hate Crime Incident Report.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division has submitted the following information collection request to the Office of

Management and Budget (OMB) for review and clearance in accordance with established review procedures of 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** on April 27, 2006, Volume 71, Number 81, Pages 24869–24870 allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 2, 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 Gregory E. Scarbro, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Extension of current collection.

(2) *The title of the form/collection:* Hate Crime Incident Report and Quarterly Hate Crime Report.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms 1–699 and 1–700; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal and tribal law enforcement agencies.

This collection is needed to collect information on hate crime incidents committed throughout the United States. Data are tabulated and published in the annual Crime in the United States and Hate Crime Statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 12,711 law enforcement agency respondents at 9 minutes for hard copy and 5 minutes for electronic submissions for 1–699 and 1–700.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 5,170 hours, annual burden, associated with this information collection.

If additional information is required contact: Ms. Lynn Bryant, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 27, 2006.

Lynn Bryant,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 06–5939 Filed 6–30–05; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-day notice of information collection under review: Extension of a currently approved collection Bioterrorism Preparedness Act: Entity/Individual Information.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of 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** on April 27, 2006, Volume 71, Number 81, Page 24869 allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 2, 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 John E. Strovers, CJIS Division Intelligence Group, Federal Bureau of Investigation, Criminal Justice Information Services Division, (CJIS), Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–5393.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of current collection.

(2) *The title of the form/collection:* Federal Bureau of Investigation Bioterrorism Preparedness Act: Entity/Individual Information.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms FD–961; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state,

federal, individuals, business or other for profit, and not-for-profit institute.

This collection is needed to receive names and other identifying information submitted by individuals requesting access to specific agents or toxins, and consult with appropriate officials of the Department of Health and Human Services and the Department of Agriculture as to whether certain individuals specified in the provisions should be denied access to or granted limited access to specific agents.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: There are approximately 3,184 (FY 2005) respondents at 45 minutes for FD–961 Form.

(6) An estimate of the total public burden (in hours) associated with this collection:

There are approximately 2,388 hours, annual burden, associated with this information collection.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 28, 2006.

Lynn Bryant,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. E6–10404 Filed 6–30–06; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: New. HOPE II: Faith Based and Community Organization Program Evaluation Study.

The Department of Justice, Office of Justice Programs, National Institute of Justice has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with review procedures of 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 81, page 24870, on April 17, 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 August 2, 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) 395–7285.

Written comments and suggestions from the public and affected agencies concerning proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* HOPE II: Faith Based and Community Organization Program Evaluation Study.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* OJP Form Number XXXXX. National Institute of Justice, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected public includes faith based and community organization (FBCO) administrators or other persons responsible for providing services to victims of crime at organization that received HOPE II grants. The survey will collect information on how FBCOs utilized grant money. The survey will be administered at two periods: immediately following the grant period and one year after the end of the grant period to collect both short- and long-term outcomes. Baseline information was collected as part of the grant application process. Key questions are:

(1) How has the FBCOs' service delivery changed between baseline and follow-up periods?

(2) How have the FBCOs' organizational capabilities changed between baseline and follow-up periods?

(3) How have the FBCOs' priorities and practices changed between baseline and follow-up periods?

(4) What partnerships and cooperative agreements have been put in place to support the program?

(5) How do the changes observed in sub-grantees' results and practices differ from those observed in the FBCOs in a comparison group that did not receive grant money or technical assistance?

(6) Do outcomes differ across various program types and grantee characteristics?

The data will be used to advise the National Institute of Justice and the Office of Victims of Crime.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated number of respondents is 100. The survey will take an average of 25 minutes to complete.

(6) *An estimate of the total public burden (in hours) associated with this collection:* An estimated 42 hours of public burden is associated with this collection.

If additional information is required, contact Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 27, 2006.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 06–5940 Filed 6–30–06; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 27, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Ira Mills at the Department of Labor on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov*. This ICR can also be accessed online at *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Unemployment Compensation for Ex-Servicemembers (UCX) ETA Handbook 384.

OMB Number: 1205–0176.

Frequency: On occasion; Other—These forms are used regularly.

Affected Public: Federal Government; Individuals or households; State, Local, or Tribal Government.

Type of Response: Recordkeeping; Reporting.

Number of Respondents: 1.

Annual Responses: 5,297.

Average Response time: 1 minute.

Total Annual Burden Hours: 88.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 37.

Description: Federal law (5 U.S.C. 8501–8509) provides unemployment insurance protection to former or partially unemployed current Federal Civilian employees. The forms in the Handbook are used in conjunction with the provisions of the UCFE program.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E6–10361 Filed 6–30–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications (SGA) for Community-Based Job Training Grants

Announcement type: Notice of Solicitation for Grant Applications.

Funding Opportunity Number: SGA/DFA PY 05–11.

Catalog of Federal Assistance Number: 17.269.

DATES: *Key Dates:* The closing date for receipt of applications under this announcement is August 29, 2006. Applications must be received at the address below no later than 5 p.m. (Eastern Time). Application and submission information is explained in detail in Part IV of this SGA. Virtual Prospective Applicant Conferences will be held for this grant competition. The dates and access information for these Prospective Applicant Conferences will be posted on ETA's Web site at *http://www.doleta.gov/business/Community-BasedJobTrainingGrants.cfm.*

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor (DOL), announces the availability of approximately $125 million in grant funds for Community-Based Job Training Grants.

Community-Based Job Training Grants will be awarded through a competitive process to support workforce training for high-growth/high-demand industries through the national system of community and technical colleges. The primary purpose of these grants is to build the capacity of community colleges to train workers to develop the skills required to succeed in local or regional: (i) Industries and occupations that are expected to experience high-growth and (ii) industries where demand for qualified workers is outstripping the supply. Funds will be awarded to individual community and technical colleges, community college districts, state community college systems, and One-Stop Career Centers to support or engage in a combination of capacity building and training activities for the purpose of building the capacity of community colleges to train for careers in high-growth/high-demand industries in the local and/or regional economies. This Solicitation contains an exception for rural areas and other communities that are educationally underserved due to their lack of access to community or technical colleges.

In awarding Community-Based Job Training Grants, every effort will be made to fairly distribute grants across rural and urban areas and across the different geographic regions of the United States. It is anticipated that individual awards will range from $500,000 to $2 million.

This solicitation provides background information and describes the application submission requirements, outlines the process that eligible entities must use to apply for funds covered by this solicitation, and details how grantees will be selected.

ADDRESSES: Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Eric Luetkenhaus, Reference SGA/DFA PY 05–11, 200 Constitution Avenue, NW., Room N–4716, Washington, DC 20210. Telefacsimile (fax) applications will not be accepted. Information about applying online can be found in Section IV(C) of this document. Applicants are advised that mail delivery in the Washington area may be delayed due to mail decontamination procedures. Hand delivered proposals will be received at the above address.

SUPPLEMENTARY INFORMATION: This solicitation consists of eight parts:

- Part I provides background information on the Employment and Training Administration's demand-driven vision and Community-Based Job Training Grants, and a description of the critical elements of Community-Based Job Training Grants.

- Part II describes the size and nature of the anticipated awards.
- Part III describes eligibility information and other grant specifications.
- Part IV provides information on the application and submission process.
- Part V describes the criteria against which applications will be reviewed and explains the proposal review process.
- Part VI provides award administration information.
- Part VII contains DOL agency contact information.
- Part VIII lists additional resources of interest to applicants.

I. Funding Opportunity Description

The Community-Based Job Training Grants (CBJTGs) are designed to support workforce training for high-growth/high-demand industries through the national system of community and technical colleges. The primary purpose of these grants is to build the capacity of community colleges to train workers to develop the skills required to succeed in local or regional (i) industries and occupations that are expected to experience high-growth and (ii) industries where demand for qualified workers is outstripping the supply. Part A of this section provides an overview of ETA's demand-driven workforce investment strategies. Part B provides background information on the principles underlying the CBJTGs. Part C describes the critical elements of CBJTGs.

A. The Employment and Training Administration's Demand-Driven Workforce Investment Strategies

Each year, the Federal government invests billions of dollars in a state and local workforce investment network to assist businesses in recruiting, training, and retaining a skilled workforce. While these investments have, in the past, supported a set of standard services for employers and workers, the realities of today's rapidly changing global economy make it imperative that the workforce investment system support customized activities that are driven by local and regional employer demand. This demand-driven approach to workforce development is necessary to prepare workers to take advantage of new and increasing job opportunities in high-growth/high-demand and economically vital industries and sectors of the American economy.

In a demand-driven workforce investment system, State and Local Workforce Investment Boards should invest strategically in workforce development activities that are relevant to the requirements of local industry, defined in the context of the regional economy, and prepare individuals to compete in a global economy through better access to post-secondary education and training. Additionally, those investments should have a long-term impact on the ability of the community to meet local or regional workforce demands. The impact of workforce development activities is maximized through the partnership of Workforce Investment Boards (WIBs) and One-Stop Career Centers with entities critical to the development of America's workforce: employers and education and training providers, particularly community colleges.

Within the context of these strategic partnerships, communities should use a solutions-based approach to workforce development planning, in which the partnering entities work through the cycle of: (1) Collecting and analyzing information about local or regional workforce needs and critical capacity constraints; (2) incorporating a business or demand-driven perspective into issue identification and solutions development; (3) ensuring that the right strategic partners are at the table; (4) working collaboratively to explore, frame, and implement solutions; and (5) assessing how the products and outcomes of the project can be effectively deployed and replicated. The goal of this process is to ensure that workforce system dollars help workers get skills training that aligns with local and regional industry needs.

The solutions-based approach engages each collaborative partner in its area of strength. Industry representatives and employers define workforce challenges facing the industry and identify the competencies and skills required for the industry's workforce. The workforce investment system, including One-Stop Career Centers, provides access to human capital (youth, unemployed, underemployed, incumbent workers, and dislocated workers); assists with training programs by recruiting, identifying, assessing, and referring qualified candidates for training; provides training funds for qualified individuals, where appropriate; places trained workers in jobs; and offers access to wrap-around supportive services through One-Stop Career Center partners. Community colleges and other training providers assist in developing competency models and training curricula and train new and incumbent workers. The K–12 public education system, colleges, and universities ensure that investments at the community college are part of a continuum of education and training leading to successful skill development.

ETA first modeled the power of these strategic partnerships through the President's High Growth Job Training Initiative (High Growth Initiative). The High Growth Initiative is a strategic effort to prepare workers for new and increasing job opportunities in high-growth, high-demand, and economically vital industries and sectors of the American economy. Through the initiative, ETA identifies high-growth/high-demand industries, evaluates their skills needs, and funds local, regional, and national partnership-based demonstration projects that provide workforce solutions to ensure that individuals can gain the skills to get good jobs in these rapidly expanding or transforming industries. The products, models and effective approaches that result from the High Growth Initiative are being broadly disseminated to employers, education and training providers, and the workforce investment system to build their capacity to respond to employer demands.

B. Background on the Community-Based Job Training Grants

The Community-Based Job Training Grants (CBJTGs) continue the work of the High Growth Initiative by incorporating its focus on high-growth, high-demand industries and its emphasis on the role of strategic partnerships in workforce development. The CBJTGs build on the work of the High Growth Initiative by highlighting the critical role community colleges play as partners in a demand-driven workforce investment system, and by supporting community efforts to link training initiatives to the skill demands of local and regional employers. As a result, CBJTG activities will lead to an increased number of high-growth/high-demand firms being supported by the local or regional workforce and education systems, and more individuals being trained and employed in high-growth/high-demand sectors.

Community and technical colleges represent a critical 21st century training resource for workers needing to attain, retool, refine, and broaden their skills to meet industry demand. According to the Bureau of Labor Statistics, ninety percent of the fastest growing jobs in the United States require some level of education or training beyond high school. The accessibility and affordability of community college training, combined with the adaptability of community college curricula to changing skill needs, make community colleges a vital training resource for many U.S. workers. Furthermore, community colleges are closely connected to local and regional labor markets, making them well-positioned to prepare workers for good jobs with good wages in the local and regional economies.

However, community college leaders and industry executives report that many community colleges are unable to meet their local and regional demand for training because of critical capacity constraints. These capacity constraints occur when community colleges lack sufficient resources to support training facilities and equipment, curriculum development, faculty appointments, clinical experiences, and/or other elements that are necessary to provide either the volume or quality of training that industry requires. Despite rising application rates, the reality of current state and local budgets often prevent colleges from funding the programs, faculty, and student services they need to be responsive to local and regional workforce demands. The CBJTGs address this critical capacity issue.

Funds will be awarded to individual community and technical colleges, community college districts, state community college systems, and One-Stop Career Centers to support or engage in a combination of capacity building and training activities for the purpose of building the capacity of community colleges to train for careers in high-growth/high-demand industries in the local and regional economies.

C. Critical Elements of Community-Based Job Training Grants

It is ETA's expectation that CBJTGs will contain at least six critical elements. These elements consist of: (1) A focus on skill and competency needs of high-growth/high-demand industries that are locally defined in the context of the regional economy; (2) strategic partnerships; (3) industry-driven capacity building and training efforts; (4) leveraged resources; (5) replication of successful models for broad distribution; and (6) clear and specific outcomes. A seventh and optional element is integration with regional economic development strategies. These characteristics are reflected in the evaluation criteria in Part V and are described in further detail below.

1. *Focus on Skill and Competency Needs of High-Growth/High-Demand Industries as locally defined in the context of the regional economy.* The Workforce Investment Act of 1998 (Pub. L. 105–220) (WIA) emphasizes a workforce system driven by the needs of local employers. In order for America to remain competitive in the global economy, it is essential that ETA target its investments to support employers in high-growth/high-demand industries. Community colleges, Workforce Investment Boards, and One-Stop Career Centers play a vital role in this effort by understanding the workforce needs of these industries and providing training and other services to address those needs.

A high-growth/high-demand industry meets one or more of the following criteria: (1) Is projected to add substantial numbers of new jobs to the economy; (2) has a significant impact on the economy overall; (3) impacts the growth of other industries; (4) is being transformed by technology and innovation requiring new skill sets for workers; or (5) is a new and emerging business that is projected to grow. CBJTGs will support industry demand for training in local or regional high-growth/high-demand industries. ETA encourages applicants to define local high-growth industries in the context of their regional economy by illustrating how the industry is aligned with and fits into the region's economic development activities.

2. *Strategic Partnerships.* ETA believes that strategic partnerships between community colleges; the workforce investment system, including One-Stop Career Centers; business and industry; and the continuum of education, including the K–12 system, adult education, and four year colleges and universities, need to be in place in order to implement effective demand-driven training and capacity building strategies. These strategic partnerships may have a local, regional, or statewide focus, and may include a consortium of partners or cross-industry representatives. Specific requirements for strategic partnerships are outlined in Section III(C)(1) and in the exception detailed in Section III(C)(5). These strategic partnerships should focus broadly on the workforce challenges of one or more high-growth, high-demand industries and work collaboratively to identify and implement solutions to those challenges. Solutions should include, among others, strategies to increase the capacity of community colleges to educate and train more workers with industry-defined skills and competencies. Therefore, the investment in community college capacity building would be one of many strategies and solutions that evolve from the partnership. While ETA welcomes applications from newly formed strategic partnerships, applicants are advised that grant funds may not be used for partnership development.

In order to maximize the long-term success of the proposed solution and to keep pace with the rapid changes in the economy and the nature of the skills and competencies necessary for work in these industries, these partnerships need to be substantial and sustained. ETA encourages partners to plan for the partnership's sustainability beyond the CBJTG investment period to enable ongoing assessment of industry workforce needs and collaborative development of solutions on a continual basis.

Within the context of the broader strategic partnership and as it relates to this grant, each collaborative partner should have clearly defined roles. These roles must be verified through a letter of commitment submitted by each partner. The letter of commitment must detail the role the partner will play in the project, including specific responsibilities and resources committed, if appropriate. The exact nature of these roles may vary depending on the issue areas being addressed and the scope and nature of the activities undertaken. However, ETA expects that each collaborative partner will, at a minimum, contribute in the following ways, described below.

Employers must be actively engaged in the project and should participate fully in grant activities including: defining the program strategy and goals; identifying needed skills and competencies; designing training approaches and curricula; implementing the program; contributing financial support; and, where appropriate, hiring qualified training graduates.

Education and training providers, including K–12 (elementary, middle, and high schools, as well as career and technical high schools), adult education, community and technical colleges, four-year colleges and universities, and other training entities, are important foundational partners to ensure the project's activities are tied to the broader continuum of education in the community. These entities assist in developing and implementing industry-driven workforce education strategies in partnerships with employers including competency models, curricula, and new learning methodologies, including technology-based learning.

The workforce investment system, which may include State and Local Workforce Investment Boards, State Workforce Agencies, and One-Stop Career Centers and their cooperating partners, as such terms are defined under the Workforce Investment Act, may play a number of roles, including: identifying and assessing candidates for training; working collaboratively to leverage WIA investments; referring qualified candidates to the community college for enrollment in training programs; providing access to wrap-around supportive services, when appropriate; and connecting qualified training graduates to employers that have existing job openings. Additionally, the workforce investment system in general, and One-Stop Career Centers in particular, have substantive experience in tracking the outcomes of program participants. One-Stop Career Centers may coordinate, provide support, or manage the tracking training recipients for the performance management aspect of the CBJTG.

Partnerships with faith-based and community organizations, while not required, are also encouraged. These organizations may provide a variety of grant services, such as case management, mentoring, and English language acquisition, among others. Faith-based and community organizations can also provide comprehensive supportive services, when appropriate.

3. *Industry-Driven Capacity Building and Training Efforts*. Under CBJTGs, community colleges, or other entities as specified in the exception detailed in Section III(C)(5), must develop and implement a combination of capacity building and training activities that target skills and competencies demanded by local high-growth/high-demand industries as defined in the context of the region's economy. Applicants are not limited in the strategies and approaches they may employ to implement college capacity building and training strategies, provided the activities meet the following requirements:

a. *Training*. Training activities must: (1) Be provided by a community or technical college, except as specified in Section III(C)(5) of this Solicitation; (2) occur within the context of workforce education that supports long-term career growth, such as an articulated career ladder/lattice; and (3) result in college credit or other credentials that are industry-recognized and indicate a level of mastery and competence in a given field or function. Please note, when using credentials, CBJTGs should follow the definition of certificate and/or credential found in Attachment B to TEGL 17–05 on Common Measures, found at: *http://wdr.doleta.gov/directives/attach/TEGL17-05_AttachB.pdf*.

The credential awarded to participants upon completion should be based on the type of training provided through the grant and the requirements of the targeted occupation, and should be selected based on consultations with industry partners. For example:

i. Customized and short-term training should result in a performance-based certification or credential. This certification may be developed jointly by employers and the community college, based on defined knowledge and skill requirements for specific high-demand occupations/functions. Performance-based certifications may also be based on industry-recognized curriculum and standards.

ii. Training in information technology, allied health professions, and other fields with established professional standards and examinations should result in certification.

iii. In states where licensure is required for the specific occupation targeted by the training, the credentialing requirement should be set accordingly.

iv. In some instances, training provided under CBJTGs may lead to a degree after the grant program is over. In these instances, the credential required will be the college credit for each course leading to an Associate's or Applied Associate's degree.

b. *Capacity Building*. CBJTG applicants are encouraged to broadly assess their capacity to meet the training needs of the targeted high-growth/high-demand industry or industries. Proposed capacity building strategies are expected to address significant barriers which impede the ability of the community college, or other entity as specified in the exception detailed in Section III(C)(5), to meet local and regional industry demand for workforce training. These strategies should not simply address isolated deficits, but rather provide a comprehensive solution to identified capacity challenges as they relate to the industry or industries of focus. Examples of capacity building activities include, but are not limited to:

i. The development or adaptation of competency models and curricula to support training;

ii. The development of innovative curricula, teaching methods and instructional design to maximize the impact of the initiative in meeting the skills needs of employers;

iii. Innovative strategies to ensure availability of qualified and certified instructors;

iv. Procurement of equipment and simulation equipment necessary to train to industry-demanded skills;

v. Support for clinical experiences required for certification or licensure; or

vi. Development of technology-based distance learning curricula and programs to promote better access to education and training programs.

Capacity building activities must meet two criteria: (1) The proposed capacity building efforts must be directly linked to the specific training supported under the grant; and (2) grantees must use their grant funds in a manner consistent with the regulations and policies governing use of funds under section 171(d) of WIA, which broadly allows the funds to be utilized to test an array of approaches to the provision of training services and supports the development and replication of effective training strategies.

In their capacity building and training activities, ETA encourages CBJTG applicants, particularly those serving rural areas and other areas that are educationally underserved due to lack of access to community colleges, to look at technology-based distance learning options when building their capacity to provide training. Technology-Based Learning (TBL) is transforming the way people learn and can increase the geographic reach of training. TBL can be defined as the learning of content via all electronic technology, including the Internet, intranets, satellite broadcasts, audio and video tape, video and audio conference, Internet conferencing, chat rooms, bulletin boards, Web casts, computer-based instruction and CD–ROM. It encompasses related terms, such as online learning, Web-based learning, computer-based learning and e-learning. For example, a college may convert industry-specific curricula typically offered in traditional classroom settings to technology-based learning (e-learning or online) or develop technology-based learning training programs so that dislocated workers, incumbent workers, and/or new job entrants can access training 24/7.

4. *Leveraged Resources*. Projects funded through CBJTGs should leverage resources from key entities in the strategic partnership. Leveraging resources in the context of strategic partnerships accomplishes three goals: (1) It allows for the strategic pursuit of resources; (2) it increases stakeholder investment in the project at all levels including design and implementation phases; and (3) it broadens the impact of the project itself. Applicants are encouraged to leverage significant resources from key partners and other organizations to maximize the impact of the project on the community.

Leveraged resources include both Federal and non-Federal funds and may come from many sources. Businesses, faith-based and community organizations, economic development entities, education systems, and philanthropic foundations often invest resources to support workforce development. In addition, other Federal, state, and local government programs may have resources available that can be integrated into the proposed project. Examples of such programs include other Department of Labor programs such as registered apprenticeship, as well as non-DOL One-Stop partner programs such as Vocational Rehabilitation, Adult Education, and Department of Education Pell Grants. Faith-based and community organizations may provide resources such as supportive services, mentoring, tutoring, and volunteers, all of which are important for grantees to leverage when assisting certain individuals targeted by these funds. ETA encourages CBJTG applicants and their strategic partners to be entrepreneurial as they seek out, utilize, and sustain these resources, whether they are in-kind or cash contributions, when creating capacity building and training strategies to effectively address the workforce challenges identified by industry.

ETA also encourages applicants to integrate WIA funding at the state and local level into their proposed project. Integrating WIA funds ensures that the full spectrum of assets available from the workforce system is leveraged to support capacity building and training activities. The wide variety of WIA programs and activities provide both breadth and depth to the proposed solution offered to both businesses and individuals. The use of WIA funds also serves to embed the solutions-based approach into the local or regional workforce investment system, which strengthens the system's ability to become more demand-driven.

Applications that demonstrate the use of Workforce Investment Act (WIA) funds for Individual Training Accounts, the pilot of Career Advancement Accounts, or for customized training to cover the tuition costs for the CBJTG training program for eligible new or incumbent workers, will receive 5 bonus points. Individual Training Accounts (ITAs) are training funds that can be used by individuals who have been determined eligible by their local One-Stop Career Center(s) to receive Workforce Investment Act (WIA) funded training. Career Advancement Accounts (CAAs) have been proposed in the President's Fiscal Year 2007 budget and are self-managed accounts an individual would apply for at a One-Stop Career Center, or through other processes developed by states, that would enable them to gain the education and training needed to successfully enter, navigate, and advance in 21st century jobs. Customized training, defined under the Workforce Investment Act and 20 CFR 663.715, is designed to meet the special requirements of an employer; is conducted with a commitment by the employer to employ, or continue to employ, an individual on successful completion of the training; and has the employer providing not less than 50% of the cost of the training. To receive bonus points, applicants will have to demonstrate that ITAs, CAAs, or customized training funds are a component of their proposed training program.

5. *Replication of Successful Models for Broad Distribution.* CBJTGs are intended to drive the community college and workforce investment systems to be more responsive to the workforce demands of industry by making the products, models, and effective approaches that result from CBJTG investments available to both systems. To that end, grantees will develop the foundations and outcomes of CBJTG projects, including the learning and achievement resulting from the projects, into solutions-based models that can be shared with, and implemented by, other community colleges, the workforce system, and industry leaders.

To support the replication and distribution of solution models, ETA has developed an integrated Web space called *http://www.workforce3one.org*. Workforce³ One offers the public workforce system, employers, economic development professionals, and education professionals an innovative knowledge network designed to create and support demand-driven communities, one that responds directly to business needs and prepares workers for good jobs in the fastest growing careers. By supporting replicable projects that can be implemented in multiple areas and industries, ETA is able to maximize the investment by expanding the grant's impact beyond the initial grant site and helping additional businesses and workers in other regions.

6. *Clear and Specific Outcomes.* The CBJTGs are fundamentally results-oriented and grantees are expected to demonstrate clear and specific outcomes that are appropriate to the nature of the solution and size of the project and that indicate progress towards the workforce challenges identified by the partnership. Because CBJTG grantees are expected to invest in customized strategies to address local and regional workforce and skills shortages, ETA recognizes that specific outcomes will vary from project to project based on the specific activities proposed by applicants. CBJTG applicants should demonstrate the effectiveness of proposed training activities by creating appropriate benchmarks and measuring against them on a regular basis.

a. *Training Outcomes:* Training outcomes should include those tracked by the Common Measures, which are uniform evaluation metrics for job training and employment programs and are an integral part of ETA's performance accountability system. The Common Measures for adults include entered employment, job retention, and average earnings. For youth, the Common Measures include placement in employment or education, attainment of a degree or certificate, and literacy and numeracy gains. The value of implementing Common Measures is the ability to describe, in a similar manner, the core performance of the workforce system and its partners: how many people found jobs; did they stay employed; and what did they earn. In the recent past, multiple sets of performance measures have burdened states and grantees, as they have required the reporting of performance outcomes based on varying definitions and methodologies. By minimizing the different reporting and performance requirements, common performance measures can facilitate the integration of service delivery, reduce barriers to cooperation among programs, and enhance the ability to assess the effectiveness and impact of the workforce investment system across programs. A detailed description of ETA's policy on the Common Measures can be found in the Training and Employment Guidance Letter (TEGL) No. 17–05 (*http://wdr.doleta.gov/directives/attach/TEGL17-05.pdf*). A basic list of Common Measures is provided as attachment A to the TEGL (*http://wdr.doleta.gov/directives/attach/TEGL17-05_AttachA.pdf*).

In addition to Common Measures, grantees will be required to report the number and types of credentials awarded to trainees, if appropriate. Please note that the common measures provide only part of the information necessary to oversee CBJTGs effectively. CBJTG recipients may also have additional outcome measures appropriate to their project. ETA will continue to collect from CBJTG recipients data on spending, program activities, participants, and outcomes that are necessary for program management to convey the full and accurate information on the performance of this program to policymakers and stakeholders.

b. *Capacity Building Outcomes:* Grantees will be required to report on the status of all capacity building activities under the grant; how the activity is linked to the specific training supported under the grant; and, if appropriate, the impact of the capacity building activity, including the exact methodology with operational parameters of how the impact measure is calculated. An example of a capacity building activity where it is appropriate to report impact is for teacher professional development/train-the-trainer activities, in which there are no employment related outcomes for those being trained; however, the impact of the grant activities has a far greater effect than on those just being trained. In this example, a grant may train 25 college students to be volunteer after-school ''instructors'' and the impact would be a total of 500 high school students because, over the three year period under the grant, each ''instructor'' taught one class with 20 high school students. Another area where it is appropriate to report impact is career awareness activities. Some capacity building activities, such as equipment purchases and faculty hires, may not have impact measures; therefore they do not require reports on impact numbers or methodology.

Please note that capacity building outcomes and impacts of the proposed project should satisfactorily address the industry-identified workforce need and the capacity constraint identified by the community college, or other entity as specified in the exception detailed in Section III(C)(5).

7. *Optional Critical Element: Integrating the Project into Regional Economic Development Strategies.* ETA recognizes that workforce development is a key factor in our nation's economic competitiveness. To remain competitive in the global marketplace, we must identify strategies to further integrate workforce education and talent development with economic development, particularly at the regional level. Strategic collaboration among business and industry, educators, workers, researchers, entrepreneurs and governments is critical to ensure the necessary talent to drive a region's economic growth. Therefore, ETA encourages applicants to integrate and align their proposed grant activities into their regional economic development strategies. Applicants that can clearly demonstrate that their proposed grant activities are integrated into regional economic development strategies will receive five (5) bonus points. Full demonstration of this integration can be achieved by summarizing the region's strategic vision and workforce education strategies in support of economic growth and describing how the proposed education and training activities in the grant proposal will integrate, build upon, and align with those strategies.

II. Award Information

A. Award Amount

ETA intends to fund approximately seventy-five (75) grants ranging from $500,000 to $2 million through this competition; however, this does not preclude ETA from funding grants at either a lower or higher amount, or funding a smaller or larger number of projects, based on the type and the number of quality submissions. Applicants are encouraged to submit budgets for quality projects at whatever funding level is appropriate to their project. Nevertheless, applicants should recognize that the funds available through this SGA are intended to complement additional leveraged resources rather than be the sole source of funds for the proposal.

B. Period of Performance

The period of grant performance will be up to 36 months from the date of execution of the grant documents. This performance period shall include all necessary implementation and start-up activities, participant follow-up for performance outcomes, and grant close-out activities. A timeline clearly detailing these required grant activities and their expected completion dates must be included in the grant application. ETA may elect to exercise its option to award no-cost extensions to grants for an additional period, based on the success of the program and other relevant factors, if the grantee applies for, and provides a significant justification for, such an extension.

III. Eligibility Information and Other Grant Specifications

A. Eligible Applicants

In order to be eligible for consideration under this solicitation, the applicant must be either: (1) An individual Community or Technical College, (2) a Community College District, (3) a state Community College System, or (4) an individual One-Stop Career Center in partnership with its Local Workforce Investment Board. For educationally underserved communities without access to community or technical colleges, there are other eligible applicants; please see Section III(C)(5) . Requirements for each of these applicant types are provided below.

1. Community or Technical College applicants must demonstrate that they comply with the definition of a community college in 20 U.S.C. 2371:

> ''The term 'community college'—(a) means an institution of higher education [as defined in 20 U.S.C. 1001] that provides not less than a 2-year program that is acceptable for full credit towards a bachelor's degree; and (b) includes tribally controlled colleges and universities.''

2. Community College District applicants must demonstrate that they are an education district organized by the state to define the community in which the college operates. Community College District applications must specify one or more community college(s) within the district where capacity building and training activities will occur under the grant.

3. State Community College System applicants must demonstrate that their office represents the management and supervision of a unified statewide system of community and technical colleges. State system applications must specify one or more community college(s) within the state where capacity building and training activities will occur under the grant.

4. One-Stop Career Center, as established under section 121 of the Workforce Investment Act of 1998 (Pub. L. 105–220), applicants must demonstrate that: (1) The Local Workforce Investment Board supports and is a partner in the application; (2) the proposed activities are consistent with the state strategic Workforce Investment Act plan; and (3) the Local Workforce Investment Board, or its designated fiscal agent, will serve as the fiscal agent for the grant. The Workforce Investment Board's involvement in the project should be demonstrated through a letter of commitment that specifically addresses these three requirements. Applications from One-Stop Career Centers without a letter of commitment from the Workforce Investment Board will be considered non-responsive. One-Stop Career Center applications must specify one or more community college(s) where all capacity building and training activities will occur under the grant.

B. Cost Sharing or Matching

Cost sharing, matching, or cost participation is not required for eligibility; however, applicants are encouraged to leverage the resources of the partnership whenever possible.

C. Other Grant Specifications

1. *Demonstrated Partnerships.* To be considered for funding under this SGA, the applicant must demonstrate that the proposed project will be implemented by a strategic partnership that includes

at least one entity from each of the following categories: (1) The Workforce Investment System, which may include State and Local Workforce Investment Boards, State Workforce Agencies, and One-Stop Career Centers and their partners; (2) an individual community or technical college; (3) employers and industry-related organizations such as associations and unions; and (4) the continuum of education, including the K–12 public education system, adult education, four-year colleges and universities, and other training providers. Please note that some applicants applying under the exception may not have a community college partner. In these cases, the applicant should substitute the training provider as the required community college partner. Please see Section III(C)(5) for more details. The strategic partnership may be a legally organized partnership or joint venture, or a more informal collaboration. Please note, while at least one entity from each category is required, ETA strongly encourages as many partners as necessary from each category to fully represent the community and the entire continuum of education.

2. *Required Capacity Building and Training Activities.* To be considered for funding under this SGA, proposed grant activities must include a combination of capacity building and training activities at the community college, or other entities as specified in the exception detailed in Section III(C)(5), that target skills and competencies demanded by local high-growth/high-demand industries that are defined in the context of the regional economy. A component of all applications must be direct training costs that allow participants, without tuition payments, to be enrolled in the training program. Additional training that is supplemented by leveraged resources may also be provided under the grant and is highly encouraged to ensure maximum impact of the project.

Proposed capacity building activities must address barriers that impede the ability of the community college, or other entities specified in the exception detailed in Section III(C)(5), to meet local and regional industry demand for workforce training and must be directly linked to the specific training supported under the grant. Applicants may propose a cross-cutting capacity building and training strategy that will support training in more than one high-growth/high-demand industry if the applicant can demonstrate that skill needs in the identified industries are shared. Applicants that wish to propose training programs in two or more high-growth industries that do not share skill needs should do so through separate applications.

3. *Participants Eligible to Receive Training.* Generally, the scope of potential trainees is very broad. WIA Sec. 171(d) authorizes demonstration programs to serve dislocated workers, incumbent workers, and new entrants to the workforce. This authorization supports a broad range of training for a variety of populations, including: incumbent workers who need new skills for jobs in demand at higher levels of the career ladder or because the skill needs for their current jobs have changed; untapped labor pools such as immigrant workers, individuals with limited English proficiency, individuals with disabilities, veterans, older workers, youth, etc; or entry level workers who need basic skills and/or specific occupational skill training. The identification of targeted and qualified trainees should be part of the larger project planning process undertaken by the required partnership and should relate to the workforce challenge that is being addressed by the training.

4. *Training Providers.* Community and technical colleges are the required training providers under Community-Based Job Training Grants, regardless of the applicant, with the exception of rural areas and other educationally underserved communities with no reasonable access to community colleges. Please see Section III(C)(5) below for more information on this exception. ETA encourages applicants to be creative in integrating partner resources and expertise into the training plan. For example, a business partner may provide a qualified instructor to the community college; the community college may provide on-site training for workers to take advantage of business-loaned equipment; the training may be provided jointly; or the training may utilize technology-based distance learning alternatives as well as blended learning, which combines self-paced and instructor-led interactions.

5. *Exception to Eligible Applicants and Training Provider Requirements for Rural and Other Educationally Underserved Areas with No Access to Community Colleges.* ETA recognizes that some communities, particularly those in rural areas, may lack access to community and technical college training where physical college facilities are not reasonably close and technology-based and distance learning options are limited or not available. Educationally underserved communities that lack this access may submit proposals under the parameters detailed in this exception. In such cases, the applicant will be required to clearly state it is applying under this exception and must fully demonstrate as part of its statement of need that community college training is not reasonably available within commuting distance of the community in which grant activities will take place and that there are no viable technology-based or distance learning options available. Applicants may use mileage, population, and access to classrooms, Internet and other technology, public transportation and other services, as factors to support their demonstration of the lack of access to and availability of community college training. Please note that applications submitted under the exception must still meet all other requirements set forth in this Solicitation.

Under this exception, the additional eligible applicants and requirements on training are listed below.

a. Publicly-funded Institutions of Higher Education, as defined in 20 U.S.C. 1001, that award certificates and both two-year and four-year degrees are eligible to apply under this exception. However, the emphasis for capacity building and training activities under the grant must be at the certificate or two-year Associates Degree level. The publicly-funded institution of higher education applicant is also required to be the training provider for applications submitted under this exception and will serve as a substitute for the required community college training provider detailed in Section III(C)(4);

b. Alternate Educational Entities that are governmental or not-for-profit organizations that directly deliver, or broker for delivery, post secondary education opportunities in educationally underserved communities that lack access to community colleges are eligible to apply under this exception. Alternate Educational Entity applicants must demonstrate that: (1) The emphasis for capacity building and training activities under the grant must be at the certificate or two-year Associates Degree level; (2) the training is offered in partnership with a community college outside the underserved area and is acceptable for credit at or a credential from the partner community college; and (3) a component of the capacity building activities supports the partnering community college for the purposes of enhancing the training services provided by that college to the underserved area. Additionally, applications must specify one or more community college(s) where capacity building and training activities will occur under the grant.

6. *Veterans Priority.* The Jobs for Veterans Act (Pub. L. 107–288) provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by the Department of Labor. In circumstances where a Community-Based Job Training Grant recipient must choose between two equally qualified candidates for training, one of whom is a veteran, the Jobs for Veterans Act requires that CBJTG recipients give the veteran priority of service by admitting him or her into the program. Please note that, to obtain priority of service, a veteran must meet the program's eligibility requirements. ETA Training and Employment Guidance Letter (TEGL) No. 5–03 (September 16, 2003) provides general guidance on the scope of the Job for Veterans Act and its effect on current employment and training programs. TEGL No. 5–03, along with additional guidance, is available at the ''Jobs for Veterans Priority of Service'' Web site (*http://www.doleta.gov/programs/vets*).

IV. Application and Submission Information

A. Address To Request Application Package

This SGA contains all of the information and links to forms needed to apply for grant funding.

B. Content and Form of Application Submission

The proposal must consist of two (2) separate and distinct parts, Parts I and II. Applications that fail to adhere to the instructions in this section will be considered non-responsive and may not be given further consideration. Applicants who wish to apply do not need to submit a Letter of Intent. The completed application package is all that is required.

Part I of the proposal is the Cost Proposal and must include the following three items:

• The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www.whitehouse.gov/omb/grants/sf424.pdf*). The SF 424 must clearly identify the applicant and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF 424 on behalf of the applicant shall be considered the representative of the applicant.

• All applicants for federal grant and funding opportunities are required to have a Dun and Bradstreet (DUNS) number. See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants must supply their DUNS number on the SF 424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access this Web site: *http://www.dunandbradstreet.com* or call 1–866–705–5711.

• The SF 424A Budget Information Form (available at *http://www.whitehouse.gov/omb/grants/sf424a.pdf*). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request. The budget narrative should break down the budget and leveraged resources by project activity, should discuss cost per-participant, and should discuss precisely how the administrative costs support the project goals.

Please note that applicants that fail to provide a SF 424, SF 424A and/or a budget narrative will be removed from consideration prior to the technical review process. If the proposal calls for integrating WIA or other federal funds or includes other leveraged resources, these funds should not be listed on the SF 424 or SF 424A Budget Information Form, but should be described in the budget narrative and in Part II of the proposal. The amount of federal funding requested for the entire period of performance should be shown together on the SF 424 and SF 424A Budget Information Form. Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found in at *http://www.doleta.gov/sga/forms.cfm.*

Part II of the application is the Technical Proposal, which demonstrates the applicant's capabilities to plan and implement the CBJTG in accordance with the provisions of this solicitation. The Technical Proposal is limited to twenty (20) double-spaced, single-sided, 8.5 inch × 11 inch pages with 12 point text font and one-inch margins. Any pages over the 20 page limit will not be reviewed. In addition, in attachments which may not exceed ten (10) pages, the applicant may provide resumes, a list of staff positions to be funded by the grant, statistical information, general letters of support, and other related material. The required letters of commitment from partners must be submitted as additional attachments and will not count against the allowable 10-page limit on attachments. Please note that applicants should not send letters of commitment or support separately to ETA because letters are tracked through a different system and will not be attached to the application for review. Additionally, the applicant must reference grant partners by organizational name in the text of the Technical Proposal. Except for the discussion of any leveraged resource to address the evaluation criteria, no cost data or reference to prices should be included in the Technical Proposal. In addition, the following information is required:

• A two-page abstract summarizing the proposed project and applicant profile information including: applicant name, project title, industry focus, partnership members, proposed training and capacity building activities, funding level requested, the amount of leveraged resources, and a project description as described in the evaluation criteria section at Section V(A) of this solicitation. The abstract should also clearly note whether the application is being submitted under the exception detailed in Section III(C)(5) .

• A table of contents listing the application sections; and

• A time line outlining project activities and an anticipated schedule for deliverables.

Please note that the abstract, table of contents, and time line are not included in the page limitations above. Applications that do not provide Part II of the application may be removed from consideration prior to the technical review process.

Applications may be submitted electronically on *www.grants.gov* or in hard-copy via U.S. mail, professional delivery service, or hand delivery. These processes are described in further detail in Section IV(C). Applicants submitting proposals in hard-copy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hard-copy are also requested, though not required, to provide an electronic copy of the proposal on CD–ROM.

C. Submission Date, Times, and Addresses

The closing date for receipt of applications under this announcement is August, 29, 2006. Applications must be received at the address below no later than 5 p.m. (Eastern Time). Applications sent by e-mail, telegram, or facsimile (fax) will not be accepted. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

ETA will post Frequently Asked Questions (FAQs) and host Virtual Prospective Applicant Conferences for this grant competition. The FAQ's, as well as the dates and access information for the Prospective Applicant Conferences will be posted on ETA's Web site at: *http://www.doleta.gov/business/Community-BasedJobTrainingGrants.cfm* and *http://www.workforce3one.org.* Please check these pages periodically during the solicitation for updates.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Eric Luetkenhaus, Reference SGA/DFA PY 05–11, 200 Constitution Avenue, NW., Room N–4716, Washington, DC 20210. Applicants are advised that mail delivery in the Washington area may be delayed due to mail decontamination procedures. Hand delivered proposals will be received at the above address. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified closing date.

Applicants may apply online through Grants.gov (*http://www.grants.gov*). It is strongly recommended that applicants using Grants.gov immediately initiate and complete the ''Get Started'' registration steps at *http://www.grants.gov/GetStarted.* These steps may take multiple days to complete, and this time should be factored into plans for electronic application submission in order to avoid facing unexpected delays that could result in the rejection of an application. If submitting electronically through Grants.gov, it would be appreciated if the application is saved as a .doc, .pdf, or .txt files.

Late Applications: Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made, was properly addressed, and: (a) Was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (*e.g.*, an application required to be received by the 20th of the month must be post marked by the 15th of that month) or (b) was sent by overnight delivery service or submitted on Grants.gov to the addressee not later than one working day prior to the date specified for receipt of applications. It is highly recommended that online submissions be completed one working day prior to the date specified for receipt of applications to ensure that the applicant still has the option to submit by overnight delivery service in the event of any electronic submission problems. ''Post marked'' means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bull's eye'' postmark on both the receipt and the package. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

D. Intergovernmental Review

This funding opportunity is not subject to Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions

Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., Educational Institution—OMB Circular A–21. Disallowed costs are those charges to a grant that the grantor agency or its representative determines not to be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant. pplicants will not be entitled to reimbursement of pre-award costs.

Limitations on Cost Per-Participant. Because the costs of training may vary considerably depending on the skills and competencies required in different occupations in different industries, flexibility will be provided on cost per-participant. However, applications for funding will be reviewed to determine if the cost of the training is appropriate and will produce the outcomes identified. Applicants should demonstrate that the proposed cost per-participant is aligned with existing price structures for similar training in the local area or other areas with similar characteristics, if available, or with the community college's, or other entity's as specified in the exception detailed in Section III(C)(5), existing price structures for the type of program offered.

Indirect Costs. As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular cost objective. In order to utilize grant funds for indirect costs incurred, the applicant must obtain an Indirect Cost Rate Agreement with its Federal Cognizant Agency either before or shortly after the grant award.

Administrative Costs. Under the CBJTGs, an entity that receives a grant to carry out a project or program may not use more than 5 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be both direct and indirect costs and are defined at 20 CFR 667.220. Administrative costs do not need to be identified separately from program costs on the SF 424A Budget Information Form. They should be discussed in the budget narrative and tracked through the grantee's accounting system. Although there will be administrative costs associated with the managing of the partnership as it relates to specific grant activity, the primary use of funding should be to support the actual capacity building and training activity(ies). To claim any administrative costs that are also indirect costs, the applicant must obtain an indirect cost rate agreement from its Federal cognizant agency as specified above.

Use of Stipends. The provision of stipends to training enrollees for the purposes of wage replacement or supportive services, such as transportation costs, for unemployed or employed workers, is not an allowable cost under this Solicitation for Grant Applications.

Legal Rules Pertaining to Inherently Religious Activities by Organizations that Receive Federal Financial Assistance. The government is generally prohibited from providing direct financial assistance for inherently religious activities. See 29 CFR part 2, subpart D. These grants may not be used for religious instruction, worship, prayer, proselytizing or other inherently religious activities. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees in the selection of sub-recipients.

ETA Intellectual Property Rights. Applicants should note that grantees must agree to provide USDOL/ETA a paid-up, nonexclusive and irrevocable license to reproduce, publish, or otherwise use for Federal purposes all products developed or for which ownership was purchased under an award, including but not limited to curricula, training models, technical assistance products, and any related materials, and to authorize them to do so. Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise.

F. Withdrawal of Applications

Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

V. Application Review Information

A. Evaluation Criteria

This section identifies and describes the criteria that will be used to evaluate proposals for a Community-Based Job Training Grant. These criteria and point values are:

Criterion	Points
1. Statement of Need	15
2. Linkages to Key Partners	20
3. Training and Capacity Building Plan	25
4. Outcomes, Benefits, and Impact	30
5. Program Management and Organization Capacity	10
6. Bonus: Connections to Regional Economic Strategies	5
7. Bonus: Integration of Workforce Investment Act funds	5
Total Possible Points	110

1. Statement of Need (15 Points)

Applicants must demonstrate a clear and specific need for the federal investment in the proposed activities by: (a) Identifying the industry or industries of focus; (b) establishing that the identified industry satisfies ETA's criteria for a high-growth/high-demand industry in the local or regional economy as described in Section I(C)(1) of this solicitation; (c) providing evidence of industry demand for training in the local or regional economy; and (d) describing in detail the capacity challenges the community college(s), or other entity as specified in the exception detailed in Section III(C)(5), faces that limit its ability to provide sufficient quantity or quality of training to meet the identified industry's demand.

Applicants may draw from a variety of resources for supporting data, including: Traditional labor market information, such as projections; industry data from trade associations or direct information from the local industry; and information on the local economy and other transactional data, such as job vacancies.

In addition to the above, applicants applying under the exception detailed in Section III(C)(5) must also demonstrate that community college training is not reasonably available within commuting distance of the community in which grant activities take place and that there are no viable technology-based or distance learning options available. Applicants may wish to use mileage, population, and access to classrooms, Internet and other technology, public transportation and other services, in their demonstration of community college training not being reasonably available in their community.

2. Linkages to Key Partners (20 Points)

The applicant must demonstrate that the proposed project will be implemented by a strategic partnership that includes at least one entity from each of four categories: (1) The workforce investment system, which may include State and Local Workforce Investment Boards, State Workforce Agencies, and One-Stop Career Centers and their partners, as such terms are defined under WIA; (2) community and technical colleges; (3) employers and industry-related organizations such as associations and unions; and (4) the continuum of education, including the K–12 public education system. Please note, some applications submitted under the exception outlined in Section III(C)(5) may have a substitution for the community college partner. Please see Section III(C)(5) for more details

The applicant must identify the partners by organizational name and category, explain the meaningful role each partner will play in the project, and document the resources leveraged from each partner. Collaborating partners must verify their role through a letter of commitment detailing the roles, responsibilities, and resources the partner will commit to the project. The letters of commitment must be attached to the proposal. Applicants should also identify resources leveraged from other organizations, including other workforce investment system partners.

ETA encourages, and will be looking for, applications that go beyond the minimum level of partnership and demonstrate broader, substantive and sustainable partnerships. Scoring on this criterion will be based on the following factors:

- *Evidence of Required Partners (5 Points):* The applicant must identify and provide evidence that the partnership contains each of the required partner entities. Applications that do not have each of the four required entities represented in the partnership will not receive any points for this factor.
- *Comprehensiveness of the Partnership (7 Points):* The applicant must explain the meaningful role each partner will play in the project. Points for this factor will be awarded based on: (1) The degree to which each partner, including all required partners, plays a committed role, either financial or non-financial, in the proposed project; (2) the breadth and depth of each partners contribution, their knowledge and experience concerning grant activities, and their ability to impact the success of the project; and (3) evidence, including letters of commitment from required partners, that key partners have expressed a clear dedication to the project and understand their area of responsibility. Applications that do not have each of the four required entities represented in the partnership cannot receive full points for this factor.
- *Partnership Management (8 Points):* Points for this factor will be awarded based on: (1) The evidence of a plan for interaction between partners at each stage of the project, from planning to execution; (2) the evidence that the capacity challenge to be addressed by the grant was identified in the context of the strategic partnership; (3) demonstrated ability of the lead partner to successfully manage partnerships; (4) the ability of the partnership to manage all aspects and stages of the project and to coordinate individual activities with the partnership as a whole; (5) the robustness of the applicant's plan for sustaining the partnership beyond the funding period, and (6) evidence that the partnership has the capacity to achieve the outcomes of the proposed project.

3. Training and Capacity Building Plan (25 Points)

The applicant must describe its proposed capacity building and training strategies in full. Scoring on this criterion will be based on:

- *Effective, Innovative Training and Capacity Building Strategies (15 Points):* The applicant must provide evidence that: (1) The proposed project will address identified industry workforce or skills shortages and identified capacity constraints at the community college level or in the community if the application is submitted under the exception detailed in Section III(C)(5); (2) there is a demonstrated link between the proposed project and the identified industry workforce challenge or skills shortages and identified capacity constraints at the community college level or in the community, if the application is submitted under the exception detailed in Section III(C)(5); (3) the proposed project clearly integrates industry-driven capacity building and training activities; (4)

proposed capacity building solutions are broad-based and include an appropriate range of activities; (5) proposed training activities occur within the context of a continuum of education and training that supports long-term career growth, such as an articulated career ladder/lattice; (6) proposed training activities lead to appropriate college credit or credentialing; and (7) the proposed training activities include training and direct training costs.

• *Implementation Strategy (10 Points):* Applicants can earn up to 10 points based on evidence that the applicant has a clear understanding of the tasks required to successfully meet the objectives of the grant. Factors considered in evaluating this evidence include: (1) The existence of a work plan that is responsive to the applicant's statement of need and includes specific goals, objectives, activities, implementation strategies, and a timeline; (2) the feasibility and reasonableness of the timeline for accomplishing all necessary implementation activities, including start-up, capacity building and training activities, participant follow-up for performance outcomes, and grant closeout activities; (3) whether the budget line items are consistent with and tied to work plan objectives; (4) the extent to which the budget is justified with respect to the adequacy and reasonableness of the resources requested; (5) the extent to which the proposed cost-per-participant is aligned with existing price structures for similar training; and (6) the presence of a robust outreach strategy that includes the dissemination of information regarding the project to others who would benefit most, and, if appropriate, recruitment of eligible participants.

4. Outcomes, Benefits, and Impact (30 Points)

Applicants should demonstrate a results-oriented approach to managing and operating their CBJTG. This should be achieved by fully describing the proposed outcome measures relevant to measuring the success and impact of the project and highlighting the benefits and impact of the outcomes and products on the larger capacity constraint described in the statement of need. Scoring on this criterion will be based on the following factors:

a. *Description of Outcomes (20 Points):* Applicants may earn up to 20 points for indicating the appropriate outcomes that will be tracked as detailed below. Additionally, the description of outcomes must include: (1) Baseline numbers for tracking progress; (2) benchmark outcome goals; and (3) the methods proposed to collect and validate outcome data in a timely and accurate manner.

i. *Training (10 Points):* Applicants must track training outcome measures that are consistent with ETA's Common Measures, such as employment placement numbers, employment retention, and average earnings. Other outcome measures that should be tracked include the number of individuals awarded credentials or degrees; the number of individuals trained using grant dollars; the number of individuals trained as a result of leveraging of resources (e.g. training is paid through sources other than the grant, including Workforce Investment Act resources such as customized training, ITAs, or pilot CAAs), if applicable; and other outcome measures specific to the proposed training project. Applicants must also identify the credential that participants will earn as a result of the proposed training, and the employer-, industry-, or state-defined standards associated with the credential. If the credential targeted by the training project is a certificate or performance-based certification, applicants should either a) demonstrate employer engagement in the curriculum development process, or b) indicate that the certification will translate into concrete job opportunities with an employer.

ii. *Capacity Building (10 Points):* Applicants must clearly describe all products, models, curricula, etc. that will be developed or acquired with federal funds through the grant and indicate the impact of the capacity building activity (e.g. the number of participants or entities who will benefit from the proposed activities.) Applicants must describe the impact measure associated with the capacity building activity, if applicable, and the exact methodology of the impact measure, including any important operational parameters.

b. *Appropriateness of Outcomes (10 Points):* Applicants may earn up to 10 points based on three factors: (1) The extent to which the expected project outcomes are clearly identified and measurable, realistic, consistent with the objectives of the project, and capable within the timeframe of the grant; (2) the ability of the applicant to achieve the stated outcomes within the timeframe of the grant; (3) the appropriateness of the outcomes with respect to the extent of the community college's identified capacity challenges and the requested level of funding.

5. Program Management and Organization Capacity (10 Points)

To satisfy this criterion, applicants must describe their proposed project management structure including, where appropriate, the identification of a proposed project manager, and discuss the proposed staffing pattern and the qualifications and experience of key staff members. Applicants should also provide evidence of the use of data systems to track outcomes in a timely and accurate manner. The applicant should include a description of organizational capacity and the organization's track record in projects similar to that described in the proposal and/or related activities of the primary partners.

Scoring under this criterion will be based on the extent to which applicants provide evidence of the following:

• The time commitment of the proposed staff is sufficient to ensure proper direction, management, and timely completion of the project;

• The roles and contribution of staff, consultants, and collaborative organizations are clearly defined and linked to specific objectives and tasks;

• The background, experience, and other qualifications of the staff are sufficient to carry out their designated roles; and

• The applicant organization has significant capacity to accomplish the goals and outcomes of the project, including the ability to collect and manage data in a way that allows consistent, accurate, and expedient reporting.

6. Integrating the Project into Regional Economic Development Strategies (5 Bonus Points)

Applicants that fully demonstrate their proposed grant activities will be integrated and aligned with their region's economic development strategies will receive five (5) bonus points. Full demonstration of this integration can be achieved by summarizing the region's strategic vision and workforce education strategies in support of economic growth and describing how the proposed education and training activities in the grant proposal will integrate, build upon, and align with those strategies.

7. Integrating Workforce Investment Act Resources (5 Points)

Applications that demonstrate integration of WIA resources through the use of customized training funds, Individual Training Accounts (ITA), or piloting Career Advancement Accounts

(CAA) to cover the tuition costs for the CBJTG training program for eligible new or incumbent workers will receive five (5) bonus points. To receive bonus points, applicants will have to demonstrate that customized training, ITAs or CAAs are a component of their proposed training program.

B. Review and Selection Process

Applications for the Community-Based Job Training Grants will be accepted after the publication of this announcement until the closing date. A technical review panel will make a careful evaluation of applications against the criteria set forth in Section V(A) of this Solicitation. These criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 110 points may be awarded to an application, based on the required information described in Section V(A) of this Solicitation. The ranked scores will serve as the primary basis for selection of applications for funding, in conjunction with other factors such as urban, rural, and geographic balance; the availability of funds; and which proposals are most advantageous to the Government. The panel results are advisory in nature and not binding on the Grant Officer, who may consider any information that comes to his attention. DOL may elect to award the grant(s) with or without prior discussions with the applicants. Should a grant be awarded without discussions, the award will be based on the applicant's signature on the SF 424, which constitutes a binding offer.

VI. Award Administration Information

A. Award Notices

All award notifications will be posted on the ETA Homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution. Applicants not selected for award will be notified by mail.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements

All grantees will be subject to all applicable Federal laws, regulations, and the applicable OMB Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

a. Workforce Investment Boards—20 Code of Federal Regulations (CFR) Part 667.220. (Administrative Costs).

b. Non-Profit Organizations—OMB Circulars A–122 (Cost Principles) and 29 CFR Part 95 (Administrative Requirements).

c. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR Part 95 (Administrative Requirements).

d. State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR Part 97 (Administrative Requirements).

e. Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR Part 31 (Cost Principles), and 29 CFR Part 95 (Administrative Requirements).

f. All entities must comply with 29 CFR Parts 93 and 98, and, where applicable, 29 CFR Parts 96 and 99.

g. The following administrative standards and provisions may also be applicable:

i. 29 CFR part 2, subpart D—Equal Treatment in Department of Labor Programs for Religious Organizations, Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries;

ii. 29 CFR part 30—Equal Employment Opportunity in Apprenticeship and Training;

iii. 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964;

iv. 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance;

v. 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor;

vi. 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor;

vii. 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;

viii. 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.

In accordance with section 18 of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65) (2 U.S.C. 1611) non-profit entities incorporated under Internal Revenue Service Code section 501(c) (4) that engage in lobbying activities are not eligible to receive Federal funds and grants.

Note: Except as specifically provided in this Notice, DOL/ETA's acceptance of a proposal and an award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, OMB Circulars require that an entity's procurement procedures must ensure that all procurement transactions are conducted, as much as practical, to provide open and free competition. If a proposal identifies a specific entity to provide services, the DOL/ETA's award does not provide the justification or basis to sole source the procurement, i.e., avoid competition, unless the activity is regarded as the primary work of an official partner to the application.

C. Special Program Requirements

Evaluation. DOL may require that the program or project participate in an evaluation of overall performance of CBJTGs. To measure the impact of the CBJTGs, ETA may arrange for or conduct an independent evaluation of the outcomes and benefits of the projects. Grantees must agree to make records on participants, employers and funding available, and to provide access to program operating personnel and participants, as specified by the evaluator(s) under the direction of ETA, including after the expiration date of the grant.

D. Reporting

The grantee is required to provide the reports and documents listed below:

Quarterly Financial Reports. A Quarterly Financial Status Report (SF 269) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 30 days after the end of each calendar year quarter. Grantees must use ETA's On-Line Electronic Reporting System.

Quarterly Progress Reports. The grantee must submit a quarterly progress report to the designated Federal Project Officer within 30 days after the end of each calendar year quarter. Two copies are to be submitted providing a detailed account of activities undertaken during that quarter. DOL may require additional data elements to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL reporting requirements. The quarterly progress report should be in narrative form and should include:

1. General Grant Information, including a summary of grant activities and a status update on leveraged resources and strategic partner activities;

2. A Grant Timeline that includes the progress of grant activities, the key deliverables for each quarter, and the products available each quarter;

3. Grant Outcomes, including information on all capacity building, training, employer, and grant

deliverable outcomes as well as the anticipated impact of these outcomes on the community college, industry partners, and the broader community; and dissemination activities and events for grant deliverables;

4. Highlights of Promising Approaches and Success Stories; and

5. Description of Technical Assistance Needs.

Final Report. A draft final report must be submitted no later than 60 days prior to the expiration date of the grant. This report must summarize project activities, employment outcomes, and related results of the training project, and should thoroughly document capacity building and training approaches. The final report should also include copies of all deliverables, e.g. curricula and competency models. After responding to DOL questions and comments on the draft report, three copies of the final report must be submitted no later than the grant expiration date. Grantees must agree to use a designated format specified by DOL for preparing the final report.

VII. Agency Contacts

For further information regarding this SGA, please contact Kevin Brumback, Grants Management Specialist, Division of Federal Assistance, at (202) 693–3381 (Please note this is not a toll-free number). Applicants should fax all technical questions to (202) 693–2705 and must specifically address the fax to the attention of Kevin Brumback and should include SGA/DFA PY 05–11, a contact name, fax and phone number, and e-mail address. This announcement is being made available on the ETA Web site at *http://www.doleta.gov/sga/sga.cfm*, at *http://www.grants.gov*, as well as the **Federal Register**.

VIII. Other Information

Resources for the Applicant

DOL maintains a number of Web-based resources that may be of assistance to applicants.

• The Web site for the Employment and Training Administration (*http://www.doleta.gov*) is a valuable source for background information on the President's High Growth Job Training Initiative.

• Short descriptions of previously funded Community-Based Job Training Grants can be found at *http://www.doleta.gov/BRG/CBJTGrants/*.

• The Workforce^3 One Web site, *http://www.workforce3one.org*, is a valuable resource for information about demand-driven projects of the workforce investment system, educators, employers, and economic development representatives. Additionally, current High Growth and Community-Based Job Training Grantees are posting their deliverables on this Web site.

• America's Service Locator (*http://www.servicelocator.org*) provides a directory of the nation's One-Stop Career Centers.

• Career Voyages (*http://www.careervoyages*), a Web site targeted at youth, parents, counselors, and career changers, provides information about career opportunities in high-growth/high-demand industries.

• Applicants are encouraged to review ''Help with Solicitation for Grant Applications'' (*http://www.dol.gov/cfbci/sgabrochure.htm*).

• For a basic understanding of the grants process and basic responsibilities of receiving Federal grant support, please see ''Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government'' (*http://www.whitehouse.gov/government/fbci/guidance/index.html*).

Signed at Washington, DC, this 23rd day of June, 2006.

Eric D. Luetkenhaus,

Employment and Training Administration, Grant Officer.

[FR Doc. 06–5951 Filed 6–30–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Grant Applications (SGA); High Growth Job Training Initiative Grants for the Advanced Manufacturing Industry Correction

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice; correction.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** on June 6, concerning the availability of grant funds for new and innovative approaches to meeting the workforce challenges of the advanced manufacturing industry under the President's High Growth Job Training Initiative. This correction is to give notice of an upcoming webinar, to correct the *Catalog of Federal Assistance number* and to extend the closing date to August 1, 2006.

FOR FURTHER INFORMATION CONTACT: Melissa Abdullah, Grants Management Specialist, Division of Federal Assistance, (202) 693–3346.

Notice

There will be a webinar held on June 29, 2006 at 2 p.m. Eastern Time titled *ETA Competency Initiative: A Competency Model Framework for Advanced Manufacturing.* Go to *http://www.workforce3one.org/public/skillbuilding/webinar_info.cfm?id=102* to register for this event. A recorded version of the webinar will be posted on this site one day after the event. Questions related to the information presented in the webinar should be directed to Melissa Abdullah, Grants Management Specialist, Division of Federal Assistance, 202–693–3346.

Corrections

In the **Federal Register** of June 6, 2006, in FR Volume 71, Number 108:

—On page 32559, in the second column, is corrected to read:

Catalog of Federal Assistance number: 17.268.

—On page 32566, in the third column, is corrected to read:

Submission Date, Times and Addresses: The closing date for receipt of applications under this announcement is August 1, 2006.

Signed at Washington, DC, this 23rd day of June, 2006.

Eric D. Luetkenhaus,

Grant Officer.

[FR Doc. E6–10362 Filed 6–30–06; 8:45 am]

BILLING CODE 4510–30–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 60—''Disposal of

High-Level Radioactive Wastes in Geologic Repositories.''

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* The information need only be submitted one time.

5. *Who will be required or asked to report:* State or Indian Tribes, or their representatives, requesting consultation with the NRC staff regarding review of a potential high-level radioactive waste geologic repository site, or wishing to participate in a license application review for a potential geologic repository (other than a potential geologic repository site at Yucca Mountain, Nevada, currently under investigation by the U.S. Department of Energy, which is now regulated under 10 CFR part 63).

6. *An estimate of the number of annual responses:* 1; however none are expected in the next three years.

7. *The number of annual respondents:* 1; however none are expected in the next three years.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1; however, none are expected in the next three years.

9. *An indication of whether section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* Part 60 requires States and Indian Tribes to submit certain information to the NRC if they request consultation with the NRC staff concerning the review of a potential repository site, or wish to participate in a license application review for a potential repository (other than the Yucca Mountain, Nevada site proposed by the U.S. Department of Energy). Representatives of States or Indian Tribes must submit a statement of their authority to act in such a representative capacity. The information submitted by the States and Indian Tribes is used by the Director of the Office of Nuclear Material Safety and Safeguards as a basis for decisions about the commitment of NRC staff resources to the consultation and participation efforts. As provided in § 60.1, the regulations in 10 CFR. Part 60 no longer apply to the licensing of a geologic repository at Yucca Mountain. All of the information collection requirements pertaining to Yucca Mountain were included in 10 CFR part 63, and were approved by the Office of Management and Budget under control number 3150–0199. The Yucca Mountain site is regulated under 10 CFR part 63 (66 FR 55792, November 2, 2001).

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 2, 2006. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

John A. Asalone, Office of Information and Regulatory Affairs (3150–0127), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 27th day of June, 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–10350 Filed 6–30–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–133]

Environmental Assessment and Finding of No Significant Impact Related to Issuance of Technical Specification Amendment for the Humboldt Bay Power Plant Unit 3 License DPR–007, Humboldt, CA

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: John Hickman, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop: T7E18, Washington, DC 20555–00001. Telephone: (301) 415–3017; e-mail: *jbh@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) staff is considering a request dated January 19, 2006, by the Pacific Gas and Electric Company (PGE or the Licensee), to approve an amendment to Facility Operating License No. DPR–7 that would revise Technical Specification (TS) 3.1.2 to correct an editorial error, and TS 5.2.2 to allow leaving the Unit 3 control room temporarily unmanned during emergency conditions requiring personnel to evacuate occupied buildings for their safety.

II. Environmental Assessment

Background

Humboldt Bay Power Plant (HBPP) was permanently shut down in July 1976, and until recently was in safe storage condition (SAFSTOR). SAFSTOR is defined as a method of decommissioning in which the nuclear facility is placed and maintained in safe condition for an extended period of time to permit radioactive material to decay to levels that ease subsequent decontamination and decommissioning of the facility. A Decommissioning Plan was approved in July 1988. Subsequent to the 1996 decommissioning rule, the licensee converted its decommissioning plan into its Defueled Safety Analysis Report which is updated every two years. A Post Shutdown Decommissioning Activities Report was issued by the licensee in February 1998. The licensee is now engaged in some incremental decommissioning activities. In December 2003, PG&E formally submitted a license application to the NRC for approval of a dry-cask Independent Spent Fuel Storage Installation (ISFSI) at the Humboldt Bay site. A license and safety evaluation report for the Humboldt Bay ISFSI were issued on November 17, 2005. PG&E should begin active decommissioning of the facility in 2007.

On June 14, 2005, a magnitude 7.2 earthquake occurred 97 miles WNW of the Humboldt Bay site and was felt onsite. Subsequently a tsunami warning was issued for an area that included the plant site. In accordance with plant emergency procedures, site personnel evacuated the facility to the high ground evacuation site within the owner controlled area of the site. Since TS 5.2.2.c requires continuous staffing of the Unit 3 control room, or alternatively of the Units 1 and 2 control station, this necessitated that the licensee invoke the provisions of 10 CFR 50.54(x) for noncompliance with the TS. Based on this experience, and that the site will continue to be subject to potential earthquakes and tsunamis, the licensee requested the change to the TS to allow temporarily not manning the Unit 3 control room, or the Units 1 or 2 control station, when necessary to protect worker health and safety.

This Environmental Assessment (EA) has been developed in accordance with the requirements of 10 CFR 51.21.

Proposed Action

The change proposed by this LAR will modify TS 3.1.2, Limiting Condition for Operation (LCO) 3.1.2, Condition A to replace the word ''restriction'' with the word ''weight'' so that action is required if the load weight, rather than the load restriction, is not within the limit. The change will also modify TS 5.2.2.c to allow the Unit 3 control room, and the associated control station in Units 1 and 2, to be temporarily unmanned in an emergency when personnel are required to evacuate occupied buildings for their health and safety. The proposed action is in accordance with the licensee's application dated January 19, 2006, requesting approval.

Need for Proposed Action

The proposed change to TS 3.1.2 will clarify the LCO and is needed to ensure that the appropriate limit is maintained. The proposed change to TS 5.2.2.c to allow the Unit 3 control room, and the associated control station in Units 1 and 2, to be temporarily unmanned in an emergency requiring evacuation is needed to protect personnel health and safety.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed amendments to the Technical Specifications and concludes the changes would have no significant impacts to the environment.

The NRC evaluated the safety impacts of the proposed changes and determined that the changes proposed by this license amendment request, to clarify an existing requirement and allow the licensee evacuate the control room in an emergency that requires site evacuation for the protection of site staff health and safety, will better ensure that a safety limit is maintained and will not hinder the licensee's response to an emergency.

Allowing the control room operators to evacuate the control room during an emergency will not create a situation where response will be delayed or less effective due to the absence of the monitoring and coordination provided by the control room operators, because the plant operators who perform the recovery actions will also be evacuated in a life threatening emergency, thereby removing the staff that the control room operators would direct in the emergency. Additionally, the possible loss of the control room operator in an emergency would further delay the site recovery when the emergency condition has passed. Therefore, for the hazardous conditions considered, the proposed action would best insure that the personnel required for recovery are available when the recovery can be performed. Based on the above, the proposed action would not increase the probability or consequences of accidents, would not change the types of effluents that may be released offsite, and would not increase occupation or public radiation exposure.

Since the amendment only affects actions in the industrial portion of the facility, the proposed action does not have a potential to affect any historic sites.

Alternatives to the Proposed Action

The alternative to the proposed action would be to deny the request. Denial of this amendment request would have the same environmental impact as the proposed action.

Agencies and Persons Consulted

This EA was prepared by John B. Hickman, Project Manager, Decommissioning Directorate, Division of Waste Management and Environmental Protection (DWMEP). NRC staff determined that the proposed action is not a major decommissioning activity and will not affect listed or proposed endangered species, nor critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. Likewise, NRC staff determined that the proposed action is not the type of activity that has the potential to cause previously unconsidered effects on historic properties, as consultation for site decommissioning has been conducted previously. There are no additional impacts to historic properties associated with the disposal method and location for demolition debris. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act. The NRC provided a draft of its EA to the Radiologic Health Branch of the California State Department of Health Services. The state official had no comments.

III. Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

IV. Further Information

For further details with respect to the proposed action, see the licensee's letter dated January 19, 2006. (ADAMS Accession No. ML060310499) The NRC Public Documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397–4209. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 22nd day of June, 2006.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–10354 Filed 6–30–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8905]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Rio Algom Mining LLC, Ambrosia Lake, NM

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Michael G. Raddatz, Project Manager, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC, 20555. Telephone: (301) 415–6334; fax number: (301) 415–5955; e-mail: *mgr@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) proposes to issue a license amendment to Source Materials License No. SUA–1473 held by Rio Algom

Mining LLC (the licensee), to approve a soil decommissioning plan for its uranium mill tailings site in Ambrosia Lake, New Mexico. The NRC has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The licensee's plan addresses the methods and procedures to be implemented to ensure that soil remediation is performed in a manner that is protective of human health and the environment. The Uranium Mill Tailings Radiation Control Act, as amended, and regulations in Title 10 of the Code of Federal Regulations, 10 CFR part 40 require that material at uranium mill tailings sites be disposed of in a manner that protects human health and the environment. On February 15, 2000, May 30, 2001, and July 7, 2005, Rio Algom Mining, LLC requested that the NRC approve the proposed amendment. The licensee's request for the proposed change was previously noticed in the **Federal Register** on June 29, 2000, (65 FR 40144) with a notice of an opportunity to request a hearing and an opportunity to provide comments on the amendment and its environmental impacts.

The staff has prepared the EA in support of the proposed license amendment. The staff considered impacts that the licensee's Soil Decommissioning Plan (SDP) will have on ground water, surface water, socioeconomic conditions, threatened and endangered species, transportation, land use, public and occupational health, and historic and cultural resources.

The EA supports a FONSI because of the following: The Uranium Mill Tailings Radiation Control Act, as amended, and regulations in Title 10 of the Code of Federal Regulations, 10 CFR part 40 require that material at uranium mill tailings sites be disposed of in a manner that protects human health and the environment: The methods and procedures described in the SDP have been judged by staff to be acceptable because the plan addresses those methods and procedures to be implemented by the licensee to ensure that soil remediation is performed in a manner that is protective of human health and the environment. The actual decommissioning of the licensee's mill tailings site will utilize the SDP and as each area is remediated, it will be verified that it is in compliance with all regulatory requirements and the SDP.

III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed amendment and NRC staff has determined not to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are as follows:

Document	ADAMS accession No.	Date
NUREG–1748, "Environmental Review Guidance for Licensing Actions Associated With NMSS Programs—Final Report," Nuclear Regulatory Commission, Washington, DC.	ML031000403	April 10, 2003.
NUREG–1620, Rev. 1, "Standard Review Plan for Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978," Nuclear Regulatory Commission, Washington, DC.	ML032250190	June 30, 2003.
Rio Algom Mining LLC, 2004, "Soil Decommissioning Plan"	ML050400566	January 19, 2005.
Rio Algom Mining LLC, 2005, "Response to Request for Additional Information for Soil Decommissioning Plan and the Closure Plan—Lined Evaporation Ponds for Ambrosia Lake Facility".	ML052060155	June 15, 2005.
Rio Algom Mining LLC, 2005, "Response to Request for Additional Information Items 6, 9, and 13 for the Soil Decommissioning Plan and the Closure Plan—Lined Evaporation Ponds for Ambrosia Lake Facility".	ML052090175	July 15, 2005.
Rio Algom Mining LLC, 2005, "Response to July 21, 2005 Request for Additional Information for the Soil Decommissioning Plan and the Closure Plan—Lined Evaporation Ponds for Ambrosia Lake Facility".	ML053000439	September 26, 2005.
U.S. Fish and Wildlife Service. Letter to M. Raddatz	ML052910059	October 31, 2005.
Data Recovery Plan For IA 82634 and IA 82635 at Rio Algom Mine, Near Ambrosia Lake, McKinley County, New Mexico.	ML060670532	December 31, 2005.
Final Environmental Assessment, Soil Decommissioning Plan for Rio Algom Mining LLC's Uranium Mill Tailings Site, Ambrosia Lake, McKinley County, New Mexico.	ML061630291	May 15, 2006.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 27th day of June, 2006.

For the Nuclear Regulatory Commission.

Gary S. Janosko,

Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–10349 Filed 6–30–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–029]

Environmental Assessment and Finding of No Significant Impact Related to Exemption From the Recordkeeping Requirements of Title 10 of the Code of Federal Regulations (10 CFR) Part 50.71(c); 10 CFR Part 50, Appendix A; 10 CFR Part 50, Appendix B for the Yankee Atomic Electric Company License DPR–003, Rowe, MA

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: John Hickman, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop: T7E18, Washington, DC 20555–00001. Telephone: (301) 415–3017; e-mail: *jbh@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering granting a partial exemption from the Recordkeeping requirements of Title 10 of the Code of Federal Regulations (10 CFR) 50.71(c); 10 CFR part 50, Appendix A; 10 CFR part 50, Appendix B; and 10 CFR 50.59(d)(3), for the Yankee Nuclear Power Station (YNPS) as requested by Yankee Atomic Electric Company (YAEC or the Licensee) on February 15, 2006, as supplemented on March 23, 2006. An environmental assessment (EA) was performed by the NRC staff in support of its review of the exemption request.

II. Environmental Assessment

Background

YNPS is a deactivated pressurized-water nuclear reactor located in northwestern Massachusetts in Franklin County, near the southern Vermont border. The YNPS plant was constructed between 1958 and 1960 and operated commercially at 185 megawatts electric (after a 1963 upgrade) until 1992. In 1992, YAEC determined that closing of the plant would be in the best economic interest of its customers. In December 1993, NRC amended the YNPS operating license to retain a ''possession-only'' status. YAEC began dismantling and decommissioning activities at that time. Transfer of the spent fuel from the Spent Fuel Pit (SFP) to the Independent Spent Fuel Storage Installation (ISFSI) was completed in June 2003. With the exception of the greater than class C waste stored at the ISFSI, the reactor and all associated systems and components, including those associated with storage of spent fuel in the SFP, have been removed from the facility and disposed of offsite. In addition, the structures housing these systems and components have been demolished. Physical work associated with the decommissioning of YNPS is scheduled to be completed in 2006.

This Environmental Assessment (EA) has been developed in accordance with the requirements of 10 CFR 51.21.

Proposed Action

Yankee Atomic Electric Company (YAEC) is requesting the following exemption, for records pertaining to systems, structures, or components (SSCs) and/or activities associated with the nuclear power generating unit, Spent Fuel Pit, and associated support systems, from the retention requirements of: (1) 10 CFR part 50 Appendix A Criterion 1 which requires certain records be retained ''throughout the life of the unit''; (2) 10 CFR part 50 Appendix B Criterion XVII which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee; (3) 10 CFR 50.59(d)(3) which requires certain records be maintained until ''termination of a license issued pursuant to'' part 50; and (4) 10 CFR 50.71(c) which requires records retention for the period specified in the regulations or until license termination.

Need for Proposed Action

The requested exemption and application of the exemption will eliminate the requirement to maintain records that are no longer necessary due to the permanently shutdown status of the facility and thereby reduce the financial burden on ratepayers associated with the storage of a large volume of records.

Environmental Impacts of the Proposed Action

The proposed action is purely administrative in nature and will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site and there is no significant increase in the amount of any effluent released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents, and it has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that the proposed action will have no significant effect on the environment.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Under this alternative YNPS would continue to store the records in question until license termination which would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Agencies and Persons Consulted

None.

III. Finding of No Significant Impact

Based on this review, the NRC staff has concluded that there are no significant impacts on the quality of the human environment. Accordingly, the staff has determined that preparation of an Environmental Impact Statement is not warranted, and a Finding of No Significant Impact is appropriate.

IV. Further Information

For further details with respect to the proposed action, see the licensee's letter dated February 15, 2006, (ADAMS Accession No. ML060550077) as supplemented on March 23, 2006. (ADAMS Accession No. ML060960065) The NRC Public Documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397–4209. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 22nd day of June, 2006.

For the Nuclear Regulatory Commission.

Keith McConnell,

Deputy Director, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–10355 Filed 6–30–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54046; File No. SR–NYSEArca–2006–42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Extending the Time Period by Which the Exchange Will Amend the NASD–PCX Agreement Pursuant to Rule 17d–2

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 23, 2006, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its undertaking [6] to extend for 90 days from the date of this filing the time period by which the Exchange will amend and restate the agreement between the National Association of Securities Dealers, Inc. (''NASD'') and the Exchange currently in place pursuant to Rule 17d–2 under the Act [7] (the ''NASD–PCX Agreement'' or the ''Agreement''). As described in more detail below, the revisions to the NASD–PCX Agreement will expand the scope of the NASD's regulatory responsibility.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 22, 2005, the Commission approved a proposed rule change submitted by the Exchange relating to the acquisition of PCX Holdings, Inc. (now known as NYSE Arca Holdings, Inc.) [8] by Archipelago Holdings, Inc.[9] In that filing, the Exchange (formerly known as the Pacific Exchange, Inc.) committed to amend the NASD–PCX Agreement within 90 days of the Commission's approval of SR–PCX–2005–90 to expand the scope of the NASD's regulatory functions under the NASD–PCX Agreement so as to encompass all of the regulatory oversight and enforcement responsibilities with respect to the broker-dealer affiliate of Archipelago Holdings, Inc., Archipelago Securities, L.L.C. (''Archipelago Securities'').[10] The Exchange submitted subsequent filings on December 21, 2005 [11] and March 21, 2006 [12] to extend for 90 days the time period within which to amend the NASD–PCX Agreement. The Exchange and the NASD (collectively, the ''Parties'') have executed an amended and restated agreement and, on January 20, 2006, the Parties filed the amended and restated agreement with the Commission but have not yet received Commission approval of the amended and restated agreement.[13]

The Exchange believes that an extension of time for an additional 90 days from the date of this filing to amend the NASD–PCX Agreement will give the Commission staff sufficient time to publish and take action on the proposal. There is currently a plan in place (*i.e.*, the NASD–PCX Agreement) allocating to the NASD the responsibility to receive regulatory reports from Archipelago Securities, to examine Archipelago Securities for compliance and to enforce compliance by Archipelago Securities with the Act, the rules and regulations thereunder and the rules of the NASD, and to carry out other specified regulatory functions with respect to Archipelago Securities.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange has asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay. *See* 15 U.S.C. 78s(b)(3)(A), 17 CFR 240.19b–4(f)(6)(iii).

[6] *See* Securities Exchange Act Release No. 52497 (September 22, 2005), 70 FR 56949 (September 29, 2005) (approving SR–PCX–2005–90, as amended).

[7] 17 CFR 240.17d–2. *See* Securities Exchange Act Release No. 16858 (May 30, 1980), 45 FR 37927 (June 5, 1980) (File No. 4–267).

[8] *See* Securities Exchange Act Release No. 53615 (April 7, 2006), 71 FR 19226 (April 13, 2006) (notice of filing and immediate effectiveness of SR–PCX–2006–24, regarding the name change from PCX Holdings, Inc. to NYSE Arca Holdings, Inc.)

[9] *See* Securities Exchange Act Release No. 52497, *supra* note 6.

[10] Archipelago Securities acts as the outbound order router for the NYSE Arca Marketplace and, as such, is regulated as an exchange ''facility'' of the Exchange and NYSE Arca Equities, Inc.

[11] *See* Securities Exchange Act Release No. 52995 (December 21, 2005), 70 FR 77232 (December 29, 2005) (notice of filing and immediate effectiveness of SR–PCX–2005–140, as amended).

[12] *See* Securities Exchange Act Release No. 53545 (March 23, 2006), 71 FR 16183 (March 30, 2006) (notice of filing and immediate effectiveness of SR–NYSEArca–2006–06, as amended).

[13] The Commission notes that the staff of the Division of Market Regulation (''Commission staff'') has been engaged in discussions with the Parties regarding the amended and restated agreement filed by the Parties. NYSE Arca continues to work with the staff, and, together with the NASD, intends to submit in the near future a revised amended and restated agreement reflecting changes made in response to Commission staff comments. Telephone conversation between Janet Angstadt, Acting General Counsel, NYSE Arca, Richard Holley III, Special Counsel, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on June 26, 2006.

The Exchange notes that the current NASD–PCX Agreement will remain in full force and effect during the interim period, and the Exchange will continue to abide by the terms of the agreement. The Exchange believes, therefore, that the requested extension of time is consistent with the Act and the rules and regulations thereunder, will not significantly affect the protection of investors or the public interest, and does not impose any significant burden on competition.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest,[16] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18]

The Exchange has requested that the Commission waive the 30-day operative delay, which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver will allow the Exchange to comply with its undertaking made in connection with the Commission's approval of SR–PCX–2005–90 to amend the NASD–PCX Agreement. The Commission notes that the Exchange has filed with the Commission, on January 20, 2006, an executed amended and restated agreement, and that the Commission staff has been engaged in continuous discussions with the Parties regarding the amended and restated agreement. The Commission further notes that the Exchange has represented that it continues to work with the Commission staff, and that it intends to submit in the near future a revised amended and restated agreement reflecting changes made in response to Commission staff comments.[19] Extending the compliance date for the Exchange's undertaking by an additional 90 days will provide time for the Exchange to finalize and file the amended and restated agreement, as well as provide time for publication of, and action on, the amended and restated agreement. The Commission further notes that the current Commission-approved NASD–PCX Agreement will remain in full force and effect during the interim period, and the Exchange will continue to abide by the terms of that Agreement. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number NYSEArca-2006–42 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 NYSEArca-2006–42. 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 NYSEArca-2006–42 and should be submitted on or before July 24, 2006.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has requested that the Commission waive the 5-day pre-filing notice requirement. The Commission has determined to waive this requirement for this filing.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

[19] *See supra* note 13.

[20] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Nancy M. Morris,

Secretary.

[FR Doc. E6–10334 Filed 6–30–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54043; File No. SR–NYSEArca–2006–26]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Trading of Shares of Six Currency Trusts Pursuant to Unlisted Trading Privileges

June 26, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on June 6, 2006, the NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'' or ''Corporation''), the proposed rule change as described in Items I and II below, which items have been substantially prepared by the Exchange. On June 23, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and is granting accelerated approval to the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to NYSE Arca Equities Rule 8.202, which governs the trading of Currency Trust Shares,[4] the Exchange proposes to trade pursuant to unlisted trading privileges (''UTP'') shares (''Shares'') of the following six trusts: CurrencyShares™ Australian Dollar Trust, which issues Australian Dollar Shares; CurrencyShares™) British Pound Sterling Trust, which issues British Pound Sterling Shares; CurrencyShares™ Canadian Dollar Trust, which issues Canadian Dollar Shares; CurrencyShares™ Mexican Peso Trust, which issues Mexican Peso Shares; CurrencyShares™ Swedish Krona Trust, which issues Swedish Krona Shares; and CurrencyShares™ Swiss Franc Trust, which issues Swiss Franc Shares (collectively, the ''Trusts'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, substantially 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

As mentioned above, the Exchange proposes to trade, pursuant to UTP and NYSE Arca Equities Rule 8.202, the Shares. Each Share represents a proportional interest, based on the total number of Shares outstanding, in the applicable foreign currency owned by the specific Trust, less the estimated accrued but unpaid expenses (both asset-based and non-asset based) of such Trust. On June 20, 2006, the Commission approved a rule proposal by the New York Stock Exchange LLC (''NYSE'') to permit the original listing and trading of the Shares by and on the NYSE.[5]

Rydex Specialized Products LLC is the sponsor of the Trusts (''Sponsor''),[6] the Bank of New York is the trustee of the Trusts (''Trustee''), JPMorgan Chase Bank, N.A., London Branch, is the depository for the Trusts (''Depository''), and Rydex Distributors, Inc. is the distributor for the Trusts (''Distributor''). The Sponsor, Trustee, Depository, and Distributor are not affiliated with the Exchange or one another, with the exception that the Sponsor and Distributor are affiliated. The Exchange currently trades pursuant to UTP the shares of the Euro Currency Trust, which has the same Sponsor, Trustee, Depository and Distributor as the Trusts.[7]

According to the Exchange, the investment objective of each Trust is for the Shares issued by the Trust to reflect the price of its particular currency,[8] less the expenses of the Trust. Each Trust's assets will consist only of foreign currency on demand deposit in a foreign currency-denominated, interest-bearing account at the Depository. The Sponsor expects that the price of a Share will fluctuate in response to fluctuations in the price of the applicable foreign currency and that the price of a Share will reflect accumulated interest as well as the estimated accrued but unpaid expenses of the specific Trust.

a. The Shares

A description of the currencies underlying each of the Trusts, the foreign exchange industry, foreign currency regulation, operation of the Trusts, and the Shares is set forth in the NYSE Proposal and the NYSE Order. To summarize, issuances of Shares will be made only in baskets of 50,000 Shares or multiples thereof (''Baskets''). The Trusts will issue and redeem the Shares on a continuous basis, by or through participants that have entered into participant agreements (''Authorized Participants'') [9] with the Trustee. The

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Partial Amendment No. 1.

[4] Currency Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interest in the non-U.S. currency deposited into the trust. *See* NYSE Arca Equities Rule 8.202 and Securities Exchange Act Release No. 53253 (February 8, 2006), 71 FR 8029 (February 15, 2006) (SR–PCX–2005–123) (order granting accelerated approval for the Exchange to adopt generic listing and trading standards for Currency Trust Shares and approving the UTP trading of shares of the Euro Currency Trust).

[5] *See* File No. SR–NYSE–2006–35, as amended (''NYSE Proposal''), and Securities Exchange Act Release No. 54020 (''NYSE Order'').

[6] The Sponsor, on behalf of the Trusts, filed a Form S–1 for each Trust on March 10, 2006 (collectively, ''Registration Statements''). *See* Registration No. 333–132362 for the CurrencyShares Australian Dollar Trust, Registration No. 333–132361 for the CurrencyShares British Pound Sterling Trust, Registration No. 333–132363 for the CurrencyShares Canadian Dollar Trust, Registration No. 333–132367 for the CurrencyShares Mexican Peso Trust, Registration No. 333–132366 for the CurrencyShares Swedish Krona Trust, and Registration No. 333–132364 for the Swiss Franc Trust.

[7] *See* Securities Exchange Act Release No. 53253, *supra* note 4.

[8] The CurrencyShares™ Australian Dollar Trust holds the Australian Dollar; the CurrencyShares™ British Pound Sterling Trust holds the British Pound Sterling; the CurrencyShares™ Canadian Dollar Trust holds the Canadian Dollar; the CurrencyShares™ Mexican Peso Trust holds the Mexican Peso; the CurrencyShares™ Swedish Krona Trust holds the Swedish Krona; and the CurrencyShares™ Swiss Franc Trust holds the Swiss Franc.

[9] An ''Authorized Participant'' is a person, who at the time of submitting to the Trustee an order to create or redeem one or more Baskets, is a Depository Trust Company Participant that is a registered broker-dealer or other securities market participant such as a bank or other financial institution that is not required to register as a

Continued

creation and redemption of Baskets requires the delivery to the Trusts or the distribution by the Trusts of the amount of foreign currency represented by the Baskets being created or redeemed. This amount is based on the combined net asset value ("NAV") per Share of the number of Shares included in the Baskets being created or redeemed, determined on the day the order to create or redeem Baskets is properly received.

The Trustee will calculate, and the Sponsor will publish, each Trust's NAV each business day.[10] To calculate the NAV for a Trust, the Trustee will subtract the Sponsor's accrued fee for the current day from the foreign currency held by the Trust (including all unpaid interest accrued through the immediately preceding day) and calculate the value the foreign currency held by a Trust in dollars on the basis of the day's announced Noon Buying Rate as determined by the Federal Reserve Bank of New York.[11] If the Noon Buying Rate is not announced by 2 p.m. Eastern time ("ET"), the Trustee will use the most recently announced Noon Buying Rate, unless the Trustee, in consultation with the Sponsor, determines to apply an alternative basis for evaluation as a result of extraordinary circumstances. The Trustee also determines the NAV per Share, which equals the NAV of the Trusts divided by the number of outstanding Shares. The calculation methodology for the NAV is described in more detail in the NYSE Proposal and the NYSE Order.

The total deposit required to create each Basket, called the "Basket Amount," is an amount of foreign currency bearing the same proportion to the number of Baskets to be created as the total assets of a Trust (net of estimated accrued but unpaid expenses) bears to the total number of Baskets outstanding on the date that the order to purchase is properly received. The amount of the required deposit is determined by dividing the number of units of foreign currency (*e.g.* Australian Dollars) held by a Trust (net of estimated accrued but unpaid expenses) by the number of Baskets outstanding. The Basket Amount and NAV will be determined by the Trustee "as promptly as practicable" after the Federal Reserve announces the Noon Buying Rate and will be published on the Trusts' Web site on each business day.[12] Authorized Participants that wish to purchase a Basket must transfer the Basket Amount to a Trust in exchange for a Basket.[13] Baskets are then separable upon issuance into the Shares that will be traded on the NYSE Arca Marketplace on a UTP basis.[14]

The Shares will not be individually redeemable but will only be redeemable in Baskets. To redeem, an Authorized Participant will be required to accumulate enough Shares to constitute a Basket (*i.e.,* 50,000 Shares). Authorized Participants that wish to redeem a Basket will receive the Basket Amount in exchange for each Basket surrendered. The operation of the Trusts and the creation and redemption process is described in more detail in the NYSE Proposal and the NYSE Order.

b. Dissemination of Information About the Shares and the Underlying Foreign Currencies

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a foreign currency over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of foreign currency price and market information available on public Web sites and through professional and subscription services. As is the case with equity securities generally and exchange-traded funds specifically, in most instances, real-time information is only available for a fee, and information available free of charge is subject to delay (typically, 20 minutes).

Investors may obtain on a 24-hour basis foreign currency pricing information based on the foreign currency spot price of each applicable foreign currency from various financial information service providers. Complete real-time data for foreign currency futures [15] and options prices traded on the Chicago Mercantile Exchange ("CME") and the Philadelphia Stock Exchange ("Phlx") are also available by subscription from information service providers.[16] The CME and Phlx also provide delayed futures and options information on current and past trading sessions and market news free of charge on their respective Web sites.

There are a variety of other public Web sites available at no charge that provide information on the currencies underlying the Shares that are the subject of this filing, which service providers include Bloomberg, (*http://www.bloomberg.com/markets/currencies/fxc.html*), CBS Market Watch (*http://www.marketwatch.com/tools/stockresearch/globalmarkets*), Yahoo! Finance (*http://www.finance.yahoo.com/currency*), moneycentral.com, cnnfn.com and reuters.com, which provide spot price or currency conversion information about each of the currencies that underlie the Shares that are the subject of this filing. Many of these sites offer price quotations drawn from other published sources, and as the information is supplied free of charge, it generally is subject to time delays.[17] In addition, major market data vendors regularly report current currency exchange pricing for a fee for the currencies underlying the Shares that are the subject of this proposal.

In addition, the Trusts' Web site (*http://www.currencyshares.com*), which is publicly accessible at no charge, will provide the following information: (1) The spot price for each applicable foreign currency,[18] including

broker-dealer to engage in securities transactions and has entered into a Participant Agreement with the Sponsor and the Trustee.

[10] For purposes of processing purchase and redemption orders, a "business day" means any day other than a day when the NYSE is closed for regular trading.

[11] According to the NYSE Proposal, the NAV will be posted on the Trusts' Web site as soon as the valuation of the foreign currency held by a Trust is complete (ordinarily by 2 p.m. ET). Ordinarily, the NAV will be posted no more than 30 minutes after the Noon Buying Rate is published by the Federal Reserve Bank of New York. The NYSE represented in the NYSE Proposal that all market participants will have access to this data at the same time and, therefore, no market participant will have a time advantage in using such data.

[12] Ordinarily no later than 2 p.m. (ET). According to the NYSE Proposal, the Basket Amount will be published simultaneously with the NAV. *See* NYSE Proposal and NYSE Order, *supra* note 5.

[13] Before the delivery of Baskets for a purchase order or the delivery of the redemption distribution for a redemption order, the Authorized Participant must also have wired to the Trustee a non-refundable transaction fee due for the order.

[14] Shares are separate and distinct from the underlying foreign currency comprising the portfolio of a Trust. The Exchange expects that the number of outstanding Shares will increase and decrease as a result of in-kind deposits and withdrawals of the underlying foreign currency.

[15] *See* telephone conversation between Kimberly Loies, attorney, Lord, Bissell & Brook LLP, counsel for the Exchange, Geoffrey Pemble, Special Counsel, Commission, and Christopher Chow, Special Counsel, Commission, on June 26, 2006 ("June 26 Telephone Conversation").

[16] *See infra* note 29.

[17] There may be incremental differences in the foreign currency spot price among the various information service sources. While the Exchange believes the differences in the foreign currency spot price may be relevant to those entities engaging in arbitrage or in the active daily trading of the applicable foreign currency or foreign currency derivatives, the Exchange believes such differences are likely of less concern to individual investors intending to hold the Shares as part of a long-term investment strategy.

[18] The Trusts' Web site's foreign currency spot price will be provided by FactSet Research Systems (*http://www.factset.com*). FactSet Research Systems is not affiliated with the Trusts, Trustee, Sponsor, Depository, Distributor, or the Exchange. In the event that the Trusts' Web site should cease to

the bid and offer and the midpoint between the bid and offer for the foreign currency spot price, updated at least every 15 seconds; [19] (2) an IIV per Share calculated by multiplying the indicative spot price of the applicable foreign currency by the quantity of foreign currency backing each Share, updated at least every 15 seconds; (3) an indicative value (subject to a 20-minute delay), which is used for calculating premium/discount information; (4) premium/discount information, calculated on a 20-minute delayed basis; (5) the NAV of each Trust as calculated each business day by the Trustee; (6) accrued interest per Share; (7) the daily Federal Reserve Bank of New York Noon Buying Rate; (8) the Basket Amount for each applicable foreign currency; and (9) the last sale price of the Shares as traded in the U.S. market, subject to a 20-minute delay, as it is provided free of charge.[20] On the Trusts' Web site, the foreign currency spot prices will be available and disseminated at least every 15 seconds and the IIV per Share will be calculated and disseminated at least every 15 seconds during NYSE Arca Marketplace's opening and late trading sessions, as well as during its core trading session.[21] The Exchange will provide on its own public Web site (*http://www.nysearca.com*) a link to the Trusts' Web site.

c. UTP Trading Criteria

The Exchange will cease trading in the Shares during the listing market's trading hours if: (a) The listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12 and/or a halt because the IIV and/or the underlying value (spot price) [22] of the applicable foreign currency is no longer calculated or disseminated; [23] or (b) the listing market delists the Shares. Additionally, the Exchange may cease trading the Shares if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Because NYSE Arca Marketplace will be trading the Shares during its opening and late trading sessions, when the listing market is closed, the Exchange will take reasonable steps designed to ensure that the applicable foreign currency spot price and IIV are disseminated during these trading sessions. In addition, the Exchange will cease trading the Shares if: (1) The value of the foreign currency is not calculated and available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, the Trust, the Trustee, or the Exchange and the Exchange is not providing a hyperlink on the Exchange's Web site to any such unaffiliated foreign currency value; or [24] (2) the IIV is not made available on at least a 15-second delayed basis.[25]

d. Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.[26] Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Equities Rule 7.34(a).[27] The Exchange represents that it has appropriate rules to facilitate transactions in the Shares during all trading sessions. The minimum trading increment for Shares on the Exchange will be $0.01.

NYSE Arca Equities Rules 8.202(g)–(i) set forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. NYSE Arca Equities Rule 8.202(h) requires that the ETP Holder acting as a registered Market Maker in the Shares provide the Exchange with information relating to its trading in the applicable foreign currency, options, futures or options on futures on such currency, or any other derivatives based on such currency. NYSE Arca Equities Rule 8.202(i) prohibits the ETP Holder acting as a registered Market Maker in the Shares from using any material nonpublic information received from any person associated with an ETP Holder or employee of such person regarding trading by such person or employee in the applicable foreign currency, options, futures or options on futures on such currency, or any other derivatives based on such currency (including the Shares). In addition, NYSE Arca Equities Rule 8.202(g) prohibits the ETP Holder acting as a registered Market Maker in the Shares from being affiliated with a market maker in the applicable foreign currency, options, futures or options on futures on such currency, or any other derivatives based on such currency, unless adequate information barriers are in place, as provided in NYSE Arca Equities Rule 7.26.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the applicable foreign currency, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule.[28] *See* ''UTP Trading Criteria'' section above for specific instances when the Exchange will cease trading in the Shares.

The Shares will be deemed ''Eligible Listed Securities,'' as defined in NYSE Arca Equities Rule 7.55, for purposes of the Intermarket Trading System (''ITS'') Plan and therefore will be subject to the trade through provisions of NYSE Arca Equities Rule 7.56, which require that ETP Holders avoid initiating trade-throughs for ITS securities.

e. Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, shares of the streetTRACKS Gold Trust, and shares of the Euro Currency Trust to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly

provide this foreign currency spot price information from an unaffiliated source and the intraday indicative value (''IIV'') of the Shares, the NYSE will commence delisting proceedings for the Shares. The NYSE also will halt trading in an issue of Shares for which the IIV is no longer calculated or disseminated. *See* NYSE Proposal and NYSE Order.

[19] The midpoint will be calculated by the Sponsor. The midpoint is used for purposes of calculating the premium or discount of the Shares. For example, assuming a British Pound spot bid of $1.7473 and an offer of $1.7474, the mid point would be calculated as follows: (British Pound spot bid plus ((spot offer minus spot bid) divided by 2)) or ($1.7473 + ($1.7474 − $1.7473)/2)) + $1.74735. The Sponsor has represented to the Exchange that the IIV will be available during the Exchange's early, core and late trading sessions (4 a.m. ET to 8 p.m. ET).

[20] The last sale price of the Shares in the secondary market is available on a real-time basis for a fee from regular data vendors.

[21] Pursuant to NYSE Arca Equities Rule 7.34(a), the NYSE Arca Marketplace trading hours for exchange-traded funds are as follows: (1) Opening trading session—4 a.m. to 9:30 a.m. ET; (2) core trading session—9:30 a.m. to 4:15 p.m.

[22] For purposes of trading the Shares pursuant to UTP, the applicable value would be the applicable foreign currency spot price on the Trusts' Web site (to which the Exchange will hyperlink), which is currently provided by FactSet Research Systems (*http://www.factset.com*).

[23] June 26 Telephone Conversation, *supra* note 15.

[24] *Id.*

[25] In such case, the Exchange would immediately contact the Commission's staff. *See* Amendment No. 1.

[26] *See* NYSE Arca Equities Rule 8.202(b).

[27] *See supra* note 21.

[28] *See* NYSE Arca Equities Rule 7.12.

monitor Exchange trading of the Shares in all trading sessions.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange is able to obtain information regarding trading in the Shares, foreign currency options, and foreign currency futures through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG.[29] Specifically, the Exchange can obtain information: (1) From the CME, an affiliate member of ISG, about the trading of the relevant foreign currency futures, and options on those futures, that trade on the CME; and (2) from the Phlx, a member of the ISG, about the trading of options on the relevant foreign currencies that trade on the Phlx.[30]

f. Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (and that Shares are not individually redeemable but are redeemable only in aggregations of at least 50,000 Shares); (2) NYSE Arca Equities Rule 9.2(a),[31] which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (5) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. The Exchange notes that investors purchasing Shares directly from the Trusts (by delivery of the Basket Amount) will receive a prospectus. ETP Holders purchasing Shares from the Trusts for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that each Trust is subject to various fees and expenses described in the applicable Registration Statement, and that the number of units of foreign currency required to create a Basket or to be delivered upon a redemption of a Basket may gradually decrease over time in the event that a Trust is required to sell units of foreign currency to pay the Trust's expenses, and that if done at a time when the price of the applicable foreign currency is relatively low, it could adversely affect the value of the Shares. Finally, the Information Bulletin also will reference the fact that there is no regulated source of last sale information regarding foreign currency, and that the Commission has no jurisdiction over the trading of foreign currency.

The Information Bulletin will also discuss any relief, if granted, by the Commission from any rules under the Exchange Act.[32]

2. Statutory Basis

The Exchange states that the proposed rule change, as amended, is consistent with section 6(b) of the Exchange Act [33] in general and furthers the objectives of section 6(b)(5) of the Exchange Act [34] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest.

In addition, the Exchange believes that the proposal is consistent with Rule 12f–5 under the Exchange Act [35] because it deems the Shares to be equity securities, thus rendering the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, 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 states that written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2006–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2006–26. 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/*

[29] As noted in the NYSE Proposal, futures on the Australian Dollar, British Pound, Canadian Dollar, Mexican Peso, Swedish Krona and Swiss Franc, as well as options on such futures (except for the Swedish Krona) are traded on the CME (both exchange pit trading and GLOBEX trading, except for Swedish Krona futures, which trade on GLOBEX only). Standardized options on the Australian Dollar, British Pound, Canadian Dollar and Swiss Franc trade on the Phlx. These U.S. markets are the primary trading markets in the world for exchange-traded futures, options, and options or futures on these currencies. As noted in the NYSE Proposal, based on the NYSE's review of information supplied by major market data vendors, exchange-traded options are not traded on the Mexican Peso or the Swedish Krona.

[30] *See supra* note 29.

[31] The Exchange has proposed to amend NYSE Arca Equities Rule 9.2(a) (''Diligence as to Accounts'') to provide that ETP Holders, before recommending a transaction, must have reasonable grounds to believe that the recommendation is suitable for the customer based on any facts disclosed by the customer as to his other security holdings and as to his financial situation and needs. Further, the proposed rule amendment provides that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holders should make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that they believe would be useful to make a recommendation. *See* Amendment No. 2 to SR–PCX–2005–115 (May 5, 2006).

[32] The applicable rules are: Rule 10a–1; Rule 200(g) of Regulation SHO; Section 11(d)(1) and Rule 11d1–2; and Rules 101 and 102 of Regulation M under the Exchange Act.

[33] 15 U.S.C. 78s(b).

[34] 15 U.S.C. 78s(b)(5).

[35] 17 CFR 240.12f–5.

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2006–26 and should be submitted by July 24, 2006.

IV. Commission Findings and Order Granting Accelerated Approval of a Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Exchange Act [36] and the rules and regulations thereunder applicable to a national securities exchange.[37] In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of section 6(b)(5) of the Exchange Act,[38] which requires that the an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

In addition, the Commission finds that the proposal is consistent with section 12(f) of the Exchange Act,[39] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[40] The Commission notes that it previously approved the listing and trading of the Shares on the NYSE.[41]

The Commission also finds that the proposal is consistent with Rule 12f–5 under the Exchange Act,[42] which provides that an exchange shall not extend UTP to a security unless it has in effect a rule or rules providing for transactions in a class or type of security to which the exchange extends UTP. NYSE Arca rules deem the Shares to be equity securities, thus trading in the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.[43]

The Commission further believes that the proposal is consistent with section 11A(a)(1)(C)(iii) of the Exchange Act,[44] which sets forth Congress' finding that it is in the public interest, and is appropriate for the protection of investors and the maintenance of fair and orderly markets, to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In support of the proposal, the Exchange has made the following representations: (1) The Exchange has appropriate rules to facilitate transactions in this type of security in all trading sessions; (2) the Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange; (3) the Exchange will distribute an Information Bulletin to its members prior to the commencement of trading of the Shares on the Exchange that explains the special characteristics and risks of trading the Shares; (4) the Exchange will require a member with a customer who purchases newly issued Shares on the Exchange to provide that customer with a product prospectus and will note this prospectus delivery requirement in the Information Bulletin; (5) the Exchange will cease trading in the Shares if: (a) The listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12 and/or a halt because the IIV and/or the underlying value (spot price) of the applicable foreign currency is no longer calculated or disseminated; (b) the listing market delists the Shares; or (c) such other event occurs or condition exists that, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.[45] This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after publication of the notice of filing thereof in the **Federal Register**. The Commission recently granted approval to the NYSE to list and trade the Shares.[46] Accelerating approval of this proposed rule change should benefit investors by creating, without undue delay, additional competition in the market for the Shares.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act [47] that the proposed rule change (SR–NYSEArca–2006–26), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[48]

Nancy M. Morris,

Secretary.

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[36] 15 U.S.C. 78f.

[37] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* U.S.C. 78c(f).

[38] 15 U.S.C. 78f(b)(5).

[39] 15 U.S.C. 78l(f).

[40] Section 12(a) of the Act, 15 U.S.C. 78l(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange "extends UTP." When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[41] *See* NYSE Order, *supra* note 5.

[42] 17 CFR 240.12f–5.

[43] The Commission notes that any new listing or trading of an issue of Currency Trust Shares will be subject to approval of a proposed rule change by the Commission pursuant to section 19(b)(2) of the Exchange Act, 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, 17 CFR 240.19b–4.

[44] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[45] In addition, the Exchange will cease trading the Shares if: (1) The value of the foreign currency is not calculated and available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, the Trust, the Trustee, or the Exchange and the Exchange is not providing a hyperlink on the Exchange's Web site to any such unaffiliated foreign currency value; or (2) the IIV is not made available on at least a 15-second delayed basis.

[46] *See* NYSE Order, *supra* note 5.

[47] 15 U.S.C. 78s(b)(2).

[48] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54045; File No. SR–PCX–2005–115]

Self-Regulatory Organizations; Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.); Notice of Filing of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto and Order Granting Partial Accelerated Approval Relating to Trading Shares of the Funds of the ProShares Trust Pursuant to Unlisted Trading Privileges

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 October 11, 2005, the Pacific Exchange, Inc.

[1] 15 U.S.C 78s(b)(1).

[2] 17 CFR 240.19b–4.

(n/k/a NYSE Arca, Inc.) (the ''Exchange''), through its wholly owned subsidiary PCX Equities, Inc. (n/k/a/ NYSE Arca Equities, Inc.) (''NYSE Arca Equities'' or the ''Corporation''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange.[3] The Exchange filed Amendment No. 1 to the proposed rule change on November 21, 2005.[4] The Exchange filed Amendment No. 2 to the proposed rule change on May 5, 2006.[5] On June 21, 2006, the Commission published the proposed rule change for notice from interested persons and partially approved on an accelerated basis, as amended, that portion of the proposal pertaining to the trading, pursuant to unlisted trading privileges (''UTP''), of the Shares of the Ultra 500 Fund, Ultra 100 Fund, Ultra 30 Fund, Ultra Mid-Cap 400 Fund, Short 500 Fund, Short 100 Fund, Short 30 Fund, Short Mid-Cap 400 Fund and the portion of the proposal pertaining to NYSE Arca Equities Rule 9.2(a).[6] The Commission is now approving on an accelerated basis the remainder of the proposed rule change, as amended, pertaining to the trading, pursuant to UTP, of the Shares of the Ultra Short 500 Fund, Ultra Short 100 Fund, Ultra Short 30 Fund, and Ultra Short Mid-Cap 400 Fund.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly owned subsidiary NYSE Arca Equities, proposes to trade shares (''Shares''), pursuant to UTP, the following four funds of the ProShares Trust (f/k/a xtraShares Trust) (the ''Trust''): Ultra Short 500 Fund, Ultra Short 100 Fund, Ultra Short 30 Fund and Ultra Short Mid-Cap 400 Fund (the ''Funds'').

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. The text of these statements may be examined at the places specified in Item III below, and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under NYSE Arca Equities Rule 5.2(j)(3), the Exchange may propose to list and/or trade pursuant to UTP ''Investment Company Shares.'' With this filing, the Exchange proposes to trade pursuant to UTP the Shares of the Funds under NYSE Arca Equities Rule 5.2(j)(3). The Exchange represents that the Shares, which seek to provide investment results that correspond to the inverse or opposite of twice the inverse or opposite (−200%) of the index's daily performance, qualify as Investment Company Shares as defined in NYSE Arca Equities Rule 5.2(j)(3). To accommodate the trading of the Shares, the Exchange has amended NYSE Arca Equities Rule 9.2(a) (''Diligence as to Accounts''), as more fully described in the NYSE Arca Order. The Commission also previously approved the trading, pursuant to UTP, of the Shares of eight of the Funds on the Exchange in the NYSE Arca Order.

The four Funds—the Ultra Short 500, Ultra Short 100, Ultra Short 30, and Ultra Short Mid-Cap400 Funds (the ''Additional Bearish Funds'')—seek daily investment results, before fees and expenses, that correspond to twice (or two times) the inverse or opposite (−200%) of the daily performance of the S&P 500, Nasdaq 100, DJIA and S&P MidCap, respectively. If each of these Funds is successful in meeting its objective, the net asset value (the ''NAV'') of the 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. A description of the Shares, dissemination of information about the Shares and the Funds' underlying indexes, surveillance procedures applicable to trading of the Shares on the Exchange, and the Exchange's information bulletin pertaining to the Shares is set forth in the NYSE Arca Order.[7]

(a) UTP Trading Criteria

The Exchange represents that it will cease trading the Shares of a Fund during the listing market's trading hours if: (a) The listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12 or a halt because the IIV or the value of the applicable Underlying Index is no longer available at least every 15 seconds or the NAV is not disseminated to all market participants at the same time[8] or (b) the listing market delists the Shares. Additionally, the Exchange may cease trading the Shares of a Fund if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(b) Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 9:30 a.m. ET until 8 p.m. ET, even if the IIV is not disseminated from 4:15 p.m. ET to 8 p.m. ET.[9] The Exchange states that it has appropriate rules to facilitate transactions in the Shares during all trading sessions. The minimum trading increment for Shares on the Exchange will be $0.01.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund. Trading may be halted because

[3] On March 6, 2006, the Pacific Exchange, Inc. (''PCX''), filed with the Commission a proposed rule change, which was effective upon filing, to change the name of the Exchange, as well as several other related entities, to reflect Archipelago's recent acquisition of PCX and the merger of the NYSE with Archipelago. *See* Securities Exchange Act Release No. 56315 (April 7, 2006), 71 FR 19226 (April 13, 2006) (File No. SR–PCX–2006–24). All references herein have been changed to reflect these transactions. Telephone Conference between Lisa Dallmer, Director, NYSE Arca Equities, Inc., and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, on June 21, 2006.

[4] Amendment No. 1 replaced and superseded the original filing in its entirety.

[5] Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

[6] Securities Exchange Act Release No. 54026 (June 21, 2006) (''NYSE Arca Order'').

[7] *See also* Securities Exchange Act Release No. 54040 (June 23, 2006) (SR–AMEX–2006–41 (the ''Amex Order'') (approval to list and trade on Amex the Ultra Short 500 Fund, Ultra Short 100 Fund, Ultra Short 30 Fund and Ultra Short Mid-Cap 400 Fund).

[8] Telephone Conference between Lisa Dallmer, Director, NYSE Arca Equities, Inc., and Florence E. Harmon, Senior Special Counsel, Division, Commission, on June 26, 2006 (as to simultaneous NAV dissemination).

[9] Because National Securities Clearing Corporation (''NSCC'') does not disseminate the new basket amount to market participants until approximately 6 p.m. to 7 p.m. ET, an updated IIV is not possible to calculate during the Exchange's late trading session. The Exchange also states that currently the official index sponsors for the Funds' indexes do not calculate updated index values during the Exchange's late trading session; however, if the index sponsors did so in the future, the Exchange will not trade this product unless such official index value is widely disseminated. Telephone Conference between Lisa Dallmer, Director, NYSE Arca Equities, Inc., and Florence E. Harmon, Senior Special Counsel, Division, Commission, on June 21, 2006.

of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the 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. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule [10] or by the halt or suspension of trading of the underlying securities.[11]

Shares will be deemed ''Eligible Listed Securities,'' as defined in NYSE Arca Equities Rule 7.55, for purposes of the Intermarket Trading System (''ITS'') Plan and therefore will be subject to the trade through provisions of NYSE Arca Equities Rule 7.56, which require that ETP Holders avoid initiating trade-throughs for ITS securities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5),[13] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest.

In addition, the Exchange believes that the proposal is consistent with Rule 12f–5 under the Act [14] because it deems the Shares to be equity securities, thus rendering the Shares subject to the Exchange's existing rules governing the trading of equity securities.

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.

[10] *See* NYSE Arca Equities Rule 7.12.

[11] *See* ''UTP Trading Criteria'' above for specific instances when the Exchange will cease trading the Shares.

[12] 15 U.S.C. 78s(b).

[13] 15 U.S.C. 78s(b)(5).

[14] 17 CFR 240.12f–5.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2005–115 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PCX–2005–115. 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–PCX–2005–115 and should be submitted on or before July 24, 2006.

IV. Commission's Findings and Order Granting Accelerated Partial Approval of Proposed Rule Change

The Commission previously approved the portion of the proposed rule change, as amended, pertaining to the trading pursuant to UTP of eight Funds: Ultra 500 Fund, Ultra 100 Fund, Ultra 30 Fund, Ultra Mid-Cap 400 Fund, Short 500 Fund, Short 100 Fund, Short 30 Fund, and Short Mid-Cap 400 Fund (''Original Funds'').[15] The Commission also previously approved the Exchange's Rule 9.2(a) with respect to ''Diligence to Accounts.'' [16] The Commission is now approving the portion of the proposed rule change, as amended, pertaining to the trading pursuant to UTP of the four remaining Funds: Ultra Short 500 Fund, Ultra Short 100 Fund, Ultra Short 30 Fund, Ultra Short Mid-Cap 400 Fund (''Subsequent Funds''). With regard to the trading pursuant to UTP of the Subsequent Funds, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the portion of the proposed rule change pertaining to the Subsequent Funds is consistent with Section 6(b)(5) of the Act,[18] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

In addition, the Commission finds that the portion of the proposal pertaining to the trading of the Original Funds is consistent with Section 12(f) of the Act,[19] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[20] The Commission notes that

[15] *See* NYSE Arca Order, *supra*, note 6.

[16] *Id.*

[17] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78*l*(f).

[20] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

it previously approved the listing and trading of the Shares of all of the Funds on the Amex and the trading, pursuant to UTP, of the Original Funds on the Exchange.[21] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[22] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. NYSEArca rules deem the Shares to be equity securities, thus trading in the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[23] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In connection with the Exchange's UTP of the Shares of the Subsequent Funds, the Exchange will cease trading in the Shares if: (1) The listing market stops trading the Shares because of a regulatory halt similar to NYSE Arca Equities Rule 7.12 or a halt because the Indicative Partnership Value or the value of the applicable Underlying Index is no longer available (at least every 15 seconds during the trading day), or the NAV is not disseminated to all market participants at the same time, or (b) the listing market delists the Shares. Additionally, the Exchange may cease trading the Shares if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

In support of the portion of the proposed rule change regarding UTP of the Shares, of the Original Funds, the Exchange has made the following representations:

1. The Exchange has appropriate rules to facilitate transactions in this type of security in all trading sessions.

2. The Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange.

3. The Exchange will distribute an Information Bulletin to its members prior to the commencement of trading of the Shares on the Exchange that explains the special characteristics and risks of trading the Shares.

4. The Exchange will require a member with a customer who purchases newly issued Shares on the Exchange to provide that customer with a product prospectus and will note this prospectus delivery requirement in the Information Bulletin.

5. The Exchange will cease trading in the Shares if (1) the listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12 and/or a halt because the Indicative Partnership Value or the value of the applicable Underlying Index is no longer available at least every 15 seconds or the NAV is not disseminated to all market participants at the same time, or (2) the listing market delists the Shares.

This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for partially approving the remaining portion of this proposed rule change with regard to the UTP of the Subsequent Funds before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of these Shares on the Amex is consistent with the Act.[24] The Commission presently is not aware of any issue that would cause it to revisit that earlier finding or preclude the trading of these funds on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposed rule change should benefit investors by creating, without undue delay, additional competition in the market for these Shares.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–PCX–2005–115), as amended, is hereby partially approved on an accelerated basis.[25]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Nancy M. Morris,

Secretary.

[FR Doc. E6–10335 Filed 6–30–06; 8:45 am]

BILLING CODE 8010–01–P

[21] *See* Amex Order, *supra* note 7.

[22] 17 CFR 240.12f–5.

[23] 15 U.S.C. 78k–(a)(1)(C)(iii).

[24] *See* Amex Order, *supra* note 7.

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–2005–22935]

Application of Mokulele Flight Service, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 2006–6–34).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Mokulele Flight Service, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than July 11, 2006.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–2005–22935 and addressed to U.S. Department of Transportation, Docket Operations, (M–30, Room PL–401), 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Vanessa R. Balgobin, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: June 27, 2006.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. E6–10390 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2006–25169, Notice No. 1]

Hazardous Materials: Improving the Safety of Railroad Tank Car Transportation of Hazardous Materials

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

ACTION: Notice of establishment of public docket; notice of availability.

SUMMARY: FRA and the Pipeline and Hazardous Materials Safety Administration (PHMSA), operating administrations of DOT, have initiated a comprehensive review of design and operational factors that affect the safety of railroad tank car transportation of hazardous materials. In order to facilitate public involvement in this review, FRA and PHMSA held a public meeting on May 31 and June 1, 2006, and FRA has established a public docket to provide all interested parties with a central location to both send and review relevant information concerning improving the safety of railroad tank car transportation of hazardous materials. The docket established for this purpose is designated Docket No. FRA–2006–25169. A copy of the transcript of the May 31 and June 1, 2006 public meeting is available in the docket.

ADDRESSES: The public is invited to submit both relevant information and relevant comments to the docket. Written submissions should refer to the docket number of this notice (Docket No. FRA–2006–25169) and may be submitted by any of the following methods:

Web site: http://dms.dot.gov. Follow the instructions for submitting comments on the DOT electronic docket site.

Fax: 202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

Hand Delivery: Docket Management Facility, Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION: The Secretary of Transportation (Secretary) has authority over all areas of railroad safety (49 U.S.C. 20101 *et seq.*), and has delegated this authority to FRA. FRA has issued a comprehensive set of Federal regulations governing the safety of all facets of freight and passenger railroad operations (49 CFR parts 200–244). FRA also conducts research and development to enhance railroad safety. The Secretary is also responsible for ''prescrib[ing] regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.'' 49 U.S.C. 5103. The Secretary has delegated this authority to PHMSA. FRA inspects railroads and shippers for compliance with both FRA railroad safety regulations and PHMSA regulations governing the transportation of hazardous materials in commerce.

As detailed in PHMSA's ''Notice of public meeting'' published on May 24, 2006 (71 FR 30019), in the last several years, there have been a number of railroad accidents which resulted in hazardous material releases from tank cars. 71 FR at 30020. As noted in the May 24, 2006 notice, some of these accidents are of particular concern because they involved materials that were poisonous or toxic by inhalation (TIH materials). *Id.* In addition, several other railroad accidents have occurred in recent years that, while not involving TIH materials, also involve the breach of railroad tank cars containing DOT regulated hazardous materials. These accidents include tank car failures at Eunice, LA (May 27, 2000), Council Bluffs, IA (October 8, 2004), Milford, UT (January 12, 2005), Creighton, PA (February 2, 2005) and Cleveland, OH (January 27, 2006). A primary causative factor of each of these accidents (those involving TIH materials and those involving other than TIH materials) was railroad operations, a failed tank structure, or a combination of the two.

FRA and PHMSA have initiated a comprehensive review of design and operational factors that affect the safety of railroad tank car transportation of hazardous materials. As noted in the May 24, 2006 notice, this review will not consider security issues. *Id.* PHMSA and FRA have been working closely with the Transportation Security Administration of the Department of Homeland Security, on developing proposed regulations to enhance the security of rail shipments of hazardous materials. These regulatory proposals will be issued in separate proceedings open to public comment as appropriate in the future.

In order to facilitate public involvement in DOT's comprehensive review of the safety of railroad tank car transportation of hazardous materials, PHMSA and FRA invited interested persons to participate in a public meeting in Washington, DC on May 31 and June 1, 2006 to share concerns and comments related to the safe transportation of hazardous materials in tank cars. In order to facilitate further public involvement, FRA has established a docket to provide interested parties with a central location to both send and review relevant information concerning the safety of railroad tank car transportation of hazardous materials. The docket established for this purpose is designated Docket No. FRA–2006–25169. The information submitted to the docket will aid FRA and/or PHMSA in determining whether future rulemakings will be necessary to improve the safety of railroad tank car transportation of hazardous materials. A copy of the transcript of the May 31 and June 1, 2006 public meeting is available for review in the docket. Also included in the docket is a copy of the June 13, 2006 written statement of the FRA Administrator before the House Subcommittee on Railroads concerning current issues in rail transportation of hazardous materials. The Administrator's testimony discusses hazardous material releases and steps FRA is taking to improve the safety of the rail movement of hazardous materials. The public is invited to submit both information and comments relevant to DOT's comprehensive review of the safety of railroad tank car transportation of hazardous materials to the docket identified in this notice.

Privacy

Anyone is able to search all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 665, Number 7, Pages 19477–78). The statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on June 28, 2006.

Jo Strang,

Associate Administrator for Safety.

[FR Doc. E6–10371 Filed 6–30–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–995X]

New Mexico Gateway Railroad Limited Liability Company—Discontinuance Exemption—in Dona Ana County, NM

New Mexico Gateway Railroad Limited Liability Company (NMGR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately 3.5 miles of rail line at Santa Teresa, in Dona Ana County, NM, as follows: (1) A 4,412-foot spur identified as Track A; (2) a 3,375-foot spur identified as Track B; (3) a 3,884-foot spur identified as Track C; (4) a 4,338-foot spur identified as Track D; and (5) a 2,728-foot runaround track.[1] The line traverses

[1] NMGR was granted an exemption to operate the rail line in *New Mexico Gateway Railroad Limited*

Continued

United States Postal Service Zip Code 88008.

NMGR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(l) (notice to governmental agencies) have been met.

In this proceeding, NMGR is proposing to discontinue service on a line that constitutes its entire rail system. When issuing discontinuance authority for a railroad line that constitutes the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. *See Northampton and Bath R. Co.—Abandonment,* 354 I.C.C. 784, 785–86 (1978) (*Northampton*). Because there is no evidence that one or more of the exceptions articulated in *Northampton* are present, no labor protective conditions will be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 3, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),[2] must be filed by July 13, 2006.[3] Petitions to reopen must be filed by July 24, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NMGR's representative: John D. Heffner, 1920 N St., NW., Suite 800, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 23, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 06–5820 Filed 6–30–06; 8:45 am]

BILLING CODE 4915–01–P

Liability Company—Operation Exemption—Santa Teresa Limited Partnership, STB Finance Docket No. 34103 (STB served Oct. 29, 2001).

[2] Each OFA must be accompanied by the filing fee which as of April 19, 2006, is set at $1,300. *See Regulations Governing Fees for Service Performed in Connection With Licensing and Related Services—2006 Update,* STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006). *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–167 (Sub-No. 1185X)]

Consolidated Rail Corporation—Abandonment Exemption—in Mercer County, NJ

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a portion of a line of railroad known as the Robbinsville Industrial Track, between milepost 32.20± and milepost 37.90± in the cities of Hamilton Township and Washington Township, Mercer County, NJ, a distance of 5.7 miles±. The line traverses United States Postal Service Zip Codes 08620 and 08520.

Conrail has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic that has or could move over the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[1]

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 2, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 13, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 24, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Conrail's representative: John K. Enright, 1000 Howard Boulevard, 4th Floor, Mt. Laurel, NJ 08054.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Conrail has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 7, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

[1] On June 19, 2006, C&A Trail Conservancy, filed a request for issuance of a notice of interim trail use (NITU) for the entire line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), and for imposition of a public use condition. The Board will address C&A's trail use and public use requests and any others that may be filed in a subsequent decision.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See Regulations Governing Fees for Service Performed in Connection With Licensing and Related Services—2006 Updates*, STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006). *See* 49 CFR 1002.2(f)(25).

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Conrail shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Conrail's filing of a notice of consummation by July 3, 2007, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 23, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–10373 Filed 6–30–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

Proposed Information Collections; Comment Request

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before September 1, 2006.

ADDRESSES: You may send comments to Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044–4412;
- 202–927–8525 (facsimile); or
- *formcomments@ttb.gov* (e-mail).

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, and OMB number (if any) in your comment. If you submit your comment via facsimile, send no more than five 8.5 × 11 inch pages in order to ensure electronic access to our equipment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, copies of the information collection and its instructions, or copies of any comments received, contact Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412; or telephone 202–927–8210.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed and continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following information collections:

Title: Inventory—Manufacturer of Tobacco Products.

OMB Number: 1513–0032.

TTB Form Number: 5210.9.

Abstract: TTB F 5210.9 is used by tobacco product manufacturers to record inventories that are required by law. This form provides a uniform format for recording inventories and establishes tax liability on tobacco products, enabling TTB to determine that correct taxes have been or will be paid. The record retention requirement for this information collection is 3 years after the close of the year for which inventories and reports are filed.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 34.

Estimated Total Annual Burden Hours: 170.

Title: Usual and Customary Business Records Relating to Tax-Free Alcohol.

OMB Number: 1513–0059.

TTB Recordkeeping Requirement Number: 5150/3.

Abstract: Tax-free alcohol is used for nonbeverage purposes by educational organizations, hospitals, laboratories, etc. The use of alcohol free of tax is regulated to prevent illegal diversion to taxable beverage use. These records maintain spirits accountability and protect tax revenue and public safety. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension of currently approved collection.

Affected Public: Not-for-profit institutions, Federal Government and State, Local or Tribal governments.

Estimated Number of Respondents: 4,560.

Estimated Total Annual Burden Hours: 4,560.

Title: Letterhead Applications and Notices Relating to Denatured Spirits.

OMB Number: 1513–0061.

TTB Recordkeeping Requirement Number: 5150/2.

Abstract: Denatured spirits are used for nonbeverage industrial purposes in the manufacture of personal and household products. Permits and applications control the spirits' authorized uses and flow, and protect tax revenue and public safety. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal governments.

Estimated Number of Respondents: 3,111.

Estimated Total Annual Burden Hours: 1,556.

Title: Tobacco Products Manufactures—Records of Operations.

OMB Number: 1513–0068.

TTB Recordkeeping Requirement Number: 5210/1.

Abstract: Tobacco products manufacturers must maintain a system of records that provide accountability over the tobacco products received and produced. This information collection ensures that tobacco transactions can be traced, and ensures that tax liabilities have been totally satisfied. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 108.

Estimated Total Annual Burden Hours: 16,200.

Title: Tobacco Products Importer or Manufacturer-Records of Large Cigar Wholesale Prices.

OMB Number: 1513–0071.

TTB Recordkeeping Requirement Number: 5230/1.

Abstract: This information collection is used by tobacco products importers or manufacturers who import or make large cigars. Records are needed to verify wholesale prices of those cigars as the tax is based on those prices. This collection also ensures that all tax revenue due to the government is collected. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business and other for-profit, Individuals or households.

Estimated Number of Respondents: 108.

Estimated Total Annual Burden Hours: 252.

Title: Monthly Report—Tobacco Products Importer.

OMB Number: 1513–0107.

TTB Form Number: 5220.6.

Abstract: Reports of the lawful importation and disposition of tobacco products dealers are necessary to determine whether those issued the permits required by 26 U.S.C. 5713 should be allowed to continue their operations or renew their permits.

Current Actions: There are changes to this information collection and it is being submitted as a revision of a currently approved collection. Specifically we are adding a field for an Employee Identification Number (EIN) and line items entitled, Imported and Released from Customs Custody into the United States, Returned from Domestic Customers, and Returned to Customs Custody.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,500.

Estimated Total Annual Burden Hours: 18,000.

Dated: June 27, 2006.

Theresa McCarthy,

Acting Director, Regulations and Rulings Division.

[FR Doc. E6–10385 Filed 6–30–06; 8:45 am]

BILLING CODE 4810–31–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—July 17, 2006, Dearborn, Michigan.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Larry M. Wortzel, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on the U.S.-China economic and security relationship. The mandate specifically charges the Commission to investigate the ''qualitative and quantitative nature of the transfer of United States production activities to the People's Republic of China, including the relocation of high technology, manufacturing, and research and development facilities, the impact of such transfers on United States national security, the adequacy of United States export control laws, and the effect of such transfers on United States economic security and employment.'' Pursuant to this mandate, the Commission will hold a public hearing in Dearborn, Michigan on July 17, 2006.

Background

This event is the fifth in a series of public hearings the Commission will hold during its 2006 report cycle to collect input from leading experts in academia, business, industry, government and the public on the impact of the economic and national security implications of the U.S. growing bilateral trade and economic relationship with China. The July 17 hearing is being conducted to obtain commentary about issues connected to the impact of Chinese manufacturing on U.S. auto and auto parts industries from representatives of labor and trade associations, industry auto parts manufacturers and auto assemblers. Information on upcoming hearings, as well as transcripts of past Commission hearings, can be obtained from the USCC Web site *http://www.uscc.gov.*

This hearing will address ''Impact of Chinese Manufacturing on U.S. Auto and Auto Parts Industries'' and will be Co-chaired by Commissioners George Becker and Daniel Blumenthal.

Purpose of Hearing

The hearing is designed to assist the Commission in fulfilling its mandate by examining the likely effects on the U.S. industry of China's rapid build-up in automotive production and the resulting global overcapacity. The hearing will also highlight how such factors negatively or positively affect U.S. companies, investors, and workers.

Copies of the hearing agenda will be made available on the Commission's Web site *http://www.uscc.gov.* Any interested party may file a written statement by July 17, 2006, by mailing to the contact below. The hearing will be held in two sessions, one in the morning and one in the afternoon, where Commissioners will take testimony from invited witnesses. There will be a question and answer period between the Commissioners and the witnesses. Public participation is invited during the open-microphone session for public comment at the conclusion of the afternoon session. Sign-up for open-microphone session will take place in the morning beginning at 8:30 a.m. and will be on first come, first served basis. Each individual or group making an oral presentation will be limited to a total of 3 minutes. Because of time constraints, parties with common interests are encouraged to designate a single speaker to represent their views.

Date and Time: Monday, July 17, 2006, 8:45 a.m. to 4 p.m. Eastern Standard Time. A detailed agenda for the hearing will be posted to the Commission's Web site at *http://www.uscc.gov* in the near future.

ADDRESSES: The hearing will be held at University of Michigan, Dearborn Campus located at 19000 Hubbard Drive, Fairlane Center South, Dearborn, Michigan 48126. Public seating is limited to about 75 people on a first come, first serve basis. Advance reservations are not required.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington DC 20001; phone: 202–624–1409, or via e-mail at *kmichels@uscc.gov*.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: June 28, 2006.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. E6–10348 Filed 6–30–06; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Blue Ribbon Panel on VA-Medical School Affiliations; Notice of Establishment

As required by Section 9(a)(2) of the Federal Advisory Committee Act, the Department of Veterans Affairs hereby gives notice of the establishment of the Department of Veterans Affairs (VA) Blue Ribbon Panel On VA-Medical School Affiliations. The Secretary of Veterans Affairs has determined that establishing the Panel is both necessary and in the public interest.

The Panel will advise the Secretary and the Under Secretary for Health on a comprehensive philosophical framework to enhance VA's partnerships with medical schools and affiliated institutions. The Panel will be guided by VA's strategic planning initiative to assure equitable, harmonious, and synergistic academic affiliations. During the Panel's deliberations, those affiliations will be broadly assessed in light of changes in medical education, research priorities, and the health care needs of veterans.

Panel members will be appointed by the Secretary and will be individuals who can effectively express the views of both large and small medical schools which are actively involved in the principal affiliation components (research, patient care and education). The Panel is expected to complete its work within 18 months after its first meeting.

Dated: June 23, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–5935 Filed 6–30–06; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 71, No. 127
Monday, July 3, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25102; Directorate Identifier 2006–NM–117–AD; Amendment 39–14666; AD 2006–13–13]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Airplanes

Correction

In rule document 06–5585 beginning on page 35781 in the issue of Thursday, June 22, 2006, make the following correction:

§ 39.13 [Corrected]

On page 35783, in §39.13, in the first column, in the first full paragraph, in the first two lines, ''Warning Horn—Cabin Altitude or Configuration Recall'' should read ''WARNING HORN—CABIN ALTITUDE OR CONFIGURATION RECALL''.

[FR Doc. C6–5585 Filed 6–30–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,

July 3, 2006

Part II

Department of Health and Human Services

Announcement of Anticipated Availability of Funds for Family Planning Services Grants; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Anticipated Availability of Funds for Family Planning Services Grants

AGENCY: Office of Population Affairs, Office of Public Health and Science, Office of the Secretary, DHHS.

ACTION: Notice.

Announcement Type: Initial Competitive Grant.

CFDA Number: 93.217.

Authority: Section 1001 of the Public Health Service Act.

DATES: Application due dates vary. To receive consideration, applications must be received by the Office of Public Health and Science (OPHS) Office of Grants Management no later than the applicable due date listed in Table I of this announcement (Section IV. 3, *Submission Dates and Times*) and within the time frames specified in this announcement for electronically submitted, mailed, and/or hand-delivered hardcopy applications.

Executive Order 12372 comment due date: The State Single Point of Contact (SPOC) has 60 days from the applicable due date as listed in Table I of this announcement to submit any comments.

SUMMARY: The Office of Population Affairs (OPA), Office of Family Planning (OFP), announces the anticipated availability of funds for Fiscal Year (FY) 2007 family planning services grants under the authority of Title X of the Public Health Service Act. This notice solicits applications for competing grant awards to serve the areas and/or populations listed in Table I. Only applications which propose to serve the populations and/or areas listed in Table I will be accepted for review and possible funding.

I. Funding Opportunity Description

This announcement seeks applications from public and nonprofit private entities to establish and operate voluntary family planning services projects, which shall provide family planning services to all persons desiring such services. Family planning services include clinical family planning and related preventive health services; information, education, and counseling related to family planning; and, referral services as indicated.

Applicants should use the Title X legislation, applicable regulations, Program Guidelines, legislative mandates, Program Priorities, and other Key Issues included in this announcement and in the application kit, to guide them in developing their applications.

Title X Statute and Regulations: Requirements regarding the provision of family planning services under Title X can be found in the statute (Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*) and in the implementing regulations which govern project grants for family planning services (42 CFR part 59, subpart A). In addition, sterilization of clients as part of the Title X program must be consistent with 42 CFR part 50 subpart B, (''Sterilization of Persons in Federally Assisted Family Planning Projects''). Title X of the Public Health Service Act authorizes the Secretary of Health and Human Services (HHS) to award grants for projects to provide family planning services to persons from low-income families and others. Section 1001 of the Act, as amended, authorizes grants ''to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents).'' Title X regulations further specify that ''These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children'' (42 CFR 59.1). In addition, section 1001 of the statute requires that, to the extent practicable, Title X service providers shall encourage family participation in family planning services projects. Section 1008 of the Act, as amended, stipulates that ''None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.''

Program Guidelines: Additional operational guidance for projects funded under Title X can be found in the ''Program Guidelines for Project Grants for Family Planning Services'' (January 2001). These Program Guidelines are included in the application kit for this announcement.

Legislative Mandates: The following legislative mandates have been part of the Title X appropriations language for each of the last several years. Title X family planning services projects should include administrative, clinical, counseling, and referral services necessary to ensure adherence to these requirements.

- ''None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities;'' and
- ''Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.''

Copies of the Title X statute, regulations, legislative mandates, and Program Guidelines may be obtained by contacting the Office of Public Health and Science (OPHS) Office of Grants Management, or downloaded from the Office of Population Affairs Web site at *http://opa.osophs.dhhs.gov.* These documents are also included in the application kit. All Title X requirements—including those derived from the statute, the regulations, legislative mandates, and the Program Guidelines—apply to all activities funded under this announcement. For example, projects must meet the regulatory requirements set out at 42 CFR 59.5 regarding charges to clients. The funding criteria set out at 42 CFR 59.7 apply to all applicants under this announcement.

Program Priorities: Each year the OFP establishes program priorities that represent overarching goals for the Title X program. Project plans should be developed that address 2007 Title X program priorities, and should provide evidence of the project's capacity to address program priorities and key issues as they evolve in future years.

1. Assuring ongoing high quality family planning and related preventive health services that will improve the overall health of individuals, with priority for services to individuals from low-income families;

2. Assuring access to a broad range of acceptable and effective family planning methods and related preventive health services that include natural family planning methods, infertility services, and services for adolescents; highly effective contraceptive methods; breast and cervical cancer screening and prevention services that correspond with nationally recognized standards of care; STD and HIV prevention education, counseling, testing, and referral; activities that promote positive family relationships for the purpose of increasing family participation in reproductive health decision-making; extramarital abstinence education and counseling; and other preventive health services. The broad range of services

does not include abortion as a method of family planning;

3. Assuring compliance with State laws requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest;

4. Encouraging participation of families, parents, and/or legal guardians in the decision of minors to seek family planning services; and providing counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities;

5. Addressing the comprehensive family planning and other health needs of individuals, families, and communities through outreach to hard-to-reach and/or vulnerable populations, and partnering with other community-based health and social service providers that provide needed services.

Other Key Issues: In addition to the Program Priorities, the following Key Issues have implications for Title X services projects, and should be considered in developing the program plan:

1. Efficiency and effectiveness in program management and operations;

2. Management and decision-making through performance measures and accountability for outcomes;

3. Linkages and partnerships with community-based and faith-based organizations;

4. Addressing the national ''HIV/AIDS Prevention Strategies'' initiative through making HIV testing a routine part of medical care, and integration of the ''ABC'' approach to HIV prevention counseling (that is, ''A'' for extramarital abstinence; ''B'' for be faithful in marriage or committed relationships; and, for individuals at increased risk for contracting or transmitting HIV, the message should include ''A,'' ''B,'' and ''C'' for correct and consistent condom use).

5. The use of electronic technologies, such as electronic grants management capabilities, electronic health information infrastructures, electronic access to health quality information, and similar electronic systems;

6. Data collection (such as the Family Planning Annual Report [FPAR]) for use in monitoring performance and improving family planning services;

7. Service delivery improvement through translation into practice of research outcomes that focus on family planning and related population issues; and

8. Utilizing practice guidelines and recommendations, developed by recognized national professional organizations and Federal agencies, in the provision of evidence-based Title X clinical services.

II. Award Information

The anticipated FY 2007 appropriation for the Title X family planning program is approximately $283 million. Of this amount, OPA intends to make available approximately $72 million for competing Title X family planning services grant awards in 29 states, populations, and/or areas. (See Table I, Section IV. 3, *Submission Dates and Times*, for competing areas and approximate amount of available funding.) The amounts stated in Table I are inclusive of indirect costs. The remaining funds will be used for continued support of grants and activities which are not competitive in FY 2007. This program announcement is subject to the appropriation of funds, and is a contingency action taken to ensure that, should funds become available for this purpose, applications can be processed in an orderly manner, and funds can be awarded in a timely fashion. Grants will be funded in annual increments (budget periods) and are generally approved for a project period of three to five years. Funding for all approved budget periods beyond the first year of the grant is contingent upon the availability of funds, satisfactory progress of the project, and adequate stewardship of Federal funds.

III. Eligibility Information

1. Eligible Applicants

Any public or nonprofit private entity located in a State (which includes one of the 50 United States, the District of Columbia, Commonwealth of Puerto Rico, U.S. Virgin Islands, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands) is eligible to apply for a grant under this announcement. Faith-based organizations are eligible to apply for these Title X family planning services grants. Nonprofit private entities must provide proof of nonprofit status. See Section IV.2 for information regarding proof of nonprofit status.

2. Cost Sharing

Program regulations at 42 CFR 59.7(c) stipulate that ''No grant may be made for an amount equal to 100 percent of the project's estimated costs.'' Also, 42 CFR 59.7(b) states that ''No grant may be made for less than 90 percent of the project's costs, as so estimated, unless the grant is to be made for a project that was supported, under section 1001, for less than 90 percent of its costs in fiscal year 1975. In that case, the grant shall not be for less than the percentage of costs covered by the grant in fiscal year 1975.''

While there is not a fixed cost-sharing percentage or amount, projects must include financial support from sources other than Title X. The proposed project budget should reflect financial support in addition to Title X funds on both the Standard Form (SF) 424A, ''Budget Information,'' and in the budget justification. The amount and source(s) of these funds must be clearly identified separately from the requested Title X support as indicated on the SF 424A, as well as on the SF 424, ''Application for Federal Assistance.'' The OPHS Office of Grants Management will review applications to ensure that the requested amount of Title X funding is in compliance with this business requirement.

3. Other

Awards will be made only to those organizations or agencies that have met all applicable requirements, and that demonstrate the capability of providing the required services.

IV. Application and Submission Information

1. *Address to Request Application Package:* Application kits may be requested from, and applications submitted to: Office of Public Health and Science (OPHS)/Office of Grants Management (OGM), 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, 240–453–8822. Application kits are also available online through the OPHS electronic grants management Web site at *https://egrants.osophs.dhhs.gov*, or the government-wide grants system, Grants.gov at *http://www.grants.gov.* Application requests may be submitted by FAX at 240–453–8823. Instructions for use of the eGrants system can be found on the OPA Web site at *http://opa.osophs.dhhs.gov* or requested from the OPHS Office of Grants Management.

2. *Content and Form of Application Submission:* Applications must be submitted on the Form OPHS–1 and in the manner prescribed in the application kit. The application narrative should be limited to 60 double-spaced pages using an easily readable serif typeface such as Times Roman, Courier, or GC Times, 12 point font. The page limit does not include budget; budget justification; required forms, assurances, and certifications as part of the OPHS–1, ''Grant Application''; or appendices. All pages, charts, figures and tables should be numbered, and a table of contents

provided. The application narrative should be numbered separately and should clearly show the 60 page limit. If the application narrative exceeds 60 pages, only the first 60 pages of the application narrative will be reviewed. Appendices may provide curriculum vitae, organizational structure, examples of organizational capabilities, or other supplemental information which supports the application. However, appendices are for supportive information only. Brochures and bound materials should not be submitted. All information that is critical to the proposed project should be included in the body of the application. Appendices should be clearly labeled.

For all non-governmental applicants, documentation of non-profit status must be submitted as part of the application. Any of the following constitutes acceptable proof of such status:

a. A reference to the Applicant organization's listing the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code;

b. A copy of a currently valid IRS tax exemption certificate;

c. A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals;

d. A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status;

For local, nonprofit affiliates of State or national organizations, a statement signed by the parent organization indicating that the applicant organization is a local nonprofit affiliate must be provided in addition to any one of the above acceptable proof of nonprofit status.

A Dun and Bradstreet Universal Numbering System (DUNS) number is required for all applications for Federal assistance. Organizations should verify that they have a DUNS number or take the steps needed to obtain one. Instructions for obtaining a DUNS number are included in the application package, or may be downloaded from the OPA Web site.

Applications must include an abstract of the proposed project. Please refer to the OPHS–1 for the abstract form. The abstract will be used to provide reviewers with an overview of the application, and will form the basis for the application summary in grants management documents.

Application Content

Successful applicants will clearly describe the administrative, management, and clinical capability of the applicant organization. All required services should be included as part of the program plan. The budget request and justification should directly reflect project activities.

Characteristics of a Successful Proposal

Proposed projects must adhere to all requirements of the Title X statute; applicable regulations, including regulations regarding sterilization of persons in Federally assisted family planning projects; legislative mandates; and Program Guidelines. Successful proposals will fully describe how the project will address Title X requirements, and should include the following:

1. A clear description of the need for the services proposed;
2. A description of the geographic area and population to be served;
3. Evidence that the proposed project will address the family planning needs identified;
4. Evidence that the applicant organization has experience in providing clinical health services and the capacity to undertake the comprehensive clinical family planning and related preventive health services required, including offering a broad range of acceptable and effective family planning methods and services, and complying with the requirements of the legislative mandates;
5. Evidence of familiarity with, and ability to provide services that include the following:
a. Family planning and related preventive health issues as indicated in the Program Priorities;
b. Services that are consistent with current, recognized national standards of care related to family planning, reproductive health, and general preventive health measures;
c. Identification, notification or reporting of, and appropriate referral for, domestic and intimate partner violence, child abuse, child molestation, sexual abuse, rape, or incest as required by State laws;
d. Counseling techniques that encourage family participation in healthcare and reproductive decision-making of adolescents; teach resistance skills for adolescents to avoid exploitation and/or sexual coercion; and, support stable, safe, and faithful marriages and committed relationships with the goal of promoting effective use of family planning methods and services. This includes referral to other service providers that have expertise in these areas as appropriate; and,
6. Evidence that the proposed services are consistent with the requirements of the Title X statute; program regulations (including regulations regarding sterilization of persons in Federally assisted family planning services projects); legislative mandates; and Program Guidelines.
7. Evidence that Title X funds will not be used in programs where abortion is a method of family planning;
8. A project plan which describes the services to be provided, the location(s) and hours of clinic operations, and projected number of clients to be served;
9. A plan for providing community information and education programs which promote understanding of the objectives of the project and inform the community of the availability of services. The plan should include a strategy for maintaining records of information and education activities provided as part of the project. All clinical and educational programs provided as part of the project should ensure voluntary participation;
10. A plan for an information and education advisory committee that is consistent with the Title X requirements, and that will ensure that all information and education materials used as part of the project are current, factual, and medically accurate, as well as suitable for the population or community to which they will be made available.
11. Evidence that the Title X *Program Priorities* and *Key Issues* are addressed in the program plan;
12. A staffing plan which is reasonable and adheres to the Title X regulatory requirement that family planning medical services be performed under the direction of a physician with special training or experience in family planning. Staff providing clinical services should be licensed and function within the applicable professional practice acts for the State in which they practice;
13. Goal statement(s) and related outcome objectives that are specific, measurable, achievable, realistic and time-framed (S.M.A.R.T.);
14. Evidence that the applicant has a plan to facilitate access to the following:
a. Required clinical services, if not provided by the applicant; comprehensive primary care services; and/or,
b. Other needed health and social services for clients served in the Title X-funded family planning project. This includes evidence of formal agreements for referral services, and collaborative

agreements with other service providers in the community, where appropriate;

15. Evidence of the capability of collecting and reporting the required program data for the Title X annual data collection system (FPAR);

16. Evidence of a system for ensuring quality family planning services, including

a. A process for ensuring compliance with program requirements, and

b. A methodology for ensuring that health care practitioners have the knowledge and skills necessary to provide effective, quality family planning and related preventive health services that are consistent with current, evidence-based national standards of care. This should include training of select health care practitioners by the clinical preceptor training program established by the OFP Clinical Training Center, and utilizing clinical training opportunities available through the Regional Training Center in the applicable region;

17. A budget and budget justification narrative for year one of the project that is detailed, reasonable, adequate, cost efficient, and that is derived from proposed activities. Budget projections for each of the continuing years should be included.

3. Submission Dates and Times

Competing grant applications are invited for the following areas (please note, in order to maximize access to family planning services, one or more grants may be awarded for each area listed within the total amount indicated for the area):

TABLE I

States/populations/areas to be served	Approximate funding available	Application due date	Approx. grant funding date
Region I:			
New Hampshire	$1,265,000	09/01/06	01/01/07
Vermont	752,000	09/01/06	01/01/07
Maine	1,765,000	09/01/06	01/01/07
Rhode Island	817,000	09/01/06	01/01/07
Connecticut	2,295,000	09/01/06	01/01/07
Massachusetts	2,583,000	09/01/06	01/01/07
Region II: No service areas competitive in FY 2007			
Region III:			
Washington, DC	1,073,000	09/01/06	01/01/07
Central Pennsylvania	2,785,000	03/01/07	07/01/07
Virginia	4,528,000	12/01/06	04/01/07
Region IV:			
Georgia	7,933,000	03/01/07	07/01/07
Florida, Greater Orlando area	549,000	06/01/07	09/30/07
Region V:			
Ohio, Greater Cleveland	2,023,000	12/01/06	04/01/07
Illinois	7,931,000	09/01/06	01/01/07
Illinois, Chicago Area	205,000	06/01/07	09/30/07
Michigan	7,549,000	12/01/06	04/01/07
Wisconsin	3,405,000	11/01/07	03/01/07
Minnesota, Ramsey County	320,000	09/01/06	01/01/07
Region VI:			
Texas	11,824,000	12/01/06	04/01/07
Region VII: No service areas competitive in FY 2007.			
Region VIII:			
South Dakota	1,014,000	03/01/07	07/01/07
Wyoming	821,000	09/01/06	01/01/07
Region IX:			
Navajo Nation	640,000	03/01/07	07/01/07
Commonwealth of the Northern Mariana Islands	170,000	09/01/06	01/01/07
Federated States of Micronesia	411,000	03/01/07	07/01/07
Nevada, Washoe County	708,000	03/01/07	07/01/07
Region X:			
Alaska	420,000	03/01/07	07/01/07
Oregon	2,452,000	03/01/07	07/01/07
Idaho	1,568,000	03/01/07	07/01/07
Washington	3,240,000	09/01/06	01/01/07
Washington, Seattle area	159,000	03/01/07	07/01/07

Submission Mechanisms

The Office of Public Health and Science (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 the OPHS eGrants system or the Grants.gov Website 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 hardcopy 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, hardcopy 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 Grants.gov Website 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 Grants.gov Web site, *http://www.grants.gov*.

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 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 Grants.gov Website 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 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 Grants.gov Web site Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission, as well as the 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 Grants.gov Website Portal will be validated by Grants.gov. Any applications deemed ''Invalid'' by the Grants.gov Website 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 Grants.gov Website Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Website 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 Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the OPHS eGrants system for processing. Upon receipt of both the electronic application from the Grants.gov Website Portal, and the required hardcopy 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 Grants.gov Web site Portal.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site Portal.

Electronic Submissions via the OPHS eGrants System

The OPHS electronic grants management system, eGrants, provides for applications to be submitted electronically. Information about this system is available on the OPHS eGrants Web site, *https://egrants.osophs.dhhs.gov*, or may be requested from the OPHS Office of Grants Management at (240) 453–8822.

When submitting applications via the OPHS eGrants system, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency.

Electronic applications submitted via the OPHS eGrants system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The applicant may identify specific mail-in items to be sent to the Office of Grants Management separate from the electronic submission; however these mail-in items must be entered on the eGrants Application Checklist at the time of electronic submission, and 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, the OPHS eGrants system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the OPHS eGrants system to ensure that all signatures and mail-in items are received.

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. See Section IV. 1 for the address to submit hard copy applications. 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.

4. Intergovernmental Review

Applicants under this announcement are subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as implemented by 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for the state in which the applicant is located. The application kit contains the currently available listing of the SPOCs that have elected to be informed of the submission of applications. For those states not represented on the listing, further inquiries should be made by the applicant regarding the submission to the relevant SPOC. The SPOC should forward any comments to the OPHS Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, Maryland 20852. The SPOC has 60 days from the due date as listed in the DATES section of this announcement to submit any comments. For further information, contact the OPHS Office of Grants Management at 240–453–8822.

5. Funding Restrictions

The allowability, allocability, reasonableness and necessity of direct and indirect costs that may be charged to OPHS grants are outlined in the following documents: OMB Circular A–21 (Institutions of Higher Education); OMB Circular A–87 (State and Local Governments); OMB Circular A–122 (Nonprofit Organizations); and 45 CFR part 74, Appendix E (Hospitals). Copies of the Office of Management and Budget (OMB) Circulars are available on the Internet at *http://www.whitehouse.gov/omb/grants/grants_circulars.html.*

In order to claim indirect costs as part of a budget request, an applicant organization must have an indirect cost rate which has been negotiated with the Federal government. The Health and Human Services Division of Cost Allocation (DCA) Regional Office that is applicable to your State can provide information on how to receive such a rate. A list of DCA Regional Offices is included in the application kit for this announcement.

6. Other Submission Requirements

None.

V. Application Review Information

1. Criteria

Eligible applications will be assessed according to the following criteria:

Within the limits of funds available for these purposes, grants may be awarded for the establishment and operation of those projects which will best promote the purposes of section 1001 of Title X of the Public Health Service Act, taking into account:

(1) The degree to which the project plan adequately provides for the requirements set forth in the Title X regulations at 42 CFR part 59, subpart A (20 points);

(2) The extent to which family planning services are needed locally (20 points);

(3) The adequacy of the applicant's facilities and staff (20 points);

(4) The number of patients, and, in particular, the number of low-income patients to be served (15 points);

(5) The capacity of the applicant to make rapid and effective use of the Federal assistance (10 points);

(6) The relative availability of non-Federal resources within the community to be served and the degree to which those resources are committed to the project (10 points); and

(7) The relative need of the applicant (5 points).

2. Review and Selection Process

Each regional office is responsible for facilitating the process of evaluating applications and setting funding levels according to the criteria set out in 42 CFR 59.7(a). No award, or total awards, will be made for an amount greater than the amount indicated in Table I for the area to be served. Eligible applications will be reviewed by a panel of independent reviewers and will be evaluated based on the criteria listed above. In addition to the independent review panel, there will be Federal staff reviews of each application for programmatic and grants management compliance.

Final grant award decisions will be made by the Regional Health Administrator (RHA) for the applicable PHS Region. In making grant award decisions, the RHA will fund those projects which will, in his/her judgement, best promote the purposes of section 1001 of the Act, within the limits of funds available for such projects.

VI. Award Administration Information

1. Award Notices

The OPA does not release information about individual applications during the review process. When final funding decisions have been made, each applicant will be notified by letter of the outcome. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award (NGA), signed by the Director of the OPHS Office of Grants Management. This document specifies to the grantee the amount of money awarded, the purposes of the grant, the length of the project period, terms and conditions of the grant award, and the amount of funding to be contributed by the grantee to project costs. Grantees should pay specific attention to the terms and conditions of the award as indicated on the NGA, as some may require a time-limited response. The NGA will also identify the Grants Specialist and Program Project Officer assigned to the grant.

2. Administrative and National Policy Requirements

In accepting the award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of 45 CFR parts 74 and 92, currently in effect or implemented during the period of the grant.

The successful applicant will be responsible for the overall management of activities within the scope of the approved project plan. The OPHS requires all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. This is consistent with the OPHS mission to protect and advance the physical and mental health of the American people.

The HHS 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, grantees shall clearly state the percentage and dollar amount of the total costs of the program or project that 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

Each grantee is required to submit a Family Planning Annual Report (FPAR) each year.

The information collections (reporting requirements) and format for this report have been approved by the Office of Management and Budget and assigned OMB No. 0990–0221. The FPAR contains a brief organizational profile and 14 tables to report data on users, service use, and revenue for the reporting year. The FPAR instrument and instructions can be found on the OPA Web site at *http://opa.osophs.dhhs.gov.*

In addition to the FPAR, grantees are required to submit an annual Financial Status Report within 90 days of the end of each budget period. Grantees who receive $500,000 or greater of Federal funds must also undergo an independent audit in accordance with OMB Circular A–133.

Each year of the approved project period, grantees are required to submit a non-competing continuation application, which includes a progress report for the current budget year, and work plan, budget, and budget narrative for the upcoming year.

Required reports may be submitted either electronically or in hard copy.

VII. Agency Contacts

Administrative and Budgetary Requirements

For information related to administrative and budgetary requirements, contact the OPHS Office of Grants Management Grants Specialist for the applicable region as listed below. For Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Region III (New Jersey, New York, Puerto Rico, Virgin Islands), and Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas) contact Renee Scales, 240–453–8822, *renee.scales@hhs.gov.*

For Region IV (Kentucky, Mississippi, North Carolina, Tennessee, Alabama, Florida, Georgia, South Carolina), Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), and Region VII (Iowa, Kansas, Missouri, Nebraska) contact Eleanor Walker, 240–453–8822, *eleanor.walker@hhs.gov.*

For Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Region IX (Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federal States of Micronesia, Republic of the Marshall Islands), and Region X (Alaska, Idaho, Oregon, Washington) contact Robin Fuller, 240–453–8822, *robin.fuller@hhs.gov.*

Program Requirements

For information related to family planning program requirements, contact the Family Planning contact in the applicable Regional Office listed below:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)— Betsy Rosenfeld, 617–565–4265, *betsy.rosenfeld@hhs.gov* or Kathy Stratford, 617–565–1070, *kathleen.stratford@hhs.gov;*

Region II (New Jersey, New York, Puerto Rico, Virgin Islands)—Robin Lane, 212–264–3935, *robin.lane@hhs.gov;*

Region III (Delaware, Washington, DC, Maryland, Pennsylvania, Virginia, West Virginia)— Dickie Lynn Gronseth, 215–861–4656, *dickielynn.gronseth@hhs.gov;*

Region IV (Kentucky, Mississippi, North Carolina, Tennessee, Alabama, Florida, Georgia, South Carolina)—Edecia Richards, 404–562–7900, *edecia.richards@hhs.gov;*

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)—Janice Ely, 312–886–3864;

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)—Evelyn Glass, 214–767–3088, *evelyn.glass@hhs.gov;*

Region VII (Iowa, Kansas, Missouri, Nebraska)—Elizabeth Curtis, 816–426–2924, *elizabeth.curtis@hhs.gov;*

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)— Jill Leslie, 303–844–7856, *jill.leslie@hhs.gov;*

Region IX (Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federal States of Micronesia, Republic of the Marshall Islands)— Nancy Mautone-Smith, 415–437–7984, *nancy.mautone-smith@hhs.gov;* and

Region X (Alaska, Idaho, Oregon, Washington)—Janet Wildeboor, 206–615–2776, *janet.wildeboor@hhs.gov.*

VIII. Other Information

Technical Assistance Conference Call: The OFP will conduct several technical assistance conference calls to provide potential applicants with general information regarding this funding opportunity. These calls will be held shortly after publication of this Notice in the **Federal Register**. For more information regarding the call schedule, including date, registration information, and how to participate, please consult the OPA Web site at *http://opa.osophs.dhhs.gov.*

Dated: June 27, 2006.

Alma L. Golden,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 06–5956 Filed 6–30–06; 8:45 am]

BILLING CODE 4150–34–P

Federal Register

Monday,
July 3, 2006

Part III

Department of Education

34 CFR Parts 668, 674 et al.

Establishment of Regulations for the Academic Competitiveness Grant and National Science and Mathematics Access to Retain Talent Grant Programs, and Grant and Loan Program Amendments; Interim Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 675, 676, 682, 685, 690, and 691

RIN 1840–AC86

Student Assistance General Provisions; Federal Perkins Loan Program; Federal Work-Study Programs; Federal Supplemental Educational Opportunity Grant Program; Federal Family Education Loan Program; William D. Ford Federal Direct Loan Program; Federal Pell Grant Program; Academic Competitiveness Grant Program; and National Science and Mathematics Access to Retain Talent Grant Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Interim final regulations; request for comments.

SUMMARY: The Secretary amends title 34 to establish regulations for the Academic Competitiveness Grant (ACG) and National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) programs. The Secretary also amends the regulations related to the Student Assistance General Provisions, Federal Perkins Loan Program, Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Federal Pell Grant Program. These interim final regulations and amendments are needed to implement provisions of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Reconciliation Act of 2005 (HERA).

The interim final regulations for the ACG and National SMART Grant programs specify the eligibility requirements for a student to apply for and receive an award under these programs for the 2006–2007 award year. These interim final regulations also identify the roles of institutions of higher education (institutions), State educational agencies (SEAs), and local educational agencies (LEAs) in administering the programs. These interim final regulations will be effective for the 2006–2007 award year. The Secretary is, however, soliciting comments on all aspects of these interim final regulations and may, for the 2007–2008 award year, amend and finalize them as appropriate in response to comments received. For regulations that would take effect for the 2008–2009 award year and subsequent award years, the Secretary intends to conduct negotiated rulemaking, as required under section 492 of the HEA.

DATES: These regulations are effective August 2, 2006. The Department must receive any comments on or before August 17, 2006. Affected parties do not have to comply with the information collection requirements in §§ 691.12, 691.15, and 691.83 until the Department of Education publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

ADDRESSES: Address all comments about these interim final regulations to: Fred Sellers, U.S. Department of Education, P.O. Box 33184, Washington, DC 20033–3184.

If you prefer to deliver your comments by hand or by using a courier service or commercial carrier, address your comments to: Fred Sellers, 1990 K Street NW., room 8039, Washington, DC 20006–8542

If you prefer to send your comments through the Internet, you may address them to us at the U.S. Government Web site: *http://www.regulations.gov.*

Or you may send your Internet comments to us at the following address: *ACG.NSG@ed.gov.*

You must include the term ''Academic Competitiveness and National SMART Grants'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Jacquelyn Butler, U.S. Department of Education, 1990 K Street, NW., room 8053, Washington, DC 20006–8544. Telephone: (202) 502–7890. Sophia McArdle, U.S. Department of Education, 1990 K Street, NW., room 8019, Washington, DC 20006–8544. Telephone: (202) 219–7078.

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 contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Background

These interim final regulations implement certain provisions of the Higher Education Reconciliation Act of 2005 (Pub. L. 109–171), enacted on February 8, 2006, 20 U.S.C. 1070a–1 (HERA), amending the Higher Education Act of 1965, as amended (HEA).

Section 8003 of HERA amended the HEA by adding a new section 401A establishing the ACG and National SMART Grant programs to assist eligible students in paying their college education expenses and appropriating funds for these programs starting with the 2006–2007 award year, beginning on July 1, 2006. The ACG Program awards grants to eligible financially needy students who complete a rigorous secondary school program of study. An ACG is available during a student's first and second academic years of undergraduate education in an eligible undergraduate program. The National SMART Grant Program awards grants to eligible financially needy students who are pursuing majors in the physical, life, or computer sciences, mathematics, technology, engineering, or foreign languages critical to the national security of the United States. A National SMART Grant is available to students during the third and fourth academic years of undergraduate education in an eligible undergraduate program.

Under its principles for regulating, the Department of Education (Department) regulates only when absolutely necessary. The Department regulates in a way to improve the quality and equality of services to its customers and in the most flexible and least burdensome way possible. These interim final regulations are necessary to implement the ACG and National SMART Grant programs.

Significant Regulations

We group major issues according to subject. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address regulatory provisions that are technical or otherwise minor in effect.

Relationship Between the Federal Pell Grant Program and the ACG and National SMART Grant Programs

The ACG and National SMART Grant program interim final regulations duplicate those of the Federal Pell Grant Program to the extent practicable given the similar nature of these programs. Like the Federal Pell Grant Program, the ACG and National SMART Grant programs provide for direct grants from the Federal Government to students to assist in paying their college expenses. In addition, a student must be receiving a Federal Pell Grant to be eligible for an ACG or National SMART Grant.

The Secretary will be administering the ACG and National SMART Grant programs using the same delivery system that the Secretary uses for the Federal Pell Grant Program. The Secretary expects that this coordination of administrative requirements will assist participating institutions in administering these programs, reduce the amount of additional institutional administrative burden and paperwork, and simplify the process for students to apply for assistance under these programs.

Accordingly, the following definitions are repeated in the ACG and National SMART Grant program interim final regulations without changes from the Federal Pell Grant Program regulations:

- Institutional Student Information Record (ISIR).
- Payment Data.
- Student Aid Report (SAR).
- Undergraduate Student.
- Valid Institutional Student Information Record (valid ISIR).
- Valid Student Aid Report (valid SAR).

In addition, §§ 691.61, 691.71, 691.78, 691.79, 691.81, 691.82, and 691.83 of the ACG and National SMART Grant program interim final regulations do not reflect any substantive changes from the corresponding sections in the Federal Pell Grant Program regulations (34 CFR part 690). These sections are repeated in these interim final regulations to provide a complete description in part 691 of the program-specific requirements for the ACG and National SMART Grant programs. Other sections that implement specific ACG and National SMART Grant program requirements reflect Federal Pell Grant Program requirements to the extent practicable.

Part 668—Student Assistance General Provisions

The following sections in 34 CFR part 668 are being amended to reflect specific requirements applicable to the ACG and National SMART Grant programs.

Section 668.33 Citizenship and Residency Requirements

Statute: Section 401A(c)(1) of the HEA requires that a student be a citizen of the United States to be eligible for the ACG and National SMART Grant programs. The HEA continues to provide that permanent residents and certain other categories of noncitizens may be eligible for the other title IV, HEA programs, including the Federal Pell Grant Program.

Regulations: This section provides that only students who are United States citizens are eligible to receive ACG and National SMART Grants.

Reason: The regulations implement the statutory requirement that an eligible student for the ACG and National SMART Grant Programs must be a United States citizen.

Section 668.35 Student Debts Under the HEA and to the U.S.

Regulations: This section provides that a student is not liable for an ACG or National SMART Grant overpayment in an award year if the institution can eliminate the overpayment by adjusting subsequent title IV, HEA program payments, excluding Federal Pell Grant, ACG, or National SMART Grant monies, in that same award year. If the overpayment cannot be eliminated by adjusting subsequent title IV, HEA program payments, a student is still not liable for an ACG or National SMART Grant overpayment if the overpayment can be eliminated by adjusting subsequent ACG or National SMART Grant payments, as appropriate, in that same award year.

Reason: These regulations detail the requirements for institutions to follow when resolving overpayments to students under the ACG and National SMART Grant programs. These requirements are similar to the requirements in the Federal Pell Grant Program but also account for the requirement in section 401A(d) of the HEA that the amount of an ACG or National SMART Grant award to a student must be adjusted in relation to other aid received and the student's expected family contribution.

Part 691—Academic Competitiveness Grant (ACG) and National Science and Mathematics Access To Retain Talent Grant (National SMART Grant) Programs

Subpart A—Scope, Purpose and General Definitions

Section 691.2 Definitions

Eligible Major

Statute: Section 401A(c)(3)(C)(i) of the HEA requires a student to pursue a major in the physical, life, or computer sciences, mathematics, technology, engineering, or a critical foreign language in order to be eligible for a National SMART Grant.

Regulations: Section 691.2(d) provides a definition of *eligible major* for purposes of the National SMART Grant Program. An *eligible major,* as determined by the Secretary under § 691.17, is a major in one of the physical, life, or computer sciences, mathematics, technology, engineering or a critical foreign language.

Reason: This section implements the statutory requirement that, to qualify as an eligible student for a National SMART Grant, a student must major in one of the physical, life, or computer sciences, mathematics, technology, engineering, or a critical foreign language.

Eligible Program

Statute: Section 401A(c)(3) of the HEA requires that an eligible student be enrolled or accepted for enrollment in an undergraduate program at a two- or four-year degree-granting institution of higher education to be eligible for an ACG or in a four-year degree-granting institution of higher education to be eligible for a National SMART Grant.

Regulations: This section adds a definition of *eligible program* in § 691.2(d). An *eligible program* is an eligible program as defined in 34 CFR 668.8 that, for the ACG Program, leads to an associate's or bachelor's degree, is a two-academic-year program acceptable for full credit toward a bachelor's degree, or is a graduate degree program that includes at least three academic years of undergraduate education or, for the National SMART Grant Program, leads to a bachelor's degree in an eligible major or is a graduate degree program in an eligible major that includes at least three academic years of undergraduate education.

Reason: These provisions are necessary to implement the statute and to ensure eligibility for students enrolled in combined undergraduate/graduate programs with at least three years of undergraduate study.

Section 691.6 Duration of Student Eligibility—Undergraduate Course of Study

Statute: Under section 401A(d)(2)(B) of the HEA, an eligible student may only receive one ACG for each of the first two academic years of an undergraduate program and one National SMART Grant for each of the third and fourth academic years of a bachelor's degree program.

Regulations: This section sets forth the duration of student eligibility for the ACG and National SMART Grant programs by academic year and restricts a student to one grant for each of his or her first, second, third, or fourth academic years of enrollment in an eligible program.

Reason: Unlike the Federal Pell Grant Program, student eligibility under the ACG and National SMART Grant programs is based on the specific academic years of the student's eligible program rather than award years or completion of a bachelor's degree.

Section 691.7 Institutional Participation

Statute: Section 401A(c)(2) of the HEA provides that a student must be eligible for a Federal Pell Grant to qualify for an ACG or National SMART Grant.

Regulations: In general, the interim final regulations mirror the Federal Pell Grant program participation requirements. In addition, the interim final regulations require an institution that participates in the Federal Pell Grant Program and offers an educational program that is an eligible program for the ACG or National SMART Grant programs, to participate in the ACG and National SMART Grant programs, as applicable. A coordinating technical amendment is also being made to 34 CFR 690.7 of the Federal Pell Grant Program regulations to require that an institution may not participate in the Federal Pell Grant Program if it has at least one eligible program under § 691.2(d) and does not participate in the ACG or National SMART Grant programs, as applicable.

Reason: An otherwise eligible student must be eligible for a Federal Pell Grant to receive an ACG or National SMART Grant. The Secretary believes that mandating institutional participation in all three programs when eligible programs are offered at an institution is consistent with the statute's requirement that the Secretary award grants to Pell-eligible students.

Section 691.8 Enrollment Status for Students Taking Regular and Correspondence Courses

Statute: Section 401A(c) of the HEA provides that a student must be a full-time student to be eligible for an ACG or National SMART Grant.

Regulations: This section sets forth the circumstances under which correspondence courses may be applied toward a student's full-time enrollment status in a noncorrespondence study program. The interim final regulations in § 691.8(a) and (b) duplicate the Federal Pell Grant Program regulations with respect to correspondence work that can be included in determining a student's enrollment status. Section 691.8(c), however, provides that a student taking correspondence courses is considered a full-time student if the student is taking coursework that is commensurate with the institution's standard for full-time students and the student's noncorrespondence coursework constitutes at least one-half of the institution's required minimum coursework for full-time students.

Reason: These provisions are necessary to clarify what is required for determining whether a student taking correspondence courses is considered full-time. The Secretary believes these provisions are consistent with 34 CFR 690.8 of the Federal Pell Grant Program regulations under which the enrollment status of a student taking only correspondence study is never greater than half-time. Section 691.8(c) of these interim final regulations is consistent with 34 CFR 690.8(b)(3) of the Federal Pell Grant Program regulations in that it ensures that a student is enrolled in noncorrespondence coursework that is at least one-half of the minimum coursework to qualify as a full-time student.

Section 691.11 Payments From More Than One Institution

Regulations: This section addresses the situation in which a student attends more than one institution and requires a student to receive an ACG or National SMART Grant from the same institution that awards the student his or her Federal Pell Grant.

Reason: Under the Federal Pell Grant Program, a student cannot receive payments from more than one institution or from the Secretary and an institution at the same time. To ensure coordination with the Federal Pell Grant Program, these regulations provide that a student can only receive an ACG or National SMART Grant from the same institution that awards the student's Federal Pell Grant.

Subpart B—Application Procedures

Section 691.12 Application

Statute: Section 401A(c) of the HEA provides the student eligibility requirements for the ACG and National SMART Grants. Section 401A(c)(3)(A) and (B) of the HEA requires that a student successfully complete a rigorous secondary school program of study to receive an ACG.

Regulations: This section specifies the procedures that a student must follow when applying for an ACG or National SMART Grant, and in particular, requires that a student must submit a Free Application for Federal Student Aid (FAFSA). The interim final regulations provide that a student may be required to provide additional information in the application, including information about the rigorous secondary school program of study that the student completed to qualify for an ACG.

Reason: Under section 483(a) of the HEA, the FAFSA is the standard form used by all students applying for title IV, HEA program aid, including Federal Pell Grants and these programs. Use of this form and procedures that are similar to the Federal Pell Grant Program will facilitate students' completion and institutions' use of the FAFSA for the ACG and National SMART Grant programs.

Section 691.15 Eligibility To Receive a Grant

General Requirements

Statute: Section 401A(c) of the HEA provides student eligibility requirements for the ACG and National SMART Grant programs.

Regulations: Section 691.15(a) of these interim final regulations sets forth the ACG and National SMART Grant student eligibility requirements common to both programs including United States citizenship, full-time enrollment, and receipt of a Federal Pell Grant in the payment period that a student receives an ACG or National SMART Grant.

Reason: This section implements the statutory provision that, to be eligible to receive an ACG or National SMART Grant, a student must establish eligibility for assistance under the title IV, HEA programs and establish that he or she is a United States citizen, is enrolled full-time, and is eligible for a Federal Pell Grant. The Secretary believes that the institution's determination that a student will receive a Federal Pell Grant is the best way to demonstrate that a student is Pell-eligible for purposes of the ACG and National SMART Grant programs.

Academic Year in College

Statute: Section 401A(c)(3)(A), (B), and (C) of the HEA ties a student's eligibility for a grant to the student's enrollment in the first, second, third, and fourth academic years of a program of undergraduate education.

Regulations: The interim final regulations provide that a student may receive an ACG during the first and second academic years of an eligible program of undergraduate education and may receive a National SMART Grant during the third and fourth academic years of an eligible program of undergraduate education. Section 691.15(b)(1)(iii)(B) further provides that, for an eligible student to receive an ACG for the student's second academic year, the student must have successfully completed the first academic year. There is a parallel provision for eligibility for the fourth academic year of the National SMART Grant program in § 691.15(c)(5). Thus, for a student to receive a second-year ACG, for example, a student must be enrolled in the second academic year of the student's eligible program, after successfully completing the credit or clock hours and weeks of instructional time of the first academic year, consistent with 34 CFR 668.3.

Reason: The interim final regulations implement the statutory requirement that a student's eligibility for an ACG or National SMART Grant is based, in part, on the student's academic year of enrollment. The term ''academic year'' as used in these interim final regulations is the title IV, HEA program academic year as defined by the institution for an eligible program under the Student Assistance General Provisions regulations (34 CFR 668.3) and in accordance with section 481(a) of the HEA as amended by the HERA. In addition to being consistent with the other title IV, HEA programs, using this definition will allow the Secretary to provide assistance to qualified Federal Pell Grant recipients as early as possible as they progress through their educational program.

The Secretary is specifying in the interim final regulations that a student applying for an ACG in his or her second academic year or a student applying for a National SMART Grant in his or her fourth academic year must have successfully completed the first and third academic years, respectively. The Secretary believes that a student should not be considered to have completed the credit or clock hours of an academic year for an ACG or National SMART Grant unless the student successfully completes, *i.e.*, passes and earns, the credits or hours in the title IV, HEA academic year.

Grade Point Average (GPA)

Statute: Section 401A(c)(3)(B) and (C) of the HEA provides that a student's eligibility for a grant is based, in part, on the student obtaining a cumulative GPA of at least 3.0 (or the equivalent as determined by the Secretary) in his or her first academic year of an educational program for a second-year ACG and in the coursework required for the student's major for a National SMART Grant.

Regulations: Under § 691.15(b)(1)(iii)(C), to receive an ACG in the second academic year, a student must successfully complete the first academic year of his or her eligible program and obtain a cumulative GPA of at least a 3.0 on a 4.0 scale, or the equivalent, as determined by the institution for other academic and title IV, HEA program purposes. Similarly, to receive a National SMART Grant, under § 691.15(c)(3), a student must maintain at least a 3.0 on a 4.0 scale, or the equivalent, cumulative GPA through the most recently completed payment period in the coursework required for a student's eligible program. For both programs, calculation of a student's GPA for purposes of eligibility for an ACG or National SMART Grant must be done consistent with other institutional measures for academic and title IV, HEA program purposes.

In the case of a transfer student, § 690.15(e) of the interim final regulations provides that an institution must rely on the grades of the courses from the prior institution that the institution accepts toward the student's eligible program for the first payment period. Use of grades from any prior institution to determine a student's GPA will be optional for the second and subsequent payment periods.

Reason: The Secretary believes that, in general, a student's GPA used to determine eligibility for an ACG or National SMART Grant should be determined by the institution under the same standards as are used to calculate a GPA for other academic and title IV, HEA program purposes at the institution. This requirement provides consistency and reduces the administrative burden on institutions. In the case of a National SMART Grant, the Secretary has determined that a student must meet the GPA requirement based on all the courses required for the student's eligible program, not just those courses required for the eligible major. The Secretary believes this is appropriate because this approach will minimize the burden on institutions when determining whether a student meets the GPA requirement.

To ensure that a transfer student may qualify for a grant in his or her first payment period at an institution to which the student has transferred, the institution to which the student transfers must take into account the grades in coursework taken at any prior institution that the institution accepts on transfer towards the student's eligible program in calculating a GPA to determine the student's eligibility. The Secretary believes it is appropriate to make consideration of transfer credits optional in the second and subsequent payment periods at the institution to which the student has transferred because the student will then have established a GPA with coursework taken at the institution to which the student transferred after the first payment period. The institution may then follow its standards for academic and title IV, HEA program purposes without any further exceptional treatment for the transfer student.

Prior Enrollment in a Postsecondary Educational Program

Statute: Section 401A(c)(3)(A)(ii) of the HEA provides that a student is not eligible for an ACG in the student's first academic year of enrollment in an eligible program if the student previously enrolled in a program of undergraduate education.

Regulations: Under § 691.15(b)(1)(ii)(B) of the interim final regulations, a student is not eligible for an ACG in the student's first academic year if the student previously enrolled as a regular student in a program of undergraduate education.

Reason: The Secretary believes that it is appropriate to clarify that a student is considered to have been enrolled in an undergraduate program if the student was admitted into the program as a regular student, as defined in 34 CFR 660.2. The term ''regular student'' is defined as ''a person who is enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution.'' A student is not disqualified from eligibility for a first-year ACG based on his or her enrollment in college courses while in high school if that student had not been enrolled by the college for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by the college. A student who was enrolled in a postsecondary program leading to a degree, certificate, or other recognized educational credential while enrolled in high school is not eligible for a first-year ACG. Under §§ 101 and 102 of the HEA, a postsecondary institution that enrolls high school students who are not beyond the age of compulsory school attendance as regular students is not eligible for title IV, HEA aid. Thus, an institution that admits students as regular students who are in high school and are not beyond the age of compulsory school attendance endangers both its institutional eligibility and the eligibility of all students at the institution for aid under all title IV, HEA programs.

A student's enrollment in a payment period during his or her first academic year of enrollment in an eligible program does not render that student ineligible for an ACG during a subsequent payment period during the first academic year if the student is otherwise eligible for an ACG. For example, a student graduates from high school in May 2006. In September 2006, the student enrolls for the fall semester as a half-time student but is otherwise eligible for an ACG. In January 2007, the student begins the second semester as a full-time student. The student would not be considered to have been previously enrolled in another postsecondary program under this provision and would be eligible in the second semester for an ACG payment from the student's first-year ACG Scheduled Award.

Documenting Completion of a Rigorous Secondary School Program of Study

Statute: Section 401A(c)(3)(A)(i) and (B)(i) of the HEA requires that, to receive an ACG, a student must have successfully completed a rigorous secondary school program of study, as recognized by the Secretary.

Regulations: Under § 691.15(b)(2) of the interim final regulations, an institution is required to document a student's completion of a rigorous secondary school program of study using documentation from the appropriate cognizant authority provided by that authority or the student. Section 691.15(b)(3) of the interim final regulations provides that for a home-schooled student, the student's parent or guardian is the cognizant authority for purposes of providing documentation of the student's completion of a rigorous program of study. Such documentation would include a transcript or its equivalent or, alternatively, a detailed course description listing the secondary school courses completed by the student. In the case of a transfer student, § 691.15(b)(4) of the interim final regulations provides that an institution may rely on documentation of a prior institution's determination that a student completed a rigorous secondary school program of study. Such determination can be documentation of a student's receipt of an ACG from a prior institution.

Reason: The Secretary believes that, in determining a student's eligibility under the rigorous secondary school program of study requirement, the institution must obtain documentation that the student has completed such a course of study from the cognizant authority. The student or the cognizant authority may provide the documentation. To maintain the integrity of the application process, the Secretary is requiring that, if an institution has reason to believe that documentation provided by a student is incomplete or inaccurate, an institution must use documentation provided to it directly from the cognizant authority.

With respect to home-schooled students, the Secretary is aware that parents or a student's guardian are the cognizant authority for home-schooled students and is providing for this circumstance in § 691.15(b)(3) of these interim final regulations.

In the case of a transfer student, the Secretary believes that an institution's reliance on a prior institution's determination and documentation of the student's rigorous secondary school program of study provides sufficient assurance of the student's eligibility and reduces institutional burden. This documentation may be documentation of the student's receipt of an ACG at a prior eligible institution.

Declaring an Eligible Major

Statute: Section 401A(c)(3)(C)(i) of the HEA requires that a student must major in one of the physical, life, or computer sciences, mathematics, technology, engineering, or in a critical foreign language to be eligible for a National SMART Grant.

Regulations: To be eligible for a National SMART Grant, § 691.15(c)(2) of the interim final regulations requires that a student must formally declare his or her eligible major in accordance with the institution's academic requirements. However, if under an institution's procedures, a student would not be able to formally declare a major in time to qualify for a National SMART Grant, the student must demonstrate his or her intent to declare an eligible major as documented by the institution. As soon as the student is able to formally declare a major, the student must do so in order to remain eligible for a National SMART Grant. In all cases, the student must enroll in the courses necessary to complete the degree program and to fulfill the major requirements.

Reason: The Secretary believes the best assurance that a student is pursuing an eligible major is obtained by a student formally declaring his or her eligible major in accordance with the institution's academic requirements. The Secretary is aware, however, that in some instances, under institutional academic policies, a student is not allowed to declare his or her major early enough to qualify for a National SMART Grant. The Secretary is, therefore, providing an alternative means for students to qualify as having an eligible major. Under this alternative approach, a student may demonstrate his or her intent to declare an eligible major in accordance with the institution's academic requirements. However, to ensure the integrity of the program, the Secretary believes that it is important that the student formally declare an eligible major as soon as the student is allowed. Whether the student has formally declared a major or is covered by the alternative approach, the student also must enroll in the courses needed both to complete the student's eligible program and to fulfill the intended eligible major's requirements. The Secretary believes this additional requirement fulfills the statutory requirement because it further documents the student's pursuit of an eligible major.

Section 691.16 Recognition of a Rigorous Secondary School Program of Study

Statute: Section 401A(f) of the HEA requires the Secretary to recognize at least one rigorous secondary school program of study in each State to determine student eligibility for an ACG. Section 401A(c)(3)(A) and (B) provides that a rigorous secondary school program of study is established by an SEA or LEA.

Regulations: The interim final regulations provide that, for an award year, the Secretary recognizes at least one rigorous secondary school program of study in each State identified by an SEA or by an LEA that can document that it is legally authorized by the State to establish a separate secondary school program of study. In identifying secondary school programs of study that it considers rigorous, an SEA or LEA must consider programs that are offered at public, charter, private, tribal, and home schools, prepare students to succeed in postsecondary education, and are not General Education Development (GED) Certificate programs. The Secretary believes that GED programs do not ensure the necessary academic achievement to be considered rigorous secondary school programs of study.

In these interim final regulations, the Secretary is recognizing certain secondary school programs of study as rigorous that are in addition to any that may subsequently be explicitly identified by SEAs and LEAs and recognized by the Secretary. These additional programs include existing advanced and honors programs established by States and a set of courses identified under the State Scholars Initiative sponsored by the Western Interstate Commission for Higher Education (WICHE). In addition, an individual student may be considered to have completed a rigorous secondary school program of study, regardless of the school or program attended, if the individual student successfully completes a set of courses similar to those required under the State Scholars Initiative. An individual student may also be considered to have completed a rigorous secondary school program of study, regardless of the school or program attended, if the individual student completes courses in the International Baccalaureate Diploma Program or the College Board's Advanced Placement Program and attains at least a minimum score, consistent with § 691.16(d)(4) and (5), respectively, on the examinations for those courses. The interim final regulations also provide for publication by the Secretary of a list of recognized rigorous secondary school programs of study for each award year.

Reason: The interim final regulations in this section are necessary to implement the statutory requirement that the Secretary recognizes at least one rigorous secondary school program of study in each State. While SEAs and LEAs may submit secondary school programs of study for the Secretary to recognize as rigorous, there is no requirement that SEAs or LEAs take such action. The Secretary, however, is under a mandate to recognize at least one program in each State as rigorous. To fulfill this mandate, the Secretary has identified several programs that the Secretary recognizes as rigorous secondary school programs of study in addition to any that may subsequently be explicitly identified by SEAs and LEAs and recognized by the Secretary. Recognizing these programs as rigorous in these interim final regulations will ensure that deserving students will be able to establish their eligibility for an ACG. The Secretary has made an initial determination that these particular programs indicate that a student is adequately prepared to pursue postsecondary education successfully. With respect to existing advanced or honors programs established by States, the Secretary has determined that, based on their composition, these programs inherently qualify as rigorous secondary school programs of study. Both the set of courses identified under the State Scholars Initiative and the set of similar courses prescribed in § 691.16(d)(2) of these interim final regulations are patterned after the recommendations for the essentials of a strong curriculum in the National Commission on Excellence in Education's report A Nation at Risk: The Imperative for Educational Reform, available on the Department's Web site at *http://www.ed.gov/pubs/NatAtRisk/index.html.* As a result, the Secretary has determined that completing the courses of these secondary programs of study establishes that a student has completed a rigorous secondary school program of study.

With respect to completing courses in the International Baccalaureate Diploma Program or the College Board's Advanced Placement Program and attaining at least a minimum score, the Secretary has determined that completing these courses with the prescribed minimum score establishes that a student has attained a level of ability in completing his or her secondary school program that is commensurate with completing a rigorous secondary school program of study.

To ensure a wide distribution of the list of recognized programs for each award year, the Secretary will make the list available through a number of means, including to students applying using FAFSA on the Web, the Department's websites, and through Dear Colleague letters and other appropriate media.

Section 691.17 Determination of Eligible Majors

Eligible Major

Statute: Section 401A(c)(3)(C)(i) of the HEA provides that a student may receive a National SMART Grant if the student is pursuing a major, as determined by the Secretary, in the physical, life, or computer sciences, mathematics, technology, engineering, or a critical foreign language.

Regulations: Section 691.17(a) of the interim final regulations provides that, for each award year, the Secretary identifies the eligible majors in the physical, life, or computer sciences, mathematics, technology, engineering, and, after consulting with the Director of National Intelligence, critical foreign languages.

Reason: This section implements the statutory provision that the Secretary determine eligible majors in the physical, life, and computer sciences, mathematics, technology, engineering, and, after consulting with the Director of National Intelligence, critical foreign languages. The Secretary will publish a list of eligible majors by Classification of Instructional Program (CIP) codes to provide a standardized method of identifying eligible majors. The Secretary believes that no significant additional burden will be imposed on institutions because they already use CIP codes.

To ensure wide distribution of the list of eligible majors for each award year, the Secretary will make the list available on the Department's Web Sites, through Dear Colleague letters, and through other appropriate media.

Duration of Eligible Major

Statute: Section 401A(c)(3)(C)(i) of the HEA provides that a student may receive a National SMART Grant if the student is pursuing a major, as determined by the Secretary, in the physical, life, or computer sciences, mathematics, technology, engineering, or a critical foreign language.

Regulations: Section 691.17(c) of the interim final regulations provides that an eligible major for an award year remains an eligible major in subsequent award years for a student who majored in that eligible major and received a National SMART Grant in the award year in which the major was an eligible major, even if that major is no longer listed as an eligible major in subsequent award years during which the student is otherwise eligible for a National SMART Grant.

Reason: The Secretary believes that a student who started a third academic year, or a portion of a fourth academic year, in an eligible major that ceases to be listed as an eligible major during a later award year should not be penalized for this change. The regulations provide that a student in this situation remains eligible to receive a National SMART Grant, provided he or she continues to meet the other eligibility requirements.

Subpart F—Determination of Awards

Section 691.62 Calculation of a Grant

Maximum Award

Statute: Section 401A(d)(1)(A) of the HEA establishes the grant amount that an eligible student can receive for each academic year of eligibility for an ACG or National SMART Grant. Section 401A(d)(1)(B)(ii) of the HEA authorizes the Secretary to ratably reduce the maximum grant amounts for both programs when the funds available for a given fiscal year are less than the amount needed to fund full awards for all eligible students.

Regulations: The interim final regulations provide that the Secretary establishes and announces the ACG and National SMART Grant Scheduled Awards each award year and sets forth the maximum grant amounts for each program for each academic year of eligibility for a student as set forth in the statute. The interim final regulations also provide that the Secretary may revise the maximum award during an award year based on the availability of funds.

Reason: The Secretary establishes the ACG and National SMART Grant Scheduled Awards based on the availability of funds appropriated and the anticipated number of eligible students. If funds are insufficient to support these amounts, the ACG and National SMART Grant Scheduled Awards are ratably reduced from the statutory maximums for both programs for all academic years of enrollment. To ensure that all eligible students receive an award, we also are providing that the Secretary may further revise the ACG and National SMART Grant Scheduled Awards during an award year.

Treatment in Relation to Other Aid Received

Statute: Section 401A(d)(1)(B)(i) of the HEA provides that the grant amount may not exceed the student's cost of attendance when combined with the student's Federal Pell Grant and other student financial assistance.

Regulations: Section 691.62(c) of the interim final regulations provides that a student's ACG or National SMART Grant, when combined with a student's expected family contribution determined under title IV, part F of the HEA and estimated financial assistance as defined in 34 CFR 673.5(c), 682.200(b), and 685.102(b), may not exceed a student's cost of attendance under section 472 of the HEA.

Reason: ACG and National SMART Grants are need-based grants. Need-based grant assistance cannot replace a family's expected contribution toward a student's postsecondary expenses.

Section 691.63 Calculation of a Grant for a Payment Period

General

Statute: Section 401A(d)(1)(A) of the HEA specifies the amount of a grant a student may receive for an academic year.

Regulations: The interim final regulations detail how an institution calculates an ACG or National SMART Grant payment for a payment period for an eligible student depending on the academic calendar of the eligible program and the amount of the student's ACG or National SMART Grant Scheduled Award.

Reason: As is the case with the Federal Pell Grant Program, a student's award for an ACG or National SMART Grant is considered to be awarded across a title IV, HEA academic year. The interim final regulations for this section follow the corresponding Federal Pell Grant Program regulations in 34 CFR 690.63 for calculating payments for payment periods to distribute a student's award across a title, IV HEA academic year. Because students enrolled in a program of study offered by correspondence are not eligible for ACG or National SMART Grants because these students are not full-time, the Secretary is not including in part 691 the Federal Pell Grant Program provisions in 34 CFR 690.66, regarding calculation of a payment for a payment period for programs of study offered by correspondence.

Calculation of a Grant for a Payment Period That Applies to Two Academic Years

Regulations: Under the interim final regulations, if a student is completing the remaining portion of an academic year in a payment period, the student's payment is calculated using the ACG or National SMART Grant Scheduled Award of the academic year being completed.

Reason: In certain circumstances, a student may be completing in a payment period the coursework for an academic year while also beginning to take coursework applicable to the next academic year for which the student may qualify for another ACG or National SMART Grant Scheduled Award. These interim final regulations provide that the student's payment for a payment period is calculated based on the ACG or National SMART Grant Scheduled Award for the academic year that the student is completing. The Secretary believes this provision is necessary to provide guidance to institutions in calculating a student's payment for the payment period in this circumstance and to ensure that eligible students receive their awards.

Section 691.64 Calculation of a Grant for a Payment Period Which Occurs in Two Award Years

Regulations: This section addresses how an institution calculates an ACG or National SMART Grant payment for an eligible student's payment period when the student is enrolled in a payment period that overlaps two award years. These interim final regulations are the same as in 34 CFR 690.64 of the Federal Pell Grant Program regulations, except for § 691.64(a)(6), which provides that a student's ACG or National Smart Grant must be assigned to the same award year as the student's Federal Pell Grant and § 691.64(b), which prohibits a student from receiving more than his or her ACG or National SMART Grant Scheduled Award for an academic year.

Reason: The requirement in § 691.64(a)(6) is necessary to coordinate these provisions with the student eligibility requirement in § 691.15(a)(2) that a student be receiving a Federal Pell Grant in a payment period in order to be eligible for an ACG or National SMART Grant payment. The institution must assign a payment period for an ACG or National SMART Grant that occurs in two award years to the same award year that it assigns to the student's Federal Pell Grant. In addition, § 691.64(b) clarifies that, unlike the Federal Pell Grant Program, a student's ACG or National SMART Grant Scheduled Award is based only on completing an academic year of the student's eligible program, rather than completing an academic year within an award year, as in the Federal Pell Grant Program.

Section 691.65 Transfer Student: Attendance at More Than One Institution During an Academic Year

Regulations: This section specifies how an institution calculates an ACG or National SMART Grant payment for an eligible student who transfers from another postsecondary institution within the same award year. The interim final regulations are similar to the corresponding provisions in 34 CFR 690.65 under the Federal Pell Grant Program regulations with one exception. The Secretary is adding paragraph (a)(2) to provide that a transfer student must receive a Federal Pell Grant in the same payment period to be an eligible ACG or National SMART Grant recipient at the second institution.

Reason: This provision coordinates these interim final regulations with the student eligibility requirement in § 691.15(a)(2) that a student be receiving a Federal Pell Grant in a payment period in order to be eligible for an ACG or National SMART Grant payment.

Subpart G—Administration of Grant Payments

Section 691.75 Determination of Eligibility for Payment GPA and Declaration of a Major

Statute: Section 401A(c) of the HEA provides the student eligibility requirements for the ACG and National SMART Grants.

Regulations: This section specifies the requirements that govern an institution's determination of a student's eligibility for a disbursement of an ACG or National SMART Grant. These interim final regulations are similar to those in 34 CFR 690.75 of the Federal Pell Grant Program to the extent practicable. Similar to the Federal Pell Grant Program requirements for determinations of a student's satisfactory academic progress, these interim final regulations add provisions for the treatment of institutional determinations for a payment period regarding changes in a student's GPA and, for National SMART Grants, a student's major.

Reason: A student's GPA may change during the course of a payment period, depending on when grades are earned or posted. Similarly, a student may declare an eligible major during a payment period. These provisions provide institutions the flexibility to reconsider a student's eligibility for an ACG or National SMART Grant payment during a payment period.

Payments for Nonterm Self-Paced Programs

Regulations: Section 691.75(a)(3) provides that a student enrolled in a nonterm self-paced program may not receive a disbursement for a payment period until the student completes at least 50 percent of the credit or clock hours, or the academic coursework, in the payment period at the rate of academic progress of a full-time student. Section 691.75(e) describes a self-paced program for purposes of this section as one that allows a student to complete coursework without a defined academic schedule or to enroll in courses within a program at either defined dates or optional start dates without a defined schedule for completing the program.

Reason: Unlike term-based programs and nonterm programs with defined academic schedules, a student's enrollment status in a self-paced program may vary from that of other students in that program depending on the rate of academic progress the individual student is making in completing the credit or clock hours in the program.

This varying rate of academic progress is already addressed in the Federal Pell Grant Program regulations governing calculation of payments for payment periods, 34 CFR 690.63(e), and § 691.63(e) of these interim final regulations. For the numerator of the fraction in 34 CFR 690.63(e)(2)(i) and § 691.63(e)(3)(i) of these interim final regulations, an institution must determine the weeks of instructional time for full-time students in a program, using credit hours without terms or clock hours, to complete the lesser of the credit or clock hours in the program or the title IV, HEA academic year. For nonterm self-paced programs, institutions must distinguish between part-time students and full-time students to arrive at a proper value for the numerator in this fraction and determine the number of weeks of instructional time necessary for most full-time students enrolled in the program to complete the lesser of the credit or clock hours in the program or the academic year. Although an institution, to calculate a payment for the payment period, must determine this value based on the behavior of full-time students enrolled in the program, this value is used for the payment period calculations for all students in an eligible program regardless of each student's enrollment status. Thus, the calculations of payments for payment periods for clock-hour and nonterm credit-hour programs do not provide any assurance regarding an individual student's enrollment status.

Under the definition of a payment period in 34 CFR 668.4(b) and (c), a student may not progress to the next payment period unless the student completes the clock hours in the payment period or, for a credit-hour program, the credit hours and the weeks of instructional time in the payment period. There is no requirement that the student be progressing at the rate of a particular enrollment status to move to the next payment period. Thus, progressing to the next payment period does not ensure that a student would be considered full-time.

Because the existing Federal Pell Grant Program regulations governing payment periods and calculations of payments for payment periods do not ensure that a student is progressing at a full-time enrollment status, the Secretary believes it is necessary for an institution to determine that a student enrolled in a nonterm self-paced program is progressing as a full-time student on or after the midpoint of the payment period in hours or coursework before making a disbursement to the student for that payment period. The Secretary believes this requirement ensures that ACG and National SMART Grant funds will be awarded only to full-time students.

To clarify the programs that the Secretary believes should fall under these requirements, the Secretary is adding paragraph (e) to this section to describe nonterm programs that the Secretary considers to be offered in a self-paced academic calendar.

Payment Prior to Receipt of GPA

Regulations: Under § 691.75(d), an institution may make one disbursement for a payment period to a student whose GPA is not yet available as required under § 691.15(b)(1)(iii)(C) and (c)(3). By making the disbursement, the institution assumes liability for the disbursement if it subsequently determines that the student's GPA was not eligible.

Reason: The Secretary recognizes that a student's grades for a prior payment period are not always promptly available to determine the student's eligibility for an ACG or National SMART Grant disbursement for the next payment period. This provision provides the institution the authority to make a disbursement to a student whom it anticipates would be eligible, but when the student's grades for the prior payment period are available, if ineligible, the grant must be rescinded.

Section 691.76 Frequency of Payment

Regulations: This section specifies how often an institution may pay a student. These interim final regulations are the same as the Federal Pell Grant Program regulations in 34 CFR 690.76 to the extent practicable but add that a student must have completed a prior payment period as a full-time student in order to receive payment in one lump sum for prior payment periods.

Reason: The purpose of this section is to detail when institutions may disburse a payment within a payment period. These interim final regulations also ensure that a student has met the full-time status requirement, and is therefore eligible for disbursement of an ACG or National SMART Grant payment for a prior payment period.

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether the regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the OMB. Under section 3(f) of Executive Order 12866, the order defines a ''significant regulatory action'' as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising 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 the Executive Order, it has been determined that this regulatory action will have an annual effect on the economy of more than $100 million. Therefore, this action is ''economically significant'' and subject to OMB review under section 3(f)(4) of Executive Order 12866. The Secretary accordingly has assessed the potential costs and benefits of this regulatory action and has determined that the benefits justify the costs.

Need for Federal Regulatory Action

As noted above, these interim final regulations are needed to implement two programs created in the HERA. The ACG program provides need-based grants to encourage students to complete a rigorous secondary school program of study. The National SMART Grant Program provides need-based grants to encourage students to major in certain scientific and technical fields or foreign languages deemed vital to national security. Section 401A(c)(3)(B)(ii) and (3)(C)(ii) of the HEA specifically requires the Secretary of Education to issue regulations implementing these programs.

The Secretary had limited discretion in implementing these grant programs; the number of recipients and aid awarded is largely driven by statutory eligibility requirements such as that students be eligible to receive a Federal Pell Grant, be United States citizens, attend two-or four-year degree-granting institutions on a full-time basis, and, in some cases, maintain a 3.0 GPA. The Secretary has exercised discretion in the areas of program eligibility relating to the definition of a rigorous secondary school program of study in the case of the ACG Program and, for the National SMART Grant Program, the definition of qualifying fields of study. In both these cases, the Secretary has regulated to reflect clear congressional intent.

Benefits

By facilitating the implementation of these new programs, these interim final regulations will support the provision of over $4 billion in need-based student aid over the next five years. The ACG Program will benefit society by providing an incentive for students to complete a rigorous secondary school program of study, which research indicates increases the likelihood of successfully completing postsecondary education. The National SMART Grant Program will encourage students to major in technical fields or critical foreign languages. In the case of technical fields, these majors will benefit both national and individual competitiveness, increasing the nation's economic security. For foreign languages, increases in the number of fluent speakers of Arabic, Farsi, Uzbek, and other critical languages would broaden understanding of important cultures and contribute significantly to ongoing efforts to combat international terrorism. In addition, awards under both programs serve to reduce a student's net cost of education. Research indicates that reduction in a student's cost of education correlates with increased student persistence and degree attainment. Data consistently show that postsecondary degree holders have substantially higher lifetime earnings than high school graduates.

Costs

These programs are supported with $4.5 billion in mandatory appropriations: $790 million for fiscal year 2006, $850 million for fiscal year 2007, $920 million for fiscal year 2008, $960 million for 2009, and $1,010 million for 2010. Funds not expended in one year may be carried forward to support awards in the subsequent year. If the estimated number of recipients exceeds the available funding for a given fiscal year, award levels would be ratably reduced.

TABLE 1.—ESTIMATED PROGRAM PARTICIPATION

	Estimated number of recipients	Estimated avg. award	Total amount of aid awarded (Expected in millions)
Award Year 2006–2007			
AC Grants—1st year	310,000	$657	$200
AC Grants—2nd year	110,000	1,245	140
National SMART Grants—3rd year	40,000	3,718	150
National SMART Grants—4th year	40,000	3,875	160
Award Year 2007–2008			
AC Grants—1st year	330,000	682	230
AC Grants—2nd year	130,000	1,255	160
National SMART Grants—3rd year	40,000	3,718	150
National SMART Grants—4th year	40,000	3,875	160

The average awards displayed in Table 1 are less than the statutory maximum awards due to the cost of attendance limit on ACG and National SMART Grant awards. In addition, average awards also reflect students who are eligible for an ACG or National SMART Grant for less than the full award year. Figures in Table 1 may not add due to rounding.

Because these programs are title IV, HEA programs and eligibility for these programs is linked to Federal Pell Grant eligibility, participating institutions must already meet Federal student aid institutional eligibility requirements. In addition, the delivery system and many program operational requirements for the new programs are patterned after those institutions are already using for Federal Pell Grants. Accordingly, institutions wishing to participate in the new programs have already absorbed most of the administrative costs related to implementing these interim final regulations. Marginal costs over this baseline are primarily related to initial, and ongoing eligibility determinations are minimal. Most data needed to make these determinations, such as student citizenship, full-time status, major, and GPA, are generally already available to institutions. The Department is particularly interested in comments on possible administrative burdens the new programs could impose on some institutions, especially related to the process of identifying cognizant authorities, documenting student eligibility, and verifying documentation considered incomplete or inaccurate.

Assumptions, Limitations, and Data Sources

Because these interim final regulations largely restate statutory requirements that would be self-implementing in the absence of regulatory action, cost estimates provided above reflect a prestatutory baseline in which the ACG and National SMART Grant programs do not exist. Given the limited data available, estimates for 2007–2008 do not assume program benefits will induce increased student participation. In general, these estimates should be considered preliminary; they will be reevaluated as actual program data becomes available. Costs have been quantified for only two years because the Secretary plans to revise these interim final regulations through negotiated rule-making, after which more comprehensive cost analyses for subsequent years will be developed.

In developing these estimates, data from the 2004 National Postsecondary Student Aid Survey was used to derive the percentage of students meeting initial eligibility requirements for ACG and National SMART Grant awards, including enrollment status, Federal Pell Grant eligibility, citizenship, academic major, and GPA. The 1994 National Education Longitudinal Study, 1996 Beginning Postsecondary Student Survey, and 2000 National Assessment of Educational Progress High School Transcript Study were used to derive the percentage of students otherwise eligible for an ACG who had successfully completed a rigorous secondary school program of study. All these studies were conducted by the National Center for Education Statistics.

Regulatory Alternatives Considered

In defining eligibility requirements, particularly those related to rigorous secondary school programs of study, these interim final regulations strike a balance between complete State discretion, which could create confusion and regional inequalities and result in overly generous criteria that dramatically reduce award levels, and an overly prescriptive national determination that would significantly alter the traditional State role in determining secondary school curricula.

More specifically, in considering the definition of a rigorous secondary school program of study, the Secretary looked at a variety of combinations of coursework and other possible measures. For example, at the time of the release of the President's fiscal year 2007 budget, preliminary estimates assumed a rigorous program of study would consist of four English, three social science, three science, three mathematics, and two foreign language courses. Under this scenario, an estimated 439,000 students would receive $400 million in ACG awards in 2006–2007—compared with $340 million to 420,000 students under these interim final regulations. In subsequently considering the recognition of rigorous secondary school programs, the Secretary determined it would be more appropriate to include as one option secondary school programs of study with specific coursework requirements, such as, for mathematics, algebra I and a higher level course such as algebra II, geometry, or data analysis and statistics, and for science, at least two years with one year each of biology, chemistry or physics, as well as an advanced or honors program. In addition, the Secretary included students who complete a secondary school program and receive specified scores on the Advanced Placement or International Baccalaureate examinations. The latter provisions offer additional flexibility to individual students attending private or home schools.

This approach is consistent with the programs' statutory purpose of creating incentives for certain student behaviors. To achieve this purpose, the grant level must be large enough to provide a meaningful incentive, yet at the same time, program flexibility must be sufficient to allow States and participating institutions to recognize broad differences in secondary school and higher education academic structures.

Elsewhere in this **SUPPLEMENTARY INFORMATION** section we identify and explain burdens specifically associated with information collection requirements. See the heading Paperwork Reduction Act of 1995.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.Whitehouse.gov/omb/Circulars/a004/a-4.pdf*), in Table 2 below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these interim final regulations. This table provides our best estimate of the increase in Federal student aid payments as a result of these interim final regulations. All expenditures are classified as transfers to postsecondary students.

TABLE 2.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

Category	Transfers
Annualized Monetized Transfers	$666.
From Whom To Whom?	Federal Government To Postsecondary Students.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department is generally required to publish a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed regulations prior to establishing a final rule. In addition, all Department regulations for programs authorized under the title IV, HEA programs are subject to the negotiated rulemaking requirements of section 492 of the HEA.[1] However, both the APA and the HEA provide for exemptions from these rulemaking requirements. The APA provides that an agency is not required to conduct notice and comment rulemaking when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. Similarly, section 492 of the HEA provides that the Secretary is not required to conduct negotiated rulemaking for a title IV, HEA program if the Secretary determines that applying that requirement is impracticable, unnecessary, or contrary to the public interest within the meaning of the APA.

Although these regulations are subject to the APA's notice-and-comment and the HEA's negotiated rulemaking requirements, the Secretary has determined that it would be impracticable to conduct either negotiated rulemaking or notice-and-comment rulemaking to implement the ACG and National SMART Grant programs for the 2006–2007 award year. Waiver of rulemaking under the impracticability exemption in the APA and HEA is warranted because it would not be possible for the Department to

[1] Section 492 provides specifically that any regulations issued for the title IV, HEA programs shall be subject to negotiated rulemaking to obtain the advice of and recommendations from individuals and groups involved in the student financial assistance programs.

comply with the APA's and HEA's rulemaking mandates and execute its statutory duties under the HERA.[2] The Department cannot both implement the ACG and National SMART Grant programs, including making awards to eligible students, by the beginning of the 2006–2007 award year, and conduct negotiated or notice-and-comment rulemaking for the regulations for these programs.

In the HERA, enacted on February 8, 2006, Congress appropriated $790 million for the Department to use in awarding ACG and National SMART Grants to students for the 2006–2007 award year, which begins on July 1, 2006. The Department therefore had a very short, less than five-month window to issue regulations, plan the administration of these programs, and begin the process of making awards for the 2006–2007 award year.

Even on an extremely expedited timeline, the Department could not feasibly conduct negotiated or notice-and-comment rulemaking and then promulgate final regulations in time to make awards for the 2006–2007 award year. Negotiated rulemaking requires the Department to solicit nominations for negotiators to participate in the negotiated rulemaking sessions, select a committee of negotiators, conduct a series of negotiating sessions, publish a notice of proposed rulemaking, review public comments, and issue final regulations. Normally, this process would take at least 12 months and possibly longer.

In addition to developing and issuing these regulations, there are a number of other steps necessary for the Department to implement the ACG and National SMART Grant programs for the 2006–2007 award year that make rulemaking impracticable. Implementation requires the Department to make a number of changes to the FAFSA and the Department's financial aid systems so that students can apply for and receive ACG and National SMART Grants. For the ACG Program, the Secretary also must recognize at least one rigorous secondary school program of study in each State, which will include considerations of State proposals for the recognition of their programs. To implement the National SMART Grant Program, the Secretary must consult with the Director of National Intelligence to establish a list of critical foreign languages. The process of completing all of these steps and developing program regulations through negotiated or notice-and-comment rulemaking requires far more time than that available to the Department in order to make awards to students for the upcoming 2006–2007 award year.

Based upon this information, and in order to make timely grant awards for the 2006–2007 award year, the Secretary is issuing these interim final regulations without first conducting negotiated rulemaking or publishing proposed regulations for public comment.

Although the Department is adopting these regulations on an interim final basis for the 2006–2007 award year, the Department requests public comment on these regulations for the 2007–2008 award year. After consideration of public comments, the Secretary will publish final regulations for the 2007–2008 award year.

Section 482 of the HEA requires that any title IV regulations that have not been published in final form by November 1 prior to the start of an award year cannot become effective until the beginning of the second award year following the November 1 date. Therefore, the Secretary has determined that although it is feasible to conduct notice-and-comment rulemaking for the 2007–2008 award year, it would be impracticable to conduct negotiated rulemaking.

As discussed above, the negotiated rulemaking process can take at least 12 months, if not longer, to complete final regulations. Therefore, it would not be feasible for the Department both to conduct a negotiated rulemaking process and have amended regulations for the 2007–2008 award year in place by November 1, 2006, as would be required under section 482 of the HEA. The Secretary does intend to begin the negotiated rulemaking process later this year. The negotiated rulemaking process could further amend the regulations as appropriate for the 2008–2009 award year and subsequent years.

Regulatory Flexibility Act Certification

The Secretary certifies these regulations will not have a significant economic impact on a substantial number of small entities. Entities that would be affected by these regulations are States, SEAs, LEAs, and institutions of higher education. States, SEAs, and LEAs are not defined as ''small entities'' in the Regulatory Flexibility Act. The small entities affected by these regulations are institutions of higher education receiving Federal funds under these programs. Roughly 1,000 institutions of higher education eligible to participate in ACG and National SMART Grant Programs meet the definition of a ''small entity'' in that they have annual revenues of $6.5 million or less. The regulations will not have a significant economic impact on these institutions of higher education; these institutions must already comply with the eligibility requirements related to participating in the Federal Pell Grant program in order to participate in the ACG and National SMART Grant Programs. Additional, program-specific requirements included in these regulations will impose only minimal additional requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1995

Sections 691.12, 691.15, 691.16, 691.82, and 691.83 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Academic Competitiveness Grant (ACG) Program and National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program.

Section 691.12—Student Application

This new section will be included for approval under OMB control number 1845–0001. These interim final regulations allow a student to provide information that he or she completed a rigorous secondary school program of study to qualify for an ACG. The Secretary expects to collect this information when the student applies for assistance under the title IV, HEA programs using an addendum to the FAFSA. Potentially eligible students completing the FAFSA will be directed to a Web site that allows the student to select the applicable rigorous secondary school programs of study from a list of programs recognized by the Secretary. The student's information is then transmitted on the student's SAR and the ISIR to the institutions listed on the student's FAFSA. There is additional burden associated with a student going to the Web site and responding to a few additional FAFSA questions to select their rigorous secondary school programs of study from a list of programs recognized by the Secretary. The public is invited to comment on the burden associated with this collection.

[2] See *Riverbend Farms, Inc.* v. *Madigan*, 958 F.2d 1479, 1484, n.2 (9th Cir. 1992). The term ''impracticable'' has also been described as meaning ''a situation in which the due and required execution of the agency functions would be unavoidably prevented by its undertaking rulemaking proceedings. *Zhang* v. *Slattery*, 55 F.3d 732, 746 (2d Cir. 1995) citing *National Nutritional Foods Ass'n* v. *Kennedy*, 572 F.2d 377, 385 (2d Cir. 1978) citing S. Rep. No. 752, 79th Cong., 1st Sess. (1945).

Section 691.15—Documenting a Student's Completion of a Rigorous Secondary School Program of Study

Burden on student applicants who apply for an ACG or National SMART Grant under this new section will be included for approval under OMB control number 1845–0001. Burden on institutions for collecting documentation and evaluating a student's eligibility for an ACG or National SMART Grant under this new section will be included for approval under OMB control number 1845–0039. Under these interim final regulations, an institution must document a student's completion of a rigorous secondary school program of study using documentation from the cognizant authority for qualifying secondary school program of study. The documentation from the cognizant authority may be provided to the institution by the student or directly to the institution by the cognizant authority. Most institutions likely to enroll ACG and National SMART Grant recipients already have the necessary documentation of a student's completion of a rigorous secondary school program of study as part of their admissions process. A small number of institutions will need to collect additional documentation. Similarly, existing academic evaluations performed by most institutions will suffice to determine a student's completion of a rigorous secondary school program of study. However, some institutions will need to perform more extensive evaluations. The public is invited to comment on the burden associated with this collection.

Section 691.16—Recognition of a Rigorous Secondary School Program of Study

This new section will be included for approval under a new OMB information collection control number. These interim final regulations allow States to propose additional rigorous secondary school programs of study for recognition by the Secretary. The Secretary expects to collect this information and recognize additional rigorous secondary school programs of study annually prior to the commencement of the next award year for each State that submits a proposal.

Section 691.82—Maintenance and Retention of Records

This new section will be included for approval under OMB control number 1845–0039. Under these interim final regulations, an institution must include in its maintenance and retention of records, documentation collected to determine the eligibility of a student for an ACG or National SMART Grant. Most institutions already maintain the required documentation (e.g., high school transcripts) that they use for other purposes. However, for a limited number of institutions that do not normally collect documentation sufficient for the purposes of these programs, additional collection and maintenance will be required.

Section 691.83—Submission of Reports

This new section will be included for approval under OMB control number 1845–0039. The interim final regulations provide that institutions requesting funds from the Secretary under the ACG and National SMART Grant programs must submit Payment Data. We expect some additional burden to institutions. However, because institutions will be reporting Payment Data in the same process as is used for the Federal Pell Grant Program and for the same students, the increased burden is expected to be minimal.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education. You may also send a copy of these comments to the Department representative named in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

We consider your comments on these proposed collections of information in—

- Deciding whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring 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.

OMB is required to make a decision concerning the collections of information contained in these regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

Based on our own review, we have determined that these interim final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

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(Catalog of Federal Domestic Assistance Numbers: 84.375 Academic Competitiveness Grants; 84.376 SMART Grants)

List of Subjects in 34 CFR Parts 668, 674, 675, 676, 682, 685, 690, and 691

Colleges and universities, Elementary and secondary education, Grant programs—education, Student aid.

Dated: June 27, 2006.

Margaret Spellings,

Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends parts 668, 674, 675, 676, 682, 685, and 690 of, and adds a new part 691 to, title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

■ 1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c–1, unless otherwise noted.

■ 2. Section 668.1 is amended by:
■ A. Revising paragraph (c)(2).
■ B. In paragraph (c)(9), removing the word ''and''.
■ C. In paragraph (c)(10), removing the punctuation ''.'' at the end of the paragraph and adding, in its place, the words ''; and''.
■ D. In paragraph (c), adding new paragraph (11) to read as follows:

§ 668.1 Scope.

* * * * *

(c) * * *

(2) The Academic Competitiveness Grant (ACG) Program (20 U.S.C. 1070a–1; 34 CFR part 691);

(11) The National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program (20 U.S.C. 1070a–1; 34 CFR part 691).

■ 3. Section 668.2(b) is amended by adding, in alphabetical order, definitions of ''Academic Competitiveness Grant (ACG) Program'' and ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program'' and revising the definition of ''Federal Pell Grant Program'' to read as follows:

§ 668.2 General definitions.

* * * * *

(b) * * *

Academic Competitiveness Grant (ACG) Program: A grant program authorized by Title IV–A–1 of the HEA under which grants are awarded during the first and second academic years of study to eligible financially needy undergraduate students who successfully complete rigorous secondary school programs of study.

(Authority: 20 U.S.C. 1070a–1)

* * * * *

Federal Pell Grant Program: A grant program authorized by Title IV–A–1 of the HEA under which grants are awarded to help financially needy students meet the cost of their postsecondary education.

(Authority: 20 U.S.C. 1070a)

* * * * *

National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program: A grant program authorized by Title IV–A–1 of the HEA under which grants are awarded during the third and fourth academic years of study to eligible financially needy undergraduate students pursuing eligible majors in the physical, life, or computer sciences, mathematics, technology, or engineering, or foreign languages determined to be critical to the national security of the United States.

(Authority: 20 U.S.C. 1070a–1)

* * * * *

■ 4. Section 668.8 is amended by:
■ A. Revising the introductory text to paragraph (h) and paragraph (h)(2).
■ B. Revising the authority citation following paragraph (l).

The revisions read as follows:

§ 668.8 Eligible programs.

* * * * *

(h) *Eligibility for Federal Pell Grant, ACG, National SMART Grant, and FSEOG Programs.* In addition to satisfying other relevant provisions of the section—

* * * * *

(2) An educational program qualifies as an eligible program for purposes of the ACG, National SMART Grant, and FSEOG programs only if the educational program is an undergraduate program.

* * * * *

(l) * * *

* * * * *

(Authority: 20 U.S.C. 1070a, 1070a–1, 1070b, 1070c–1, 1070c–2, 1085, 1087aa–1087hh, 1088, 1091, and 42 U.S.C. 2753)

■ 5. Section 668.19(a)(3) is revised to read as follows:

§ 668.19 Financial aid history.

(a) * * *

(3) For the award year for which a Federal Pell Grant, an ACG, or a National SMART Grant is requested, the student's Scheduled Federal Pell Grant, ACG, or National SMART Grant Award and the amount of Federal Pell Grant, ACG, or National SMART Grant funds disbursed to the student;

* * * * *

■ 6. Section 668.21 is amended by revising the section heading and paragraph (a)(1) to read as follows:

§ 668.21 Treatment of Federal Perkins Loan, FSEOG, Federal Pell Grant, ACG, and National SMART Grant program funds if the recipient withdraws, drops out, or is expelled before his or her first day of class.

(a)(1) If a student officially withdraws, drops out, or is expelled before his or her first day of class of a payment period, all funds paid to the student for that payment period for institutional or noninstitutional costs under the Federal Pell Grant, ACG, National SMART Grant, FSEOG, and Federal Perkins Loan programs are an overpayment.

* * * * *

■ 7. Section 668.24 is amended by:
■ A. In paragraph (e)(1) introductory text, removing the word ''or''; and by removing the word ''Program'' and adding, in its place, the words '', ACG, or National SMART Grant Program''; and
■ B. Revising the authority citation to read as follows:

§ 668.24 Record retention and examinations.

* * * * *

(Authority: 20 U.S.C. 1070a, 1070a–1, 1070b, 1078, 1078–1, 1078–2, 1078–3, 1082, 1087, 1087a *et seq.*, 1087cc, 1087hh, 1088, 1094, 1099c, 1141, 1232f; 42 U.S.C. 2753; and section 4 of Pub. L. 95–452, 92 Stat. 1101–1109)

§ 668.26 [Amended]

■ 8. Section 668.26 is amended by:
■ A. In paragraph (d)(1) introductory text, removing the words ''or PAS'' and adding, in their place, the words '', ACG, or National SMART Grant''.
■ B. In paragraph (e)(1), removing the words ''and PAS programs'' and adding, in their place, the words '', ACG, and National SMART Grant programs''.

■ 9. Section 668.32 is amended by:
■ A. In paragraph (c)(1), removing the words ''FSEOG Program'' and adding, in their place, the words ''ACG, National SMART Grant, and FSEOG programs''.
■ B. In paragraph (k)(6), removing the word ''and''.
■ C. Redesignating paragraph (k)(7) as paragraph (k)(8) and adding a new paragraph (k)(7) to read as follows:

§ 668.32 Student eligibility—general.

* * * * *

(k) * * *

(7) 34 CFR 691.75 for the ACG and National SMART Grant programs; and

* * * * *

■ 10. Section 668.33 is amended by:
■ A. In the introductory text to paragraph (a), removing the words ''paragraph (b)'' and adding, in their place, the words ''paragraphs (b) and (c)''.
■ B. Redesignating paragraphs (c)(1) and (c)(2) as paragraphs (d)(1) and (d)(2), respectively, and adding a new paragraph (c) to read as follows:

§ 668.33 Citizenship and residency requirements.

* * * * *

(c) Only a student who is a citizen of the United States is eligible to receive funds under the ACG and National SMART Grant programs.

* * * * *

■ 11. Section 668.35 is amended by redesignating paragraph (g)(2) as paragraph (g)(4) and adding new paragraphs (g)(2) and (g)(3) to read as follows:

§ 668.35 Student debts under the HEA and to the U.S.

* * * * *

(g) * * *

(2) A student is not liable for an ACG overpayment received in an award year if—

(i) The institution can eliminate that overpayment by adjusting subsequent title IV, HEA program (other than Federal Pell Grant, ACG, or National SMART Grant) payments in that same award year; or

(ii) The institution cannot eliminate the overpayment under paragraph (g)(2)(i) of this section but can eliminate that overpayment by adjusting subsequent ACG payments in that same award year.

(3) A student is not liable for a National SMART Grant overpayment received in an award year if—

(i) The institution can eliminate that overpayment by adjusting subsequent title IV, HEA program (other than Federal Pell Grant, ACG, or National SMART Grant) payments in that same award year; or

(ii) The institution cannot eliminate the overpayment under paragraph (g)(3)(i) of this section but can eliminate that overpayment by adjusting subsequent National SMART Grant payments in that same award year.

* * * * *

§ 668.138 [Amended]

■ 12. Section 668.138 is amended in paragraph (a) by removing the word ''or'' the first time it appears, and adding the words '', ACG, or National SMART Grant'' immediately after the words ''Federal Pell Grant''.

§ 668.139 [Amended]

■ 13. Section 668.139 is amended in paragraph (c) by adding the words ''ACG, National SMART Grant, FSEOG'' immediately after the words ''Federal Pell Grant,''; and removing the words ''Federal SEOG''.

§ 668.161 [Amended]

■ 14. Section 668.161(a)(3)(i) is amended by adding the words ''ACG, National SMART Grant,'' immediately after the words ''Federal Pell Grant,''.

§ 668.162 [Amended]

■ 15. Section 668.162(d)(1) is amended by adding the words ''ACG, National SMART Grant,'' immediately after the words ''Federal Pell Grant,''.

§ 668.163 [Amended]

■ 16. Section 668.163 is amended by:

■ A. In paragraph (c)(2), adding the words ''ACG, National SMART Grant,'' immediately after the words ''Federal Pell Grant,''.

■ B. In paragraph (c)(3) introductory text, adding the words ''ACG, National SMART Grant,'' immediately after the words ''Federal Pell Grant,''.

■ C. In paragraph (c)(4), adding the words ''ACG, National SMART Grant,'' immediately after the words ''Federal Pell Grant,''.

§ 668.164 [Amended]

■ 17. Section 668.164 is amended by:

■ A. In paragraph (g)(1)(ii), adding the words ''ACG, National SMART Grant,'' immediately after the words ''Federal Pell Grant,''.

■ B. In paragraph (g)(4)(iv), adding the words '', an ACG, or a National SMART Grant'' immediately after the words ''Federal Pell Grant''.

PART 674—FEDERAL PERKINS LOAN PROGRAM

■ 18. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087hh and 20 U.S.C. 421–429 unless otherwise noted.

§ 674.2 [Amended]

■ 19. Section 674.2(a) is amended by adding, in alphabetical order, the terms ''Academic Competitiveness Grant (ACG) Program'' and ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program''.

PART 675—FEDERAL WORK-STUDY PROGRAMS

■ 20. The authority citation for part 675 continues to read as follows:

Authority: 42 U.S.C. 2751–2756b, unless otherwise noted.

§ 675.2 [Amended]

■ 21. Section 675.2(a) is amended by adding, in alphabetical order, the terms ''Academic Competitiveness Grant (ACG) Program'' and ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program''.

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

■ 22. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

§ 676.2 [Amended]

■ 23. Section 676.2(a) is amended by adding, in alphabetical order, the terms ''Academic Competitiveness Grant (ACG) Program'' and ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program''.

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

■ 24. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

§ 682.200 [Amended]

■ 25. Section 682.200 is amended by in paragraph (a)(1), adding, in alphabetical order, the terms ''Academic Competitiveness Grant (ACG) Program'' and ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program''.

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 26. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

§ 685.102 [Amended]

■ 27. Section 685.102 is amended by in paragraph (a)(1), adding, in alphabetical order, the terms ''Academic Competitiveness Grant (ACG) Program'' and ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program''.

PART 690—FEDERAL PELL GRANT PROGRAM

■ 28. The authority citation for part 690 continues to read as follows:

Authority: 20 U.S.C. 1070a, unless otherwise noted.

■ 29. Section 690.2 is amended by:

■ A. In paragraph (a), removing the terms ''Accredited'', ''Educational program'', ''Eligible institution'', ''Recognized equivalent of high school diploma'', and ''Regular student''.

■ B. In paragraph (b), adding, in alphabetical order, the terms ''Academic Competitiveness Grant (ACG) Program'', ''Federal Family Education Loan (FFEL) Program'', ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program'', and ''William D. Ford Federal Direct Loan Program''.

■ C. In paragraph (b), removing the term ''Student eligibility''.

■ D. In paragraph (c), adding, in alphabetical order, a definition of ''Eligible student'' to read as follows:

§ 690.2 General definitions.

* * * * *

(c) * * *

Eligible student: An eligible student as described in 34 CFR part 668, subpart C.

* * * * *

■ 30. Section 690.7 is amended by redesignating paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e) respectively, and adding a new paragraph (a) to read as follows:

§ 690.7 Institutional participation.

(a) An institution may not participate in the Federal Pell Grant Program if the institution—

(1) Offers at least one eligible program for purposes of the ACG Program, as defined in 34 CFR 691.2(d), but does not participate in the ACG Program; or

(2) Offers at least one eligible program for purposes of the National SMART Grant Program, as defined in 34 CFR 691.2(d), but does not participate in the National SMART Grant Program.

* * * * *

§ 690.8 [Amended]

■ 31. Section 690.8 is amended by capitalizing the first word in paragraph (b)(3).

■ 32. Section 690.63 is amended by:

■ A. In paragraph (c)(3), revising the first equation as set forth below.

■ B. In paragraph (d)(2), adding the word ''and'' after the punctuation '';''.

■ C. In paragraph (d)(3), removing ''; and'' following the equation.

■ D. Removing paragraph (d)(4).

■ E. In paragraph (e)(2), after the words ''the lesser of—'', adding ''(i)'' immediately before the equation.

§ 690.63 Calculation of a Federal Pell Grant for a payment period.

* * * * *

(c) * * *

(3) * * *

$$\frac{\text{The number of weeks of instructional time offered in the program in the fall and spring semesters or trimesters}}{\text{The number of weeks in the program's academic year}}$$

* * * * *

■ 33. Section 690.83 is amended by:

■ A. In paragraph (a)(2), removing the word ''contain'' and adding, in its place, the word ''contains''.

■ B. Revising paragraphs (b)(1) and (b)(2) to read as set forth below.

■ C. In paragraph (c), adding a comma after ''668.84''.

§ 690.83 Submission of reports.

* * * * *

(b)(1) An institution shall report to the Secretary any change in the amount of a grant for which a student qualifies including any related Payment Data changes by submitting to the Secretary the student's Payment Data that discloses the basis and result of the change in award for each student. The institution shall submit the student's Payment Data reporting any change to the Secretary by the reporting deadlines published by the Secretary in the **Federal Register**.

(2) An institution shall submit, in accordance with deadline dates established by the Secretary, through publication in the **Federal Register**, other reports and information the Secretary requires and shall comply with the procedures the Secretary finds necessary to ensure that the reports are correct.

* * * * *

■ 34. A new part 691 is added to read as follows:

PART 691—ACADEMIC COMPETITIVENESS GRANT (ACG) AND NATIONAL SCIENCE AND MATHEMATICS ACCESS TO RETAIN TALENT GRANT (NATIONAL SMART GRANT) PROGRAMS

Subpart A—Scope, Purpose, and General Definitions

Sec.

Subpart B—Application Procedures

Subparts C–E [Reserved]

Subpart F—Determination of Awards

Subpart G—Administration of Grant Payments

Authority: 20 U.S.C. 1070a–1, unless otherwise noted.

Subpart A—Scope, Purpose, and General Definitions

§ 691.1 Scope and purpose.

(a) The ACG Program awards grants to help eligible financially needy first- and second-year undergraduate students, who complete rigorous secondary school programs of study, meet the cost of their postsecondary education.

(b) The National SMART Grant Program awards grants to help eligible financially needy third- and fourth-year undergraduate students who are pursuing eligible majors in the physical, life, or computer sciences, mathematics, technology, or engineering or a critical foreign language meet the cost of their postsecondary education.

(Authority: 20 U.S.C. 1070a–1)

§ 691.2 Definitions.

(a) The following definitions used in this part are in the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600:

Award year
Clock hour
Correspondence course
Eligible institution
Regular student
Secretary
State
Title IV, HEA program

(b) The following definitions used in this part are in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

Academic year
Enrolled
Expected family contribution
Federal Pell Grant Program
Full-time student
HEA
Payment period

(c) The following definitions used in this part are in 34 CFR part 77:

Local educational agency (LEA)
State educational agency (SEA)

(d) Other terms used in this part are:

ACG Scheduled Award: The amount of an ACG that would be paid to a full-time student for a full academic year.

Eligible major: A major, as identified by the Secretary under § 691.17, in one of the physical, life, or computer sciences, mathematics, technology, engineering, or a critical foreign language.

Eligible program: An eligible program as defined in 34 CFR 668.8 that—

(1) For purposes of the ACG Program, leads to an associate's degree or a bachelor's degree; is a two-academic-year program acceptable for full credit toward a bachelor's degree; or is a graduate degree program that includes at least 3 academic years of undergraduate education; or

(2) For purposes of the National SMART Grant Program, leads to a bachelor's degree in an eligible major or is a graduate degree program in an eligible major that includes at least 3 academic years of undergraduate education.

Institutional Student Information Record (ISIR): An electronic record that the Secretary transmits to an institution that includes an applicant's—

(1) Personal identification information;

(2) Application data used to calculate the applicant's EFC; and

(3) EFC.

National SMART Grant Scheduled Award: The amount of a National SMART Grant that would be paid to a full-time student for a full academic year.

Payment Data: An electronic record that is provided to the Secretary by an institution showing student disbursement information.

Student Aid Report (SAR): A report provided to an applicant by the Secretary showing the amount of his or her expected family contribution.

Undergraduate student: A student enrolled in an undergraduate course of study at an institution of higher education who—

(1) Has not earned a baccalaureate or first professional degree; and

(2) Is in an undergraduate course of study which usually does not exceed 4 academic years, or is enrolled in a 4 to 5 academic year program designed to lead to a first degree. A student enrolled in a program of any other length is considered an undergraduate student for only the first 4 academic years of that program.

Valid Institutional Student Information Record (valid ISIR): An ISIR on which all the information used in calculating the applicant's expected family contribution is accurate and complete as of the date the application is signed.

Valid Student Aid Report (valid SAR): A Student Aid Report on which all of the information used in calculating the applicant's expected family contribution is accurate and complete as of the date the application is signed.

(Authority: 20 U.S.C. 1070a–1)

§§ 691.3–691.5 [Reserved]

§ 691.6 Duration of student eligibility—undergraduate course of study.

(a) A student is eligible to receive up to one ACG Scheduled Award during each of the student's first and second academic years of eligible program.

(b) A student is eligible to receive up to one National SMART Grant Scheduled Award during each of the student's third and fourth academic years of eligible program.

(c) A student may not receive more than two ACG Scheduled Awards and two National SMART Grant Scheduled Awards.

(d) For an eligible student enrolled in a summer term of an eligible program for which the institution determines payments under § 691.63(b) and (c), the student's summer term is considered to be—

(1) For an eligible program offered in semesters or trimesters with a single summer term that provides at least 12 semester or trimester hours of coursework, one-half of an academic year in weeks of instructional time under § 691.63(b)(3)(i) and (c)(4)(i), or one-third of an academic year in weeks of instructional time under § 691.63(b)(3)(ii) and (c)(4)(ii); or

(2) For an eligible program offered in quarters with a single summer term that provides at least 12 quarter hours of coursework, one-third of an academic year in weeks of instructional time under § 691.63(b)(3)(i) and (c)(4)(i), or one-fourth of an academic year in weeks of instructional time under § 691.63(b)(3)(ii) and (c)(4)(ii).

(Authority: 20 U.S.C. 1070a–1)

§ 691.7 Institutional participation.

(a) An institution that offers one or more eligible programs, as defined in § 691.2(d), for purposes of the ACG Program, and that participates in the Federal Pell Grant Program under 34 CFR part 690 must participate in the ACG Program.

(b) An institution that offers one or more eligible programs, as defined in § 691.2(d), for purposes of the National SMART Grant Program, and that participates in the Federal Pell Grant Program under 34 CFR part 690 must participate in the National SMART Grant Program.

(c) If an institution begins participation in the ACG or National SMART Grant Program during an award year, a student enrolled and attending that institution is eligible to receive a grant under this part for the payment period during which the institution begins participation and any subsequent payment period.

(d) If an institution becomes ineligible to participate in the ACG or National SMART Grant Program during an award year, a student who was eligible for a grant under § 691.15 who was attending the institution and who submitted a valid SAR to the institution, or for whom the institution obtained a valid ISIR, before the date the institution became ineligible is paid a grant for that award year for—

(1) The payment periods that the student completed before the institution became ineligible; and

(2) The payment period in which the institution became ineligible.

(e)(1) If an institution loses its eligibility to participate in the Federal Pell Grant Program under the provisions of subpart M of 34 CFR part 668, it also loses its eligibility to participate in the ACG or National SMART Grant Program for the same period of time.

(2) That loss of eligibility must be in accordance with the provisions of 34 CFR 668.187.

(f) An institution that becomes ineligible shall, within 45 days after the effective date of loss of eligibility, provide to the Secretary—

(1) The name of each eligible student under § 691.15 who, during the award year, submitted a valid SAR to the institution or for whom it obtained a valid ISIR before it became ineligible;

(2) The amount of funds paid to each grant recipient for that award year;

(3) The amount due each student eligible to receive a grant through the end of the payment period during which the institution became ineligible; and

(4) An accounting of the ACG or National SMART Grant Program

expenditures for that award year to the date of termination.

(Authority: 20 U.S.C. 1070a–1)

§ 691.8 Enrollment status for students taking regular and correspondence courses.

(a) If, in addition to regular coursework, a student takes correspondence courses from either his or her own institution or another institution having an agreement for this purpose with the student's institution, the correspondence work may be included in determining the student's enrollment status to the extent permitted under paragraph (b) of this section.

(b) Except as noted in paragraph (c) of this section, the correspondence work that may be included in determining a student's enrollment status is that amount of work that—

(1) Applies toward a student's degree or is remedial work taken by the student to help in his or her eligible program;

(2) Is completed within the period of time required for regular coursework; and

(3) Does not exceed the amount of a student's regular coursework for the payment period for which the student's enrollment status is being calculated.

(c) A student taking correspondence courses is considered a full-time student if—

(1) The student is taking coursework that is commensurate with the institution's standard for full-time students; and

(2) The student's noncorrespondence coursework constitutes at least one-half of the institution's required minimum coursework for full-time students.

(Authority: 20 U.S.C. 1070a–1)

§§ 691.9–691.10 [Reserved]

§ 691.11 Payments from more than one institution.

A student is not entitled to receive grant payments under this part concurrently from more than one institution. A student may only receive an ACG or a National SMART Grant at the same institution from which the student receives his or her Federal Pell Grant award.

(Authority: 20 U.S.C. 1070a–1)

Subpart B—Application Procedures

§ 691.12 Application.

(a) As the first step to receiving a grant under this part, a student shall apply on an approved application form to the Secretary to have his or her expected family contribution calculated and to determine the student's Federal Pell Grant eligibility. A copy of this form is not acceptable.

(b)(1) The student shall provide any information requested by the Secretary in addition to the information necessary to establish eligibility for a Federal Pell Grant.

(2) The additional information may include, but is not limited to, information about the rigorous secondary school program of study completed by a student applying for an ACG.

(c) The student shall submit an application to the Secretary by—

(1) Providing the application form, signed by all appropriate family members, to the institution which the student attends or plans to attend so that the institution can transmit the application information to the Secretary electronically; or

(2) Sending an approved application form to the Secretary.

(d) The student shall provide the address of his or her residence unless the student is incarcerated and the educational institution has made special arrangements with the Secretary to receive relevant correspondence on behalf of the student. If such an arrangement is made, the student shall provide the address indicated by the institution.

(e) For each award year, the Secretary, through publication in the **Federal Register**, establishes deadline dates for submitting this application and additional information and for making corrections to the information provided.

(Authority: 20 U.S.C. 1070a–1)

§§ 691.13–691.14 [Reserved]

§ 691.15 Eligibility to receive a grant.

(a) *General.* A student who meets the requirements of 34 CFR part 668, Subpart C, is eligible to receive an ACG or a National SMART Grant if the student—

(1) Is a U.S. citizen;

(2) Is receiving a Federal Pell Grant disbursement for the same payment period; and

(3) Is enrolled full-time.

(b) *ACG Program.* (1) A student is eligible to receive an ACG if the student—

(i) Meets the eligibility requirements in paragraph (a) of this section;

(ii) For the first academic year of his or her eligible program—

(A) Has successfully completed, after January 1, 2006, a rigorous secondary school program of study recognized by the Secretary under § 691.16; and

(B) Has not previously been enrolled as a regular student in a program of undergraduate education;

(iii) For the second academic year of his or her eligible program—

(A) Has successfully completed, after January 1, 2005, a rigorous secondary school program of study recognized by the Secretary under § 691.16; and

(B) Has successfully completed the first academic year of his or her eligible program; and

(C) For the first academic year of his or her eligible program, obtained a grade point average (GPA) of at least 3.0 or higher on a 4.0 scale, or the equivalent, consistent with other institutional measures for academic and title IV, HEA program purposes.

(2)(i) An institution must document a student's completion of a rigorous secondary school program of study under paragraphs (b)(1)(ii)(A) and (b)(1)(iii)(A) of this section using—

(A) Documentation provided directly to the institution by the cognizant authority; or

(B) Documentation from the cognizant authority provided by the student.

(ii) If an institution has reason to believe that the documentation provided by the student under paragraph (b)(2)(i)(B) of this section is inaccurate or incomplete, the institution shall confirm the student's completion of a rigorous secondary school program of study by using documentation provided directly to the institution by the cognizant authority.

(3) For purposes of paragraph (b)(2) of this section—

(i) A cognizant authority includes, but is not limited to—

(A) An LEA;

(B) An SEA or other State agency;

(C) A public or private high school; or

(D) A testing organization such as the College Board or State agency; or

(ii) For a home-schooled student, the student's parent or guardian is the cognizant authority for purposes of providing the documentation required under paragraph (b)(2)(i) of this section, of a rigorous secondary school program under § 691.16(d)(2), including a transcript or the equivalent or a detailed course description listing the secondary school courses completed by the student.

(4) For a student who transfers from an eligible program at one institution to an eligible program at another institution, the institution to which the student transfers may rely upon the prior institution's determination that the student completed a rigorous secondary school program of study in accordance with paragraphs (b)(1)(ii)(A) and (b)(1)(iii)(A) of this section based on documentation that the prior institution may provide, or based on

documentation of the receipt of an ACG disbursement at the prior institution.

(c) *National SMART Grant Program.* A student is eligible to receive a National SMART Grant for the third or fourth academic year of his or her eligible program if the student'

(1) Meets the eligibility requirements in paragraph (a) of this section;

(2)(i)(A) In accordance with the institution's academic requirements, formally declares an eligible major; or

(B) If the institution's academic requirements do not allow a student to declare an eligible major in time to qualify for a National SMART Grant on that basis—

(*1*) Demonstrates his or her intention to declare an eligible major as documented by the institution; and

(*2*) Formally declares an eligible major as soon as allowed under the institution's academic requirements; and

(ii) Enrolls in the courses necessary both to complete the degree program and to fulfill the requirements of the intended eligible major;

(3) Has a cumulative GPA through the most recently completed payment period of at least 3.0 or higher on a 4.0 scale, or the equivalent, consistent with other institutional measures for academic and title IV, HEA program purposes, in the student's eligible program;

(4) For the third academic year, has successfully completed the second academic year of his or her eligible program; and

(5) For the fourth academic year, has successfully completed the third academic year of his or her eligible program.

(d) *Transfer student's grade point average.* Under the ACG and National SMART Grant programs, if a student transfers from another institution, the institution to which the student transfers—

(1) Must calculate the student's GPA for the student's first payment period of enrollment using the grades earned by the student in the coursework from any prior institution that it accepts towards the student's eligible program; or

(2) If the institution accepts no credits towards the student's eligible program, must consider the student to be ineligible until the student completes at least one payment period in an eligible program with a qualifying GPA.

(Authority: 20 U.S.C. 1070a–1)

§ 691.16 Recognition of a rigorous secondary school program of study.

(a) For an award year, the Secretary recognizes in each State at least one rigorous secondary school program of study as established by an SEA or, if legally authorized by the State to establish a separate secondary school program of study, an LEA.

(b) For each award year, the Secretary establishes a deadline for SEAs and LEAs to submit information about the secondary school program or programs that the SEA or LEA identifies as a rigorous secondary school program of study, and, in the case of an LEA, documentation that the LEA is legally authorized by the State to establish a separate secondary school program of study.

(c) In identifying a rigorous secondary school program of study, the SEA, or the LEA if applicable, must consider separate identifiable secondary programs that—

(1) Are offered by secondary schools in the State, including public, charter, private, tribal, and home schools;

(2) Are considered by the SEA, or by the LEA if applicable, to prepare a student to pursue postsecondary education successfully; and

(3) Are not General Education Development (GED) Certificate programs.

(d) In addition to those programs identified by States or LEAs and recognized by the Secretary as rigorous under paragraphs (b) and (c) of this section, the Secretary recognizes the following secondary school programs of study as rigorous:

(1) Advanced or honors secondary school programs established by States and in existence for the 2004–2005 or 2005–2006 school year, as identified by the Secretary.

(2) Any secondary school program in which a student completes at a minimum the following courses:

(i) Four years of English.

(ii) Three years of mathematics, including algebra I and a higher-level class such as algebra II, geometry, or data analysis and statistics.

(iii) Three years of science, including one year each of at least two of the following courses: biology, chemistry, and physics.

(iv) Three years of social studies.

(v) One year of a language other than English.

(3) A secondary school program identified by a State—level partnership that is recognized by the State Scholars Initiative of the Western Interstate Commission for Higher Education (WICHE), Boulder, Colorado.

(4) Any secondary school program for a student who completes at least two courses in the International Baccalaureate Diploma Program sponsored by the International Baccalaureate Organization, Geneva, Switzerland, and receives a score of ''4'' or higher on the examinations for at least two of those courses.

(5) Any secondary school program for a student who completes at least two Advanced Placement courses and receives a score of ''3'' or higher on the College Board's Advanced Placement Program Exams for at least two of those courses.

(e) For each award year, the Secretary publishes a list of rigorous secondary school programs of study that the Secretary recognizes.

(Authority: 20 U.S.C. 1070a–1)

§ 691.17 Determination of eligible majors.

(a) *Eligible major.* For each award year, the Secretary identifies the eligible majors in the physical, life, or computer sciences, mathematics, technology, engineering, or, as determined under paragraph (b) of this section, critical foreign languages.

(b) *Critical foreign languages.* For each award year, the Secretary identifies the foreign languages that are critical to the national security of the United States after consulting with the Director of National Intelligence.

(c) *Duration of eligible major.* A major that ceases to be listed as an eligible major under paragraph (a) of this section for an award year remains an eligible major in subsequent award years for a student who pursues that major and receives a National SMART Grant in the award year in which the major was an eligible major.

(Authority: 20 U.S.C. 1070a–1)

Subparts C–E [Reserved]

Subpart F—Determination of Awards

§ 691.61 Submission process and deadline for a Student Aid Report or Institutional Student Information Record.

(a) *Submission process.* (1) Except as provided in paragraph (a)(2) of this section, an institution must disburse an ACG or a National SMART Grant to a student who is eligible under § 691.15 and is otherwise qualified to receive that disbursement and electronically transmit disbursement data to the Secretary for that student if—

(i) The student submits a valid SAR to the institution; or

(ii) The institution obtains a valid ISIR for the student.

(2) In determining a student's eligibility to receive a grant under this part, an institution is entitled to assume that the SAR information or ISIR information is accurate and complete except under the conditions set forth in 34 CFR 668.16(f) and 668.60.

(b) *Student Aid Report or Institutional Student Information Record deadline.* Except as provided in the verification provisions of 34 CFR 668.60 and the late disbursement provisions of 34 CFR 668.164(g) of this chapter, for a student to receive a grant under this part in an award year, the student must submit the relevant parts of the valid SAR to his or her institution or the institution must obtain a valid ISIR by the earlier of—

(1) The last date that the student is still enrolled and eligible for payment at that institution; or

(2) By the deadline date established by the Secretary through publication of a notice in the **Federal Register**.

(Authority: 20 U.S.C. 1070a–1)

§ 691.62 Calculation of a grant.

(a)(1) For each award year, the Secretary establishes and announces the ACG and National SMART Grant Scheduled Awards depending on the availability of funds for all students who are eligible for a grant under § 691.15.

(2) The Secretary may revise the ACG and National SMART Grant Scheduled Awards in an award year depending on the availability of funds for all students who are eligible for a grant under § 691.15.

(b)(1) The maximum ACG Scheduled Award for an eligible student may be up to—

(i) $750 for the first academic year of the student's eligible program; and

(ii) $1,300 for the second academic year of the student's eligible program.

(2) The maximum National SMART Grant Scheduled Award for an eligible student may be up to $4,000 for each of the third and fourth academic years of the student's eligible program.

(c) The amount of a student's grant under this part for an academic year, in combination with the student's EFC and other student financial assistance available to the student, including the student's Federal Pell Grant, may not exceed the student's cost of attendance. Other student financial assistance is estimated financial assistance as defined in 34 CFR 673.5(c), 682.200(b), and 685.102(b).

(Authority: 20 U.S.C. 1070a–1)

§ 691.63 Calculation of a grant for a payment period.

(a)(1) *Programs using standard terms with at least 30 weeks of instructional time.* A student's payment for a payment period is calculated under paragraphs (b) or (d) of this section if—

(i) The student is enrolled in an eligible program that—

(A) Measures progress in credit hours;

(B) Is offered in semesters, trimesters, or quarters;

(C) Requires the student to enroll for at least 12 credit hours in each term in the award year to qualify as a full-time student; and

(D) Is not offered with overlapping terms; and

(ii) The institution offering the program—

(A) Provides the program using an academic calendar that includes two semesters or trimesters in the fall through the following spring, or three quarters in the fall, winter, and spring; and

(B) Provides at least 30 weeks of instructional time in the terms specified in paragraph (a)(1)(ii)(A) of this section.

(2) *Programs using standard terms with less than 30 weeks of instructional time.* A student's payment for a payment period is calculated under paragraph (c) or (d) of this section if—

(i) The student is enrolled in an eligible program that—

(A) Measures progress in credit hours;

(B) Is offered in semesters, trimesters, or quarters;

(C) Requires the student to enroll in at least 12 credit hours in each term in the award year to qualify as a full-time student; and

(D) Is not offered with overlapping terms; and

(ii) The institution offering the program—

(A) Provides the program using an academic calendar that includes two semesters or trimesters in the fall through the following spring, or three quarters in the fall, winter, and spring; and

(B) Does not provide at least 30 weeks of instructional time in the terms specified in paragraph (a)(2)(ii)(A) of this section.

(3) *Other programs using terms and credit hours.* A student's payment for a payment period is calculated under paragraph (d) of this section if the student is enrolled in an eligible program that—

(i) Measures progress in credit hours; and

(ii) Is offered in academic terms other than those described in paragraphs (a)(1) and (a)(2) of this section.

(4) *Programs not using terms or using clock hours.* A student's payment for any payment period is calculated under paragraph (e) of this section if the student is enrolled in an eligible program that—

(i) Is offered in credit hours but is not offered in academic terms; or

(ii) Is offered in clock hours.

(5) *Programs for which an exception to the academic year definition has been granted under 34 CFR 668.3.* If an institution receives a waiver from the Secretary of the 30 weeks of instructional time requirement under 34 CFR 668.3, an institution may calculate a student's payment for a payment period using the following methodologies:

(i) If the program is offered in terms and credit hours, the institution uses the methodology in—

(A) Paragraph (b) of this section provided that the program meets all the criteria in paragraph (a)(1) of this section, except that in lieu of paragraph (a)(1)(ii)(B) of this section, the program provides at least the same number of weeks of instructional time in the terms specified in paragraph (a)(1)(ii)(A) of this section as are in the program's academic year; or

(B) Paragraph (d) of this section.

(ii) The institution uses the methodology described in paragraph (e) of this section if the program is offered in credit hours without terms or clock hours.

(b) *Programs using standard terms with at least 30 weeks of instructional time.* The payment for a payment period, i.e., an academic term, for a student in a program using standard terms with at least 30 weeks of instructional time in two semesters or trimesters or in three quarters as described in paragraph (a)(1)(ii)(A) of this section, is calculated by—

(1) Confirming his or her full-time enrollment status for the term;

(2) Determining his or her ACG or National SMART Grant Scheduled Award; and

(3) Dividing the amount described under paragraph (b)(2) of this section by—

(i) Two at institutions using semesters or trimesters or three at institutions using quarters; or

(ii) The number of terms over which the institution chooses to distribute the student's ACG or National SMART Grant Scheduled Award if—

(A) An institution chooses to distribute all of the student's ACG or National SMART Grant Scheduled Award determined under paragraph (b)(2) of this section over more than two terms at institutions using semesters or trimesters or more than three quarters at institutions using quarters; and

(B) The number of weeks of instructional time in the terms, including the additional term or terms, equals the weeks of instructional time in the program's academic year.

(c) *Programs using standard terms with less than 30 weeks of instructional time.* The payment for a payment period, i.e., an academic term, for a student in a program using standard terms with less than 30 weeks of instructional time in two semesters or trimesters or in three quarters as described in paragraph (a)(2)(ii)(A) of this section, is calculated by—

(1) Confirming his or her full-time enrollment status for the term;

(2) Determining his or her ACG or National SMART Grant Scheduled Award;

(3) Multiplying his or her ACG or National SMART Grant Scheduled Award determined under paragraph (c)(2) of this section by the following fraction as applicable:

In a program using semesters or trimesters—

$$\frac{\text{The number of weeks of instructional time offered in the program in the fall and spring semesters or trimesters}}{\text{The number of weeks in the program's academic year}}$$

; or

In a program using quarters—

$$\frac{\text{The number of weeks of instructional time offered in the program in the fall, winter, and spring quarters}}{\text{The number of weeks in the program's academic year}}$$

; and

(4)(i) Dividing the amount determined under paragraph (c)(3) of this section by two for programs using semesters or trimesters or three for programs using quarters; or

(ii) Dividing the student's ACG or National SMART Grant Scheduled Award determined under paragraph (c)(2) of this section by the number of terms over which the institution chooses to distribute the student's ACG or National SMART Grant Scheduled Award if—

(A) An institution chooses to distribute all of the student's ACG or National SMART Grant Scheduled Award determined under paragraph (c)(2) of this section over more than two terms for programs using semesters or trimesters or more than three quarters for programs using quarters; and

(B) The number of weeks of instructional time in the terms, including the additional term or terms, equals the weeks of instructional time in the program's academic year definition.

(d) *Other programs using terms and credit hours.* The payment for a payment period, i.e., an academic term, for a student in a program using terms and credit hours, other than those described in paragraphs (a)(1) or (a)(2) of this section, is calculated by—

(1)(i) For a student enrolled in a semester, trimester, or quarter, determining his or her full-time enrollment status for the term; or

(ii) For a student enrolled in a term other than a semester, trimester, or quarter, determining his or her full-time enrollment status for the term by—

(A) Dividing the number of weeks of instructional time in the term by the number of weeks of instructional time in the program's academic year;

(B) Multiplying the fraction determined under paragraph (d)(1)(ii)(A) of this section by the number of credit hours in the program's academic year to determine the number of hours required to be enrolled to be considered a full-time student; and

(C) Determining a student's enrollment status by comparing the number of hours in which the student enrolls in the term to the number of hours required to be considered full-time under paragraph (d)(1)(ii)(B) of this section for that term;

(2) Based upon that full-time enrollment status, determining his or her ACG or National SMART Grant Scheduled Award; and

(3) Multiplying his or her ACG or National SMART Grant Scheduled Award determined under paragraph (d)(2) of this section by the following fraction:

$$\frac{\text{The number of weeks of instructional time in the term}}{\text{The number of weeks of instructional time in the program's academic year}}$$

(e) *Programs using clock hours or credit hours without terms.* The payment for a payment period for a student in a program using credit hours without terms or using clock hours is calculated by—

(1) Determining that the student is attending at least full-time;

(2) Determining the student's ACG or National SMART Grant Scheduled Award;

(3) Multiplying the amount determined under paragraph (e)(2) of this section by the lesser of—

(i)

$$\frac{\text{The number of weeks of instructional time required for a full-time student to complete the lesser of the clock or credit hours in the program or the academic year}}{\text{The number of weeks of instructional time in the program's academic year}}$$

; or

(ii) One; and

(4) Multiplying the amount determined under paragraph (e)(3) of this section by—

$$\frac{\text{The number of credit or clock hours in the payment period}}{\text{The number of credit or clock hours in the program's academic year}}$$

(f) *Maximum disbursement.* A single disbursement may not exceed 50 percent of any award determined under paragraph (d) or (e) of this section. If a payment for a payment period calculated under paragraphs (d) or (e) of this section would require the disbursement of more than 50 percent of a student's ACG or National SMART Grant Scheduled Award in that payment period, the institution shall make at least two disbursements to the student in that payment period. The institution may not disburse an amount that exceeds 50 percent of the student's ACG or National SMART Grant Scheduled Award until the student has completed the period of time in the payment period that equals, in terms of weeks of instructional time, 50 percent of the weeks of instructional time in the program's academic year.

(g) *Definition of academic year.* For purposes of this section, an institution must define an academic year for each of its eligible programs in terms of the number of credit or clock hours and weeks of instructional time in accordance with the requirements of 34 CFR 668.3.

(h) *Payment period with two academic years.* In a payment period, if a student is completing the remaining portion of the first academic year or second academic year for an ACG or the third academic year for a National SMART Grant Scheduled Award, the student's payment for the payment period—

(1) Is from the ACG or National SMART Grant Scheduled Award of the academic year being completed; and

(2) Is calculated based on the total credit or clock hours, and, for a credit-hour program, weeks of instructional time, in the payment period.

(Authority: 20 U.S.C. 1070a–1)

§ 691.64 Calculation of a grant for a payment period which occurs in two award years.

(a) If a student enrolls in a payment period that is scheduled to occur in two award years—

(1) The entire payment period must be considered to occur within one award year;

(2) The institution shall determine for each ACG or National SMART Grant recipient the award year in which the payment period will be placed subject to the restrictions set forth in paragraphs (a)(3) and (a)(6) of this section;

(3) The institution shall place a payment period with more than six months scheduled to occur within one award year in that award year;

(4) If the institution places the payment period in the first award year, it shall pay a student with funds from the first award year;

(5) If the institution places the payment period in the second award year, it shall pay a student with funds from the second award year; and

(6) The institution must assign the payment period for both the ACG or National SMART Grant and the Federal Pell Grant to the same award year.

(b) An institution may not make a payment that results in the student receiving more than his or her ACG or National SMART Grant Scheduled Award for an academic year of the student's eligible program.

(Authority: 20 U.S.C. 1070a–1)

§ 691.65 Transfer student: Attendance at more than one institution during an academic year.

(a) If a student who receives a grant under this part at one institution subsequently enrolls at a second institution in the same award year, the student may receive a grant at the second institution only if—

(1)(i) The student submits a valid SAR to the second institution; or

(ii) The second institution obtains a valid ISIR; and

(2) The student is receiving a Federal Pell Grant for the same payment period.

(b) The second institution shall calculate the student's award according to § 691.63.

(c) The second institution may pay a grant only for that portion of the academic year of the student's eligible program in which a student is enrolled at that institution. The grant amount must be adjusted, if necessary, to ensure that the grant does not exceed the student's ACG or National SMART Grant Scheduled Award for that academic year.

(d) If a student transfers between award years and the student's ACG or National SMART Grant Scheduled Award at the second institution differs from the ACG or National SMART Grant Scheduled Award at the first institution for that academic year of the student's eligible program, the grant amount at the second institution is calculated as follows—

(1) The amount received at the first institution is compared to the ACG or National SMART Grant Scheduled Award at the first institution to determine the percentage of the ACG or National SMART Grant Scheduled Award that the student has received.

(2) That percentage is subtracted from 100 percent.

(3) The remaining percentage is the percentage of the ACG or National SMART Grant Scheduled Award at the second institution to which the student is entitled.

(e) The student's ACG or National SMART Grant payment for each payment period is calculated according to the procedures in § 691.63 unless the remaining percentage of the ACG or National SMART Grant Scheduled Award at the second institution, referred to in paragraph (d)(3) of this section, is less than the amount the student would normally receive for that payment period. In that case, the student's payment is equal to that remaining percentage.

(f) A transfer student shall repay any amount received that exceeds his or her ACG or National SMART Grant Scheduled Award for an academic year in accordance with § 691.79.

(Authority: 20 U.S.C. 1070a–1)

Subpart G—Administration of Grant Payments

§ 691.71 Scope.

This subpart deals with program administration by an eligible institution.

(Authority: 20 U.S.C. 1070a–1)

§§ 691.72–691.74 [Reserved]

§ 691.75 Determination of eligibility for payment.

(a) For each payment period, an institution may pay a grant under this part to a student only after it determines that the student—

(1) Qualifies as a student who is eligible under § 691.15;

(2) Is enrolled as an undergraduate student in an eligible program;

(3) If enrolled in a self-paced credit-hour program without terms or a self-paced clock-hour program, as described in paragraph (e), is progressing as a full-time student after completing at least—

(i) Fifty percent of the credit or clock hours of the payment period for which the student is being paid; or

(ii) For a credit-hour program, 50 percent of the academic coursework of the payment period for which the student is being paid if the institution is unable to determine when the student has completed one-half of the credit hours of the payment period; and

(4) If enrolled in a credit-hour program without terms or a clock-hour program, has completed the payment period as defined in 34 CFR 668.4 for which he or she has been paid a grant.

(b)(1) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses that determination before the end of the payment period, the institution may pay a grant under this part to the student for the entire payment period.

(2) For purposes of the ACG Program, if an institution determines at the beginning of a payment period that a student enrolled in the second academic year of his or her eligible program is not maintaining the necessary GPA for an ACG under § 691.15(b)(1)(iii)(C), but reverses that determination before the end of the payment period, the institution may pay an ACG to the student for the entire payment period.

(3) For purposes of the National SMART Grant Program, if an institution determines at the beginning of a payment period that a student is not maintaining the necessary GPA for a National SMART Grant under § 691.15(c)(3) or is no longer pursuing a required major under § 691.15(c)(2), but reverses that determination before the end of the payment period, the institution may pay a National SMART Grant to the student for the entire payment period.

(c) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress or the necessary GPA for an ACG under § 691.15(b)(1)(iii)(C), a National SMART Grant under § 691.15(c)(3), or, in the case of a National SMART Grant is no longer pursuing a required major under § 691.15(c)(2), but reverses that determination after the end of the payment period, the institution may neither pay the student an ACG or a National SMART Grant for that payment period nor make adjustments in subsequent payments to compensate for the loss of aid for that period.

(d) Subject to the requirement of paragraph (d)(2), an institution may make one disbursement for a payment period to an otherwise eligible student if—

(1)(i) For the first payment period of the student's ACG for the second academic year, a student's GPA for the first academic year under § 691.15(b)(1)(iii)(C) is not yet available; or

(ii) For a payment period for a National SMART Grant, a student's cumulative GPA through the prior payment period under § 691.15(c)(3) for the student's enrollment in the eligible program through the prior payment period under § 691.15(c)(3) is not yet available; and

(2) The institution assumes liability for any overpayment as a result of the

student failing to meet the required GPA to qualify for the disbursement.

(e) For purposes of this section, a self-paced program is an educational program without terms that allows a student—

(1) To complete courses without a defined schedule for completing the courses; or

(2) At the student's discretion, to begin courses within a program either at any time or on specific dates set by the institution for the beginning of courses without a defined schedule for completing the program.

(Authority: 20 U.S.C. 1070a–1)

§ 691.76 Frequency of payment.

(a) In each payment period, an institution may pay a student at such times and in such installments as it determines will best meet the student's needs.

(b) The institution may pay funds in one lump sum for all the prior payment periods for which the student was eligible under § 691.15 within the award year. The student must have completed the prior payment period as a full-time student.

(Authority: 20 U.S.C. 1070a–1)

§ 691.77 [Reserved]

§ 691.78 Method of disbursement—by check or credit to a student's account.

(a) An institution shall disburse funds to a student or the student's account in accordance with the provisions in 34 CFR 668.164.

(b) The institution shall return to the ACG or National SMART Grant account any funds paid to a student who, before the first day of classes—

(1) Officially or unofficially withdraws; or

(2) Is expelled.

(c)(1) An institution that intends to pay a student directly must notify the student in accordance with 34 CFR 668.165(a).

(2) If a student does not pick up the check on time, the institution shall still pay the student if he or she requests payment within 20 days after the last date that his or her enrollment ends in that award year.

(3) If the student has not picked up his or her payment at the end of the 20-day period, the institution may credit the student's account only for any outstanding charges for tuition and fees and room and board for the award year incurred by the student while he or she was eligible.

(4) A student forfeits the right to receive the payment if he or she does not pick up a payment by the end of the 20-day period.

(5) Notwithstanding paragraph (c)(4) of this section, the institution may, if it chooses, pay a student who did not pick up his or her payment, through the next payment period.

(6) An institution shall make a late disbursement to an ineligible student in accordance with the provisions in 34 CFR 668.164(g).

(Authority: 20 U.S.C. 1070a–1)

§ 691.79 Liability for and recovery of grant overpayments.

(a)(1) Except as provided in paragraphs (a)(2) and (a)(3) of this section, a student is liable for any grant overpayment made to him or her under this part.

(2) The institution is liable for a grant overpayment if the overpayment occurred because the institution failed to follow the procedures set forth in this part or 34 CFR part 668. The institution must restore an amount equal to the overpayment to its ACG or National SMART Grant account, as applicable.

(3) A student is not liable for, and the institution is not required to attempt recovery of or refer to the Secretary, a grant overpayment under this part if the amount of the overpayment is less than $25 and is not a remaining balance.

(b)(1) Except as provided in paragraph (a)(3) of this section, if an institution makes an overpayment under this part for which it is not liable, it must promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make that repayment, or to make arrangements satisfactory to the holder of the overpayment debt to repay the overpayment, makes the student ineligible for further title IV, HEA program funds until final resolution of the overpayment.

(2) If a student objects to the institution's overpayment determination on the grounds that it is erroneous, the institution must consider any information provided by the student and determine whether the objection is warranted.

(c) Except as provided in paragraph (a)(3) of this section, if the student fails to repay an overpayment under this part or make arrangements satisfactory to the holder of the overpayment debt to repay the overpayment, after the institution has taken the action required by paragraph (b) of this section, the institution must refer the overpayment to the Secretary for collection purposes in accordance with procedures required by the Secretary. After referring the overpayment to the Secretary under this section, the institution need make no further efforts to recover the overpayment.

(Authority: 20 U.S.C. 1070a–1)

§ 691.80 Redetermination of eligibility for a grant award.

(a) *Change in receipt of Federal Pell Grant.* If, after the beginning of a payment period, a student otherwise eligible for an ACG or a National SMART Grant begins or ceases to receive a Federal Pell Grant for that payment period, the institution must redetermine the student's eligibility for an ACG or a National SMART Grant for that payment period.

(b) *Change in enrollment status.* (1) If the student's enrollment status changes from one payment period to another within the same award year, the institution shall determine whether the student qualifies for an ACG or a National SMART Grant for the new payment period.

(2)(i) If the student's projected enrollment status changes during a payment period after the student has begun attendance in all of his or her classes for that payment period, the institution may (but is not required to) establish a policy under which the institution may redetermine eligibility for the student's award for the payment period. If such a policy is established, it must apply to all students and be the same as the policy established for the Federal Pell Grant Program.

(ii) If a student's projected enrollment status changes to less-than-full-time during a payment period before the student begins attendance in all of his or her classes for that payment period, the institution shall determine that the student is ineligible for a grant under this part for that payment period.

(Authority: 20 U.S.C. 1070a–1)

§ 691.81 Fiscal control and fund accounting procedures.

(a) An institution shall follow provisions for maintaining general fiscal records in this part and in 34 CFR 668.24(b).

(b) An institution shall maintain funds received under this part in accordance with the requirements in 34 CFR 668.164.

(Authority: 20 U.S.C. 1070a–1)

§ 691.82 Maintenance and retention of records.

(a) An institution shall follow the record retention and examination provisions in this part and in 34 CFR 668.24.

(b) For any disputed expenditures in any award year for which the institution cannot provide records, the Secretary determines the final authorized level of expenditures.

(Authority: 20 U.S.C. 1070a–1, 1232f)

§ 691.83 Submission of reports.

(a)(1) An institution may receive either a payment from the Secretary for an award to an ACG or a National SMART Grant recipient, or a corresponding reduction in the amount of Federal funds received in advance for which it is accountable, if—

(i) The institution submits to the Secretary the student's Payment Data for that award year in the manner and form prescribed in paragraph (a)(2) of this section by September 30 following the end of the award year in which the grant is made, or, if September 30 falls on a weekend, on the first weekday following September 30; and

(ii) The Secretary accepts the student's Payment Data.

(2) The Secretary accepts a student's Payment Data that is submitted in accordance with procedures established through publication in the **Federal Register**, and that contains information the Secretary considers to be accurate in light of other available information including that previously provided by the student and the institution.

(3) An institution that does not comply with the requirements of this paragraph may receive a payment or reduction in accountability only as provided in paragraph (d) of this section.

(b)(1) An institution shall report to the Secretary any change in the amount of a grant for which a student qualifies including any related Payment Data changes by submitting to the Secretary the student's Payment Data that discloses the basis and result of the change in award for each student. The institution shall submit the student's Payment Data reporting any change to the Secretary by the reporting deadlines published by the Secretary in the **Federal Register**.

(2) An institution shall submit, in accordance with deadline dates established by the Secretary, through publication in the **Federal Register**, other reports and information the Secretary requires and shall comply with the procedures the Secretary finds necessary to ensure that the reports are correct.

(3) An institution that timely submits, and has accepted by the Secretary, the Payment Data for a student in accordance with this section shall report a reduction in the amount of an award that the student received when it determines that an overpayment has occurred, unless that overpayment is one for which the institution is not liable under § 691.79(a).

(c) In accordance with 34 CFR 668.84, the Secretary may impose a fine on the institution if the institution fails to comply with the requirements specified in paragraphs (a) or (b) of this section.

(d)(1) Notwithstanding paragraph (a) or (b) of this section, if an institution demonstrates to the satisfaction of the Secretary that the institution has provided ACGs or National SMART Grants in accordance with this part but has not received credit or payment for those grants, the institution may receive payment or a reduction in accountability for those grants in accordance with paragraphs (d)(4) and either (d)(2) or (d)(3) of this section.

(2) The institution must demonstrate that it qualifies for a credit or payment by means of a finding contained in an audit report of an award year that was the first audit of that award year and timely submitted to the Secretary under 34 CFR 668.23(a).

(3) An institution that timely submits the Payment Data for a student in accordance with paragraph (a) of this section but does not timely submit to the Secretary, or have accepted by the Secretary, the Payment Data necessary to document the full amount of the award to which the student is entitled, may receive a payment or reduction in accountability in the full amount of that award, if—

(i) A program review demonstrates to the satisfaction of the Secretary that the student was eligible to receive an amount greater than that reported in the student's Payment Data timely submitted to, and accepted by the Secretary; and

(ii) The institution seeks an adjustment to reflect an underpayment for that award that is at least $100.

(4) In determining whether the institution qualifies for a payment or reduction in accountability, the Secretary takes into account any liabilities of the institution arising from that audit or program review or any other source. The Secretary collects those liabilities by offset in accordance with 34 CFR part 30.

(Authority: 20 U.S.C. 1070a–1, 1094, 1226a–1)

[FR Doc. 06–5937 Filed 6–29–06; 8:45 am]

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Federal Register

Monday,
July 3, 2006

Part IV

Department of Education

Institute of Education Sciences—Notice Inviting Public Comments on Plan for Addressing Long-Term Research Priorities; Notice

DEPARTMENT OF EDUCATION

Institute of Education Sciences—Notice Inviting Public Comments on Plan for Addressing Long-Term Research Priorities

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice inviting public comments on plan for addressing Institute priorities.

SUMMARY: The Director of the Institute of Education Sciences (Institute) invites comments on the Institute's plan for addressing the long-term research priorities approved by the National Board for Education Sciences (Board).

DATES: We must receive your comments on or before September 1, 2006.

ADDRESSES: Address all comments about this plan to Elizabeth Payer, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 602c, Capitol Place, Washington, DC 20208. If you prefer to send your comments through the Internet, use the following address: elizabeth.payer@ed.gov.

You must include the term ''Plan for Addressing Priorities'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Elizabeth Payer. Telephone: (202) 219–1310.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339 between 8 a.m. and 4 p.m., eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Invitation to Comment

We invite you to submit comments regarding this plan. We urge you to identify clearly the specific area of the plan that each comment addresses and to arrange your comments in the same order as the plan.

During and after the comment period, you may inspect all public comments about this plan in room 602q, 555 New Jersey Avenue, NW., Capitol Place, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this plan. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Background

Section 115 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9515) requires that the Director propose to the Board long-term research priorities for the Institute and that, upon the Board's approval of the priorities, the Director make the Institute's plan for addressing the priorities available for public comment.

On June 16, 2005, the Institute published a notice inviting comments on the priorities it planned to propose to the Board (70 FR 35072). During its meeting on September 6 through 7, 2005, the Board approved certain long-term research priorities for the Institute. (The Board-approved priorities can be found at the following Web site: *http://ies.ed.gov/director/board/priorities.asp.*) The plan attached to this notice describes the Institute's plan for addressing those priorities.

Through this notice, the Director seeks public comment before finalizing the Institute's plan for addressing the Board-approved priorities.

Electronic Access to This Document

You may review this document, as well as all other Department of Education documents 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.

Grover J. Whitehurst,

Director of the Institute of Education Sciences.

BILLING CODE 4000–01–P

The Institute of Education Sciences' Plan for Addressing its Research Priorities

The Education Sciences Reform Act of 2002 requires that the Director of the Institute of Education Sciences (Institute) propose to the National Board for Education Sciences (Board) long-term research priorities for the Institute, and that upon approval of such priorities, the Director make the Institute's plan for addressing such priorities available for public comment. The Board has approved the Director's priorities. This document describes the Institute's plan for addressing those priorities.

Review of Priorities

The Institute's research priorities (http://ies.ed.gov/iespriorities.html) are driven by the goals of developing and identifying programs and practices that are effective in enhancing academic achievement, identifying existing programs and practices that do not work or are inefficient, gaining understanding of the processes that underlie variations in the effectiveness of programs and practices, and delivering results of education research to consumers in ways that will support the use of research evidence when making education decisions.

These goals are to be pursued by research activities that focus on the effects on specific student outcomes of four conditions: curriculum and instruction, assessment, workforce quality, and the systems and policies under which the first three conditions operate. The specific student outcomes of interest vary by age of the student. They are:

- Infancy and preschool
    - readiness for schooling
    - developmental outcomes for infants and toddlers with disabilities
- Kindergarten through 12th grade
    - reading and writing
    - mathematics and science
    - behaviors and social skills that support learning in school and successful transitions, and additional functional outcomes for students with disabilities
- Post-secondary level
    - enrollment in and completion of programs that prepare students for successful careers and lives
    - acquisition of basic skills by adults

Mechanism for Acting on the Priorities

The principal means by which the Institute can act on its research priorities is through research competitions to which researchers and research organizations can apply for funding. These competitions are organized by topic, e.g., reading and writing, and by center within the Institute, e.g., the National Center for Special Education Research. Annual research competitions have been held since the Institute was established in 2002. The number of topics covered in the competitions has increased each year, and numbered 20 for the 2006 fiscal year.

The Plan for Addressing Priorities

The Institute's plan for addressing its research priorities has three elements, each involving an assessment of current activities to determine if new research activities should be created or existing activities should be modified in order for the Institute's portfolio of activities to cover the priorities.

The first element involves assessing whether the Institute is providing **opportunities** for researchers to obtain funding for work on each of the topics identified in the priorities (where the topics are defined as the intersect of the conditions of influence, outcomes, and age periods listed in the previous section). Is the Institute, for example, providing funding opportunities for research on the effects of curriculum and instruction on outcomes in mathematics and science during the k-12 period? The action associated with this assessment is to create new funding opportunities when gaps in coverage are identified.

The second element involves assessing whether the **mix** of grant applications within each topic is appropriate to the Institute's goals of determining what works, what doesn't, and understanding the processes that underlie variations in program effectiveness. For example, with respect to the effects of curriculum and instruction on mathematics and science outcomes, is there sufficient upstream work to provide a new generation of programs and practices? Is there sufficient downstream work in moving interventions to scale and evaluating their effectiveness? A variety of actions can be taken when the mix of work within a research program is unbalanced. These include clarifying funding announcements, increasing capacity in the research community, and enhancing the incentives to pursue particular categories of research.

The third element involves assessing whether the **yield** of grants within each topic is advancing the Institute's goals, particularly the goal of developing and identifying programs and practices that are effective in enhancing academic achievement. For example, are grants on the effects of curriculum and instruction on mathematics and science outcomes yielding promising findings that can be field-tested? Are field tests of programs and practices at scale yielding positive effects? A variety of actions can be taken when the yield from a research program is insufficient. These include redirecting investments and using different forms of funding such as contracts and cooperative agreements to jumpstart and actively shape the research portfolio.

The Institute, established in November of 2002, is only a little over 3 years old. Its grants typically run for terms of 4 years. At this stage of the Institute's life the emphasis has to be on the first element of the plan, assuring that research opportunities exist for each of the Institute's priorities. The second element, the mix of types of research within research programs, can be addressed for those research topics that have been through at least two cycles of funding. Addressing the third element, yield, is just beginning to be possible.

Do research opportunities fit the priorities?

The Director's research priorities were published in the fall of 2005. Those priorities built on research competitions that were already in place. In that context, it should not be surprising that most of the conditions and outcomes identified in the priorities are presently being covered.

Kindergarten through 12th grade. Each of the priorities is being covered for the k-12 period. The effects on student outcomes of curriculum and instruction, assessment, and workforce quality are covered by the Institute's research grants in the following areas:

- reading and writing
- reading, writing, and language development (special education)
- teacher quality in reading and writing
- quality of teachers and other service providers (special education)
- mathematics and science
- mathematics and science (special education)
- teacher quality in math and science
- cognition and student learning
- individualized education programs and individualized family service plans (special education)
- response to instruction (special education)
- high school reform
- interventions for struggling adolescent and adult readers
- socialization and character development
- serious behavior disorders (special education)
- secondary and transition services (special education)
- autism spectrum disorders (special education)

The effects of systems and policies in kindergarten through 12th grade are covered by the following research programs and national research and development centers:

- education leadership
- education policy, finance, and management
- assessment for accountability (special education)
- national assessment of educational progress secondary analysis
- statewide, longitudinal data systems
- national research and development centers on:
    - rural education
    - data-driven reform
    - school choice, competition, and achievement
    - evaluation, standards, and student testing
    - English language learners
    - performance-based incentives
    - analysis of longitudinal data
    - gifted and talented education

Infancy and preschool. Many, but not all, of the priorities are covered during the infancy and preschool period by existing research programs. Each of the teacher quality and subject matter topics listed in the previous section on k-12 education includes the pre-k period. Additional research programs that focus exclusively on infancy and preschool include:

- early intervention, early childhood special education, and assessment for young children with disabilities (special education)
- national research and development center on early childhood development and education
- preschool curriculum evaluation

A notable gap in coverage is special education research on infants and toddlers with disabilities. Accordingly, the Institute has just launched the early intervention, early childhood special education and assessment for young children with disabilities program, listed above, which covers children from birth through age five. In addition, the Institute's new research program on autism spectrum disorders, listed in the previous section on k-12 education, includes the infancy and preschool period.

Postsecondary. The Institute has two research programs that focus exclusively on postsecondary education:

- national research and development center on postsecondary education and training
- postsecondary education

In addition, a number of the research programs listed in the previous section on k-12 education expressly include coverage of the postsecondary period. Specifically, interventions for struggling adolescent and adult readers, mathematics and science, teacher quality in reading and writing, and teacher quality in mathematics and science, include teaching basic skills to adults through adult and vocational education programs and developmental/bridge programs designed to help under-prepared students acquire the skills to succeed in college. The cognition and student learning program includes research on adult education and tertiary education. And the program in secondary and transition services includes the transition from secondary to postsecondary settings for students with disabilities.

However, some areas of research identified by the priorities have been underrepresented in existing research programs. These include research on the effects of different forms of student aid on enrollment and persistence, the development and evaluation of remedial programs and retention programs for students who enter college underprepared, and the development and validation of assessments that capture the value added by baccalaureate programs in preparing students for careers after graduation. The postsecondary education research program, listed above, has just been launched to address these issues.

Is the mix of research appropriate?

The Institute funds research in seven categories: (1) Identification – identify existing programs, practices, and policies that are differentially associated with student outcomes and the factors that may mediate or moderate the effects of these programs, practices, and policies; (2) Development – develop programs, practices, and policies that are potentially effective for improving outcomes; (3) Efficacy – establish the efficacy of fully developed programs, practices, or policies that either have evidence of potential efficacy or are widely used but have not been rigorously evaluated; (4) Scale-up – provide evidence on the effectiveness of programs, practices, and policies implemented at scale; (5) Assessment and Tools – develop or validate data and measurement systems and tools; (6) Training – increase the capacity to conduct rigorous and relevant research through pre-doctoral and postdoctoral training of education scientists; and (7) Centers – carry out a range of research and national leadership on topics specified by Congress.

Categories 1 through 4 are a logical and progressive ordering of research activities towards the goal of developing and identifying programs and practices that are effective in enhancing academic achievement. Category 4, scale-up research, is the logical culmination of research activities that identify and develop promising approaches (categories 1 and 2) and establish their efficacy in small-scale field tests (category 3). While there is no formula for determining the appropriate mix of research across these categories, the Institute wants to see a distribution that has the shape of a triangle, with the base consisting of identification and development activities, the second level representing small-scale field tests, and the apex representing evaluations of programs and practices at scale. Table 1 is a tabulation of applications in each of categories 1 through 4 as a percentage of the total number of applications received across categories 1 through 4 since 2002.

Table 1 – Applications by Research Categories			
identification	development	efficacy	scale-up
11%	49%	31%	9%

This distribution has the desirable triangular shape, with identification and development representing 60% of applications, small field tests at 31%, and evaluations of scaled-up programs at 9%.

In addition to examining the mix of grant applications across all funding programs, the Institute has examined the mix within four critical research programs that have existed since 2003. The results from this inventory are presented in Table 2.

Table 2 – Applications by Research Categories by Research Program				
	identification	development	efficacy	scale-up
reading and writing	5%	64%	18%	13%
math and science	10%	57%	26%	7%
teacher quality	1%	68%	26%	5%
policy & management	27%	57%	16%	0%

The distribution of grant applications within research programs suggests two issues the Institute should address in managing these research programs. First, the teacher quality research program is making virtually no use of the identification goal, which typically involves statistical analyses of large databases to model and test associations between conditions such as teacher training and outcomes such as student test scores. With the growth and availability of state databases that incorporate longitudinal data for students and that include individual data on teachers, this is a resource that should be utilized. The Institute intends to publicize the need for this type of research, to work with its state partners in the statewide longitudinal data systems program, and with its research and development center on analysis of longitudinal data to make such research feasible.

A second issue is the absence of scale-up research within the education policy, management, finance, and leadership area. This likely reflects the lack of a substantial base of rigorous research in this field. However, evidence suggests that the effectiveness of scientifically based programs and practices is strongly influenced by the context of management and leadership in the schools and districts in which such programs are implemented. To enhance research in this area, the Institute has just launched a new research program on education leadership, listed previously in the section on k-12 education. The Institute also plans new initiatives that directly involve school districts as partners in research on policies that are of high relevance to schools districts nationwide.

Is research yielding findings that will enhance academic achievement?

As indicated previously, not enough time has passed since the Institute was established for the vast majority of its grants to have progressed to the point at which findings can be inventoried. An exception is one of the Institute's first grant programs, on cognition and student learning. Grants have been made in this area since 2002, and the initial grants are beginning to produce results. This program has been remarkably successful, as indicated by its having been the cover story of the March 2006 issue of the Association for Psychological Science's Observer (APS Observer - How We Learn).

Using educational software that incorporates design principles from cognitive psychology, one team of researchers funded by the cognition and student learning program has demonstrated four-fold increases in children's learning of science and vocabulary terms that are needed for classroom subjects. Another team of researchers has discovered what may prove to be a basic principle of instruction -- that learning is optimal when instruction on content is repeated at from 10 to 20 percent of the interval over which students are expected to retain the material. For example, mathematics content presented during the first month of a 10-month course should be reviewed in the second month of that course for optimal retention on an end-of-course examination. A third team of researchers has demonstrated that giving a test after reading prose material produces a greater benefit on a final test than many additional readings of the material.

Findings such as these, which flow from theoretically grounded, methodologically rigorous research, are going to transform education if the Institute carries out it priorities well. This document lays out a plan to address areas in which insufficient opportunities exist for researchers to address priorities and in which the current mix of applications indicates gaps in important categories of research. This is an initial plan that has been developed through a complete inventory of the Institute's investments as connected to its priorities. The plan is dynamic and will be adjusted annually based on a continuing examination of the opportunities, mix, and yield of the Institute's grant programs.

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Part V

Department of Agriculture

Forest Service

National Trail Classification System, FSM 2350, and FSH 2309.18; Notice

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AC47

National Trail Classification System, FSM 2350, and FSH 2309.18

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy and directives; request for comment.

SUMMARY: The Forest Service is publishing for public notice and comment proposed revisions to the agency's national trail classification system (TCS), including the Trail Class Matrix and Design Parameters, and proposed implementing directives. On May 13, 2005, the Backcountry Horsemen of America filed a lawsuit against the Forest Service challenging revision of the TCS without public notice and comment. In an order dated March 29, 2006, the U.S. District Court found that the Forest Service failed to provide public notice and comment as required by the National Forest Management Act, 16 U.S.C. 1612. In accordance with the Court's order, the Forest Service is publishing the proposed revisions to the TCS and proposed implementing directives for public notice and comment.

DATES: Comments must be received in writing by September 1, 2006.

ADDRESSES: Send written comments to Jonathan Stephens, National Program Manager for Trails and Congressionally Designated Areas, USDA Forest Service, Recreation and Heritage Resources Staff, 1400 Independence Avenue, SW., Stop 1125, Washington, DC 20250; or by facsimile to 202–205–1145. Comments also may be submitted by following the instructions at the Federal rulemaking portal at *http://www.regulations.gov.*

All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received on the proposed TCS and directives in the USDA Forest Service Headquarters in Washington, DC, on business days between 8:30 a.m. and 4:30 p.m. Those wishing to inspect comments are encouraged to call ahead at 202–205–1701 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jonathan Stephens, Recreation and Heritage Resources Staff, (202) 205–1701.

SUPPLEMENTARY INFORMATION:

1. Background

The Forest Service is responsible for managing 192 million acres of National Forest System (NFS) lands. On these lands, approximately 133,000 miles of NFS trails are managed by the Forest Service. An NFS trail is a forest trail other than a trail which has been authorized by a legally documented right-of-way held by a State, county, or other local public road authority (36 CFR 212.1). A forest trail is a trail wholly or partly within or adjacent to and serving the NFS that the Forest Service determines is necessary for the protection, administration, and utilization of the NFS and the use and development of its resources (36 CFR 212.1). Design, construction, operation, and maintenance of NFS trails fall under the authority of Forest and Grassland Supervisors.

In the early 1990s, the Forest Service began developing a new information management process and database for inventorying and managing NFS trail data. This process included identification of national trail classifications and associated physical characteristics of trails.

Development of Trail Classes

Since the mid-1980s, the Forest Service has been concerned that there was no system for gathering consistent, comprehensive data on real property inventory, facility conditions, program priorities, and budget needs for Forest Service resources. Therefore, in 1991, the Chief of the Forest Service directed managers of the Forest Service's national trails program to develop a system for identifying real property inventory, the condition of facilities, and the cost of maintaining those facilities to standard and reducing maintenance backlogs.

In 1991, the Forest Service established three categories for classifying NFS trails based on their difficulty level. These categories, which are enumerated in the Forest Service Handbook (FSH), are most difficult, more difficult, and easiest. In addition, since 1991, the FSH has contained technical guidelines, called trail guides, for specific types of uses, including hiking and pack and saddle stock use. For each of the three difficulty levels, each trail guide contains design, construction, and maintenance guidelines for the physical characteristics of trails. The physical characteristics include maximum pitch grade and length, clearing width and height, tread width, and surface. The difficulty levels in the trail guides encompass trails ranging from the least developed, which are typically steep or narrow, to the most highly developed, which are typically wide with minimal grades.

Trail management and use were (and still are) based on trail management objectives (TMOs), as determined by the applicable land management plan, travel management plan, and trail-specific decisions. At the same time local managers identified a trail's management and use, they identified the applicable difficulty level. Once managers determined the applicable trail management and use and difficulty level, applicable technical guidelines from the appropriate trail guide could be identified.

Development of the National Trail Database

In 1994, the Forest Service implemented a trails module in Infrastructure (Infra), the Forest Service's national database, which operated on the agency's Data General (DG) computer system. The DG Infra Trails Module provided a national repository for information related to the inventory and management of NFS trails. The DG Infra Trails Module included numerous trail attributes, including the three difficulty levels and three new trail classes roughly based on a trail's development scale: Way (minimally developed), secondary (native surface with moderate level of development), and mainline (most developed). However, these three trail classes did not correlate with the difficulty levels in the FSH for categorizing the technical guidelines for NFS trails.

In 1997, the Forest Service adopted Meaningful Measures (MM), a spreadsheet system that tracked the condition of agency facilities, including trails, and the cost of meeting national standards for those facilities. The MM system included spreadsheets with data entry fields identifying NFS trails as way, secondary, or mainline, using definitions for those classes from the DG Infra Trails Module.

Revision of the DG Infra Trails Module

In 1994, the Forest Service reconfigured and updated the DG Infra Trails Module to a new IBM system providing greater functionality and user-friendliness and refined and expanded sets of data attributes. Recognizing the inefficiency of having expansive amounts of related but unintegrated information, in addition to the mounting confusion in terminology, in 1998 the Forest Service identified the need to integrate data from the MM system and the IBM Infra Trails Module. The agency concluded that providing seamless functionality between the Infra Trails Module and the MM spreadsheets would greatly improve agency efficiency and data accuracy and consistency. Therefore, in 1998, the Forest Service determined that a more uniform national trail classification system, applicable to both the MM cost data and the Infra trails inventory data, would improve information management and make the Infra Trails Module a truly useful and effective tool for local trail managers.

In 1999, the Forest Service transitioned from the three way, secondary, and mainline trail classes to five trail classes keyed more precisely to the physical characteristics of NFS trails. The Forest Service replaced the way, secondary, and mainline data fields in the MM spreadsheets with data fields for the five trail classes. The 2000 MM User Guide included a matrix of the five trail classes and a set of physical characteristics of trails, including tread, immediate environs, obstacles, signing, and constructed features. The MM User Guide explained that ''[t]he five Trail Management Classes separate trails into broad categories which help stratify the Trail System for various projects including Infra inventory, Forest Planning Objectives, Visitor Information, and helping to establish coefficients for MM costing.'' From 1999 to 2001, these five trail classes were incorporated nationwide in MM data requirements and costing efforts.

In 2000, the Forest Service formed the national Trails Development Team (TDT) to improve the Infra Trails Module. The primary objectives of the TDT were to integrate and build upon trail reference materials to enhance trail inventory, tracking of trail condition and needs, and accuracy and accountability of trail inventory and costing; to minimize confusion and inconsistency in terminology, definitions, and interpretation; and to improve the communication, quality, and utility of trail data.

In revising the Infra Trails Module, the TDT refined five concepts that are now collectively known as the ''Trail Fundamentals,'' including Trail Type, Trail Class, Managed Use, Designed Use, and Design Parameters. The Trail Fundamentals provide an updated and more effective means for consistently recording and communicating the intended design and management guidelines for trail design, construction, maintenance, survey, and assessment. This refinement clarified the five Trail Classes and their associated terminology, and integrated the trail class concept with technical guidelines, called Design Parameters, for the design, construction, maintenance, survey, and assessment of NFS trails. Relevant facts pertaining to development of the Trail Fundamentals follow.

Trail Class

On June 15, 2001, the 1999 Trail Class Matrix was reformatted and refined to include expanded descriptors for each category. Like the previous three difficulty levels and 1999 Trail Classes, the 2001 Trail Classes range from minimally developed (Trail Class 1) to fully developed (Trail Class 5):

Trail Class 1: Minimal/Undeveloped Trail.

Trail Class 2: Simple/Minor Development Trail.

Trail Class 3: Developed/Improved Trail.

Trail Class 4: Highly Developed Trail.

Trail Class 5: Fully Developed Trail.

Each Trail Class has descriptors for the physical characteristics of trails, including tread and traffic flow, obstacles, constructed features and tread elements, signs, and typical recreational environment and experience.

The 2001 Trail Class Matrix included three sets of additional criteria specific to particular types of uses (motorized, snowmobile, and water uses), which were applied in addition to the general criteria in the five Trail Classes. In 2005, a fourth set of additional criteria was added to the Trail Class Matrix for pack and saddle stock use. The primary intent of the original sets of additional criteria was to address considerations specific to those uses that were not addressed by the general criteria. A secondary intent was to indicate the applicability of each Trail Class to use types.

The agency is proposing to remove the four sets of additional criteria because they duplicate the user-specific guidance in the Design Parameters. The agency is proposing to include a new chart in the FSH that shows the relationship between Trail Class and Managed Use.

In addition, attached to the 2001 Trail Class Matrix is a chart entitled, ''Trail Operation and Maintenance Considerations.'' While these considerations are a useful tool for trail managers, they are not part of the 2001 Trail Class Matrix or Design Parameters. Rather, they are provided to assist managers in the development of trail prescriptions, program management, and trail operation and maintenance. The considerations offer a general starting point and will likely be adapted locally to reflect site-specific financial limitations and applicable district, forest, and regional circumstances. To clarify this distinction, the agency is severing this chart from the Trail Class Matrix and addressing its context and purpose in Forest Service Manual 2353 and FSH 2309.18.

Managed Use

A Managed Use is a mode of travel that is actively managed and appropriate on a trail, considering its design and management. There may be more than one Managed Use per trail or trail segment. As indicated by use of the word ''actively,'' the term ''Managed Use'' reflects a management decision or intent to accommodate a particular use through trail design, maintenance, and management. As with the previous classification system, the applicable Managed Uses of a trail are based on the trail's TMOs. A trail's TMOs are determined by the applicable land management plan, travel management plan, and trail-specific decisions.

The concepts of Trail Class and Managed Use are interdependent. Determining the desired development scale or Trail Class requires consideration of the Managed Uses of a trail. Likewise, determining the Managed Uses of a trail requires consideration of the development scale of the trail. Therefore, the applicable Trail Class is usually identified in conjunction with the Managed Uses of a trail.

Designed Use

The Designed Use is the Managed Use of a trail that requires the most demanding design, construction, and maintenance parameters. The Designed Use determines which design, construction, and maintenance parameters will apply to a trail.

While there may be more than one Managed Use, there can be only one Designed Use per trail or trail segment. For example, if a trail has a Managed Use of Hiker/Pedestrian and Pack and Saddle, Pack and Saddle would be the Designed Use or design driver because it requires more stringent trail design, construction, and maintenance parameters.

As with the prior classification system, once the Trail Class, Managed Uses, and Designed Use are determined for a trail or trail segment, the corresponding set of technical guidelines or design parameters can be applied.

Design Parameters

The Design Parameters were released agency-wide in 2004. The Design Parameters are the technical guidelines for trail design, construction, maintenance, surveying, and assessment, based on Designed Use and

Trail Class. They reflect the dominant physical criteria that most define the geometric shape of a trail, including tread width, surface, grade, cross slope, clearing width and height, and turning radius. Some of the variables in the Design Parameters identify a specific value, while others identify a range of values. In the latter case, managers are instructed to narrow the range, selecting the specific value that best reflects the TMOs for the trail.

The Design Parameters do not indicate the types of uses that can occur or are allowed on NFS trails, but rather establish general guidelines for the design, construction, maintenance, survey, and assessment of NFS trails, based on their physical characteristics and Designed Use, as determined by preexisting management decisions. All non-motorized uses are allowed on any NFS trail unless specifically prohibited (motorvehicle use is covered by 36 CFR part 212, subpart B. In addition, local deviations from any Design Parameter may be established based on trail-specific conditions, topography, or other factors, provided that the deviations reflect the general intent of the corresponding Trail Class.

The Forest Service is proposing to replace the trail guides in the FSH with the Design Parameters. The proposal would include Design Parameters for Hiker/Pedestrian, Pack and Saddle, Bicycle, All-Terrain Vehicle (ATV), Motorcycle, Cross-Country Ski, and Snowmobiles. In addition, the agency is proposing to remove the barrier-free trail guide because it has been superseded by the Forest Service Trail Accessibility Guidelines.

2. Need for Proposed Directives

The Forest Service provides internal direction to field units through its Directives System, consisting of the Forest Service Manual (FSM) and Forest Service Handbooks (FSH). Directives provide guidance to field units in implementing programs established by statute and regulation. Forest Service directives establish agency polices for delegations of authority, consistent definitions of terms, clear and consistent interpretation of regulatory language, and standard processes.

The Forest Service is proposing to revise the FSM and FSH to incorporate the national Trail Classes, Design Parameters, and other components of the Trail Fundamentals, along with pertinent definitions and direction on use of these management concepts. Although the Trail Fundamentals are national management concepts, they are applied and implemented at the local level.

Summary of Proposed Changes to the Directives

The Trail Fundamentals—Trail Type, Trail Class, Managed Use, Designed Use, and Design Parameters—are the cornerstones for trail planning and management. The proposed directives would revise and update the definitions in FSM 2353.05 and FSH 2309.18, section 05, to include terminology applicable to the Trail Fundamentals. A new section in the FSM and FSH would describe the Trail Fundamentals and how they should be used for trail planning and management. The proposed directives also would provide direction on how the Trail Fundamentals should be applied at the local level. In addition, a new chart would be included that shows the relationship between Trail Classes and Managed Uses. The trail guides would be replaced with the seven sets of Design Parameters (Hiker/Pedestrian, Pack and Saddle, Bicycle, All-Terrain Vehicle, Motorcycle, Cross-Country Ski, and Snowmobiles). The Trail Class Matrix, Trail Class and Managed Use Application Guide, Trail Operation and Maintenance Considerations, and Design Parameters would be included in the directives as exhibits. Modifications also would be made to the FSM and FSH to reflect the direction in the Forest Service Trails Accessibility Guidelines (FSTAG). Additional nonsubstantive revisions would be made to the FSM and FSH to clarify and to remove redundancy.

Section-by-Section Analysis of Proposed Changes

Proposed Changes to FSM 2353

2353.04g—Forest Supervisors. An additional responsibility for Forest Supervisors would be added requiring the use of the five Trail Fundamentals (Trail Type, Trail Class, Managed Use, Designed Use, and Design Parameters) for the planning, management, and operation of all NFS trails.

2353.05—Definitions. Definitions for the following terms would be added alphabetically to FSM 2353.05: Design Parameters, Designed Use, Managed Use, Trail Class, Trail Fundamentals, Trail Management Objectives, and Trail Type. In addition, the definition for difficulty levels would be revised to exclude trails with a Designed Use of Hiker/Pedestrian because these trails are now addressed in the FSTAG.

2353.19—Trail Objective. The title of this section would be changed to ''Trail Management Objectives.'' This section would be modified to incorporate the identification and documentation of TMOs, including the five Trail Fundamentals and travel management strategies.

2353.2—Types of Trails. This section would be renamed, ''Trail Fundamentals,'' and would be revised to include direction on identifying and applying the five Trail Fundamentals. The content of existing FSM 2353.2 would be incorporated into the new sections on Managed Use and Designed Use in FSH 2309.18, section 1.4, and the reference to trail guides would be replaced with a reference to the Design Parameters.

2353.21—Difficulty Levels. This section would be renumbered FSM 2353.3, and would be modified to state that trails with a Designed Use of Hiker/Pedestrian are addressed in the FSTAG.

Proposed Changes to FSH 2309.18, Trail Management Handbook Zero Code

05—Definitions. Definitions for the following terms would be added alphabetically to section 05: Design Parameters, Designed Use, General Forest Area, Managed Use, Maximum Pitch Density, Short Pitch Maximum, Target Grade, Trail Class, Trail Fundamentals, Trail Management Objectives, and Trail Type.

The definition for difficulty levels would be modified to exclude hiker/pedestrian accessible trail use because accessibility of hiker/pedestrian trails is addressed in the FSTAG.

For consistency with current agency terminology, the definition for ''forest development trail'' would be replaced with the definition for ''National Forest System trail'' from 36 CFR 212.1. In addition, the definition for ''forest trail'' from 36 CFR 212.1 would be added.

The definition for ''four-wheel drive way'' would be removed because it is inconsistent with the definition for ''four-wheel drive way'' in FSM 2353.05.

The definition for ''snow trail'' would be revised and included in the definition for Trail Type.

Chapter One

1.2—Planning Concept. This section would be renamed, ''Planning'', and would be amended to address identification and documentation of TMOs.

1.4—Trail Fundamentals. This new section would identify the five Trail Fundamentals. Current section 1.4, Analysis Process, would be renumbered section 1.5.

1.41—Trail Types. This new section would address the intent and application of Trail Types.

1.42—Trail Classes. This new section would address the intent and application of the Trail Classes and would reference a new exhibit in the FSH containing the Trail Class Matrix.

1.42, Exhibit 01—Trail Class Matrix. This new exhibit would contain the Trail Class Matrix, which would contain several modifications. Nonsubstantive modifications would be made to the introductory paragraphs and to footnote 1 to enhance clarity and reduce redundancy. Minor, nonsubstantive changes would be made to the text in the bulleted item for tread and traffic flow in Trail Class 3 to enhance clarity. Footnote 2 would be removed to reduce redundancy, as the intent of this footnote is conveyed by the caveats ''often'' and ''typically'' in the bulleted text for Typical Recreation Environs and Experience. The four tables containing additional criteria for pack and saddle trails, motorized trails, snow trails, and water trails would be removed. The intent of these tables was to provide additional descriptors to address substantial differences based on use type that are not addressed by the descriptors in the Trail Class Matrix. This goal is accomplished more effectively through the Design Parameters, which are keyed to use type, and through inclusion of a new exhibit called, ''Trail Class and Managed Use Application Guide,'' which is described below.

1.43—Managed Use. This new section would address the intent and application of Managed Use and would reference the exhibit containing the Trail Class and Managed Use Application Guide.

1.43, Exhibit 02—Trail Class and Managed Use Application Guide. This section would include the Trail Class and Managed Use Application Guide. This exhibit would be added to communicate more succinctly and effectively the relationship between the Trail Classes and Managed Uses, which was one of the objectives of the additional criteria in the current Trail Class Matrix that are being removed.

1.44—Designed Use. This new section would address the intent and application of Designed Use.

1.45—Design Parameters. This new section would address the intent and application of the Design Parameters and would reference the exhibits for the Design Parameters, which would replace the trail guides (currently in exhibits 2.31a through d, 2.32a through b, 2.32d, and 2.33a).

1.54—Opportunities and Constraints. Question number 11 would be revised to replace the reference to difficulty levels with a reference to Trail Classes. Per the FSTAG, the concept of difficulty levels is no longer applicable to trails with a Designed Use of Hiker/Pedestrian.

1.55—Relation to Existing Facilities. Question number 4 would be revised to replace the reference to barrier-free trails with a reference to accessible trails in accordance with the FSTAG.

1.6—Establishment of Priorities and Management Requirements. A sentence referencing the Operation and Maintenance Considerations in section 1.6, Exhibit 01, would be added to the end of this section.

1.6, Exhibit 01—Trail Operation and Maintenance Considerations. An exhibit entitled, ''Trail Operation and Maintenance Considerations'' would be added to section 1.6. This exhibit is based on the Operation and Maintenance Considerations that are attached to the current Trail Class Matrix. These considerations would be included in a separate exhibit from the Trail Class Matrix because they are not part of the Trail Class Matrix. Rather, they are merely a reference for trail planning, management, operation, and maintenance.

1.7—Example of Planning Decisions in a Trail Plan. This section would be renumbered section 1.8, and would be renamed, ''Considerations for Trail Planning''. The four examples provided in this section would be revised to include the concepts of Trail Class, Managed Use, and Design Use. The third example would be revised to include a snow trail only, rather than a snow trail combined with a standard/terra trail.

1.7, Exhibit 02—Summit District Trail Inventory. This exhibit would be removed because it contains management concepts that have been replaced by the Trail Fundamentals.

Chapter 2—Trail Development

2.03—Policy. This section would be revised to incorporate the concepts of Managed Use and Designed Use.

2.21—Trail Management Objectives. This new section would address TMOs, including the five Trail Fundamentals.

2.22—Difficulty Levels. This section would be replaced with the Trail Classes being incorporated into the FSM and FSH.

2.23a—Locations. The title of this section would be changed to ''Trailhead Location,'' and the content would be modifed to incorporate the concepts of development scale and Trail Class. Additionally, this section would be revised to reflect current accessibility guidelines.

2.23b—Parking. The title of this section would be changed to ''Trailhead Parking,'' and a statement would be added to reflect requirements for compliance with the FSTAG.

2.23c—Pack and Saddle Stock. The title of this section would be changed to ''Pack and Saddle Stock Trailheads.''

2.23d—Barrier Free Design. This section would be renamed, ''Application of Forest Service Trail Accessibility Guidelines,'' and redesignated section 2.23e. The content would be revised because the current text has been superseded by the FSTAG.

2.23e—Snow Removal. This section would be renamed, ''Snow Removal at Trailheads,'' and renumbered section 2.23d.

2.24—Accessibility for Facilities and Associated Constructed Features Along Trails. This new section would address compliance with accessibility guidelines for facilities and associated constructed features along trails.

2.24—Wilderness Considerations. This section would be renumbered section 2.25. The phrase in paragraph 8 would be replaced with the phrase, ''to provide trail treads that do not exceed the tread widths identified for wilderness areas in the Design Parameters. ''

2.3—Trail Construction and Maintenance Guides. This section would be renamed, ''Design Parameters.'' A statement regarding the intent and application of the Design Parameters would be added. The Design Parameters would be listed in the order presented in the following sections. A reference to Managed Use and Designed Use would be added in the first sentence. The word ''guides'' would be replaced with the phrase ''Design Parameters.''

2.31—Non-Motorized Trails. This section would be renamed, ''Standard/Terra Non-Motorized Trails.''

2.31—Hiker Trail Guide. This section would be renamed, ''Hiker/Pedestrian Design Parameters.'' Paragraph 1, ''Design and Location Considerations,'' would be revised to incorporate the concepts of Hiker/Pedestrian Designed Use, Managed Use, and Design Parameters. In the last paragraph, the phrase, ''mountaineering scramble trails'' would be replaced with the phrase, ''mountaineering scramble routes.'' In the next sentence, ''trails'' would be replaced with ''routes'' and ''hiker trail category'' would be replaced with ''Hiker/Pedestrian category.''

2.31a, Exhibit 01—Hiker Trail Guide. This exhibit would be revised and renamed, ''Hiker/Pedestrian Design Parameters.'' The following changes would be made to this exhibit and all other Design Parameter exhibits.

Nonsubstantive changes would be made to the introductory paragraphs, bulleted text, and footnotes to enhance clarity and reduce redundancy. ''Target Range'' would be renamed ''Target Grade'' to clarify the intent of this trail characteristic. The values for Target Grade would be preceded by ''less than or equal to,'' rather than ''less than,'' to reflect more clearly and accurately the continuum of Trail Classes. Definitions would be added as footnotes for ''target grade,'' ''short pitch maximum,'' and ''maximum pitch density.''

In addition, the value for short pitch maximum in Trail Class 5 would be preceded by ''less than or equal to'' and the value for clearing height in Trail Class 5 would be preceded by ''more than or equal to,'' so as to reflect more accurately the maximum or minimum tolerance identified for accessible Hiker/Pedestrian trails in the FSTAG.

2.31b—Pack and Saddle Trail Guide. This section would be renamed, ''Pack and Saddle Design Parameter,'' The last sentence in paragraph 1, ''Design and Location Considerations,'' would be replaced with the sentence, ''For minimum bridge widths and railing heights, refer to FSH 7709.56b, section 7.69, exhibit 01, Trail Bridge Design Criteria.''

2.31b, Exhibit 01—Pack and Saddle Trail Guide. This exhibit would be renamed, ''Pack and Saddle Design Parameters'' and would be revised as discussed above regarding section 2.31a, exhibit 01.

2.31c—Mountain Bike. This section would be renamed, ''Bicycle Design Parameters.'' The content of this section would be removed, and the section would be reserved for updating at a later time.

2.31c, Exhibit 01—Mountain Bike Trail Guide. This exhibit would be renamed, ''Bicycle Design Parameters,'' and would be revised as discussed above regarding section 2.31a, exhibit 01. In addition, under clearing height for Trail Class 1 and Trail Class 2, the erroneous unit of measure of inches would be changed to feet.

2.31d—Cross Country Ski Trail Guide. This section would be renamed, ''Cross-Country Ski Design Parameters,'' and renumbered 2.33a.

2.32—Motorized Trails. This section would be renamed, ''Standard/Terra Motorized Trails.''

2.32a—Bike Trail Guide. This section would be renamed, ''Motorcycle Design Parameters.'' All references to ''bike'' or ''biking'' would be replaced with ''motorcycle'' or ''motorcycling.''

In the introductory text and third and eighth paragraphs of paragraph 1, ''Design and Location Considerations,'' ''easiest trails'' would be replaced with ''Trail Class 4.'' In the fourth and fifth paragraphs, ''easiest to most difficult'' would be replaced with ''Trail Class 4 to Trail Class 2.'' In the seventh paragraph, the second sentence would be removed because this information would be addressed in the Motorcycle Design Parameters. In the eleventh paragraph, the second sentence would be replaced with a reference to FSH 7709.56b, section 7.69, exhibit 01, Trail Bridge Design Criteria.

2.32a, Exhibit 01—Motorized Bike Trail Guide. This exhibit would be renamed, ''Motorcycle Design Parameters,'' and would be revised as discussed above regarding section 2.31a, exhibit 01. Additionally, the tread widths for Trail Class 3 and Trail Class 4 switchbacks would be preceded by ''greater than or equal to,'' instead of ''greater than.''

2.32b—All-Terrain Vehicles (ATV) Trail Guide. This section would be renamed, ''All-Terrain Vehicle Design Parameters.''

2.32b, Exhibit 01—ATV Trail Guide. This exhibit would be renamed, ''All-Terrain Vehicle Design Parameters'' and would be revised as discussed above regarding section 2.31a, exhibit 01. Additionally, the tread widths for switchbacks for Trail Class 4 would be preceded by ''greater than or equal to,'' instead of ''greater than.''

2.32c—Four-Wheel Drive Way Guide. The content of this section would be removed, and this section would be reserved for future development because the content is no longer current.

2.32d—Snowmobile Trail Guide. This section would be renamed, ''Snowmobile Design Parameters,'' and would be renumbered section 2.33b.

2.33—Snow Trails. This new section would address snow trails. Existing section 2.33, Special Trails, would be renumbered section 2.35.

2.33a—Cross Country Ski Trail Guide. This section would be renamed, ''Cross-Country Ski Design Parameters. Paragraph 1,'' ''Design and Location Considerations,'' would be revised to address snow trails overlaying standard terra trails. Paragraph 1c, ''Height,'' would be revised to reflect the clearing heights identified in the Cross-Country Ski Design Parameters. Paragraph d, ''Bridges,'' would be revised to replace the minimum bridge width with a reference to FSH 7709.56b, section 7.69, exhibit 01, Trail Bridge Design Criteria.

2.31d, Exhibit 01—Cross-Country Trail Guide. This exhibit would be renamed, ''Cross-Country Ski Design Parameters,'' would be renumbered section 2.33a, exhibit 01, and would be revised as discussed above regarding section 2.31a, exhibit 01. Additionally, the values for Trail Class 3, Two-Lane Tread Width, Trail Class 3 and 4, Design Clearing Widths, and Trail Class 2 and 3, Design Clearing Heights, would be preceded by ''greater than or equal to,'' instead of ''greater than.'' The note regarding obstacles would be removed because it is self-evident. The note regarding radius would be removed because it would be addressed in the narrative section corresponding to this exhibit.

2.32d, Exhibit 01—Snowmobile Trail Guide. This exhibit would be renamed, ''Snowmobile Design Parameters,'' would be renumbered section 2.33b, exhibit 01, and would be revised as discussed above regarding section 2.31a, exhibit 01. Additionally, the values for Trail Class 3 and Trail Class 4, One-Lane Widths, Trail Class 2 through Trail Class 4, Two-Lane Widths, Trail Class 3 and Trail Class 4, Design Clearing Widths, Trail Class 2 and Trail Class 3, Design Clearing Heights, and Trail Class 4, Turning Radius, would be preceded by ''greater than or equal to,'' instead of ''greater than.'' The note for obstacles would be removed because it is self-evident. The note for radius would be removed because it would be covered in the narrative section corresponding to this exhibit.

2.33—Special Trails. This section would be renumbered section 2.35.

2.33a—Barrier-Free Trail Guide. This section would be renamed, ''Accessible Trails,'' would be renumbered section 2.35a, and would be revised to address implementation of the FSTAG.

2.33a, Exhibit 01—Barrier-Free Trail Guide. This exhibit would be removed because it has been superseded by the FSTAG.

2.33b—Interpretive Trail Guide. This section would be renamed, ''Interpretive Trails'' and would be renumbered section 2.35b. A sentence would be added to the beginning of paragraph 1, ''Design and Location Considerations,'' to indicate that interpretive trails usually fall into Trail Class 4 or Trail Class 5, but may occasionally fall into Trail Class 3, and have a Designed Use of Hiker/Pedestrian.

2.33c—Water Routes. This section would be renamed, ''Water Trails,'' would be renumbered section 2.34, and would be reserved for future development.

2.33d—Snowmobile Trail Guide. This section would be renamed, ''Snowmobile Design Parameters,'' and would be renumbered section 2.33b.

Chapter 3—Trail Preconstruction and Reconstruction

3.1—Preconstruction. In the first paragraph, ''hiker trail'' would be replaced with ''Hiker/Pedestrian Trail'' and ''barrier-free'' would be replaced with ''fully developed.''

3.11—Reconnaissance. The first sentence of this section would be revised to address Managed Use and Designed Use.

3.12b—Grade. In the sixth paragraph of this section, ''hikers'' would be replaced with ''Hiker/Pedestrians.'' In the ninth paragraph, ''any grade less than the maximum preferred grade for the trail type'' would be replaced with ''any grade within the range of target grades identified for the Designed Use,'' and ''relate to the difficulty level provided by the trail'' would be replaced with ''correlate to the Designed Use and the Trail Class.''

Chapter 4—Trail Operation and Maintenance

The introductory paragraph would be modified to address the Trail Fundamentals, TMOs, Trail Class, Managed Use, Designed Use, and the Design Parameters. The reference to difficulty levels would be removed.

4.1—Trail Operations. This section would be revised to add Managed Use to the first sentence. In the second sentence, the type of use would be replaced with the managed and accepted uses.

4.13—Public Information. This section would be revised to add a sentence at the beginning stating that general guidance on the appropriate level and type of signage is contained in the Design Parameters, and that specific guidance on these topics is contained in FSM 7160, Signs and Posters, and EM–7100–15, Standards for Forest Service Signs and Posters. Additional guidance on signs for accessible trails is contained in the FSTAG, which is posted at *http://www.fs.fed.us/recreation/programs/accessibility.*

4.14—Signs. This section would be revised to include a reference to the technical provisions for signs in the FSTAG.

4.22—Recording Maintenance. This section would be revised to replace objectives with Trail Management Objectives and trail guides with Design Parameters.

4.23—Maintenance Activity Groups. This section would be revised to replace current assigned and planned guide with assigned Design Parameters.

4.24—Exhibit 01. This exhibit, entitled Trail Log and Condition Survey, would be removed, and this section would be reserved.

4.25—Condition and Prescription Surveys. This section would be renamed, Condition Assessment and Prescription Surveys. The second paragraph of this section would be removed and would be reserved. In the third paragraph, ''management objectives'' would be replaced with ''Trail Management Objectives.'' In the third paragraph, item number 2, ''Planned Use of a Trail,'' the first sentence would be revised to address Trail Class, Managed Use, Designed Use, and the Design Parameters.

3. Regulatory Certifications

Environmental Impact

Section 31.12, paragraph 2, of FSH 1909.15 (67 FR 54622, August 23, 2002) excludes from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency has concluded that the proposed revision of the TCS and proposed implementing directives fall within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement (*see Back Country Horsemen of America* v. *Johanns,* No. 05–0960 (ESH) (D.D.C. March 29, 2006), slip op. at 16–18).

Regulatory Impact

The proposed revision to the TCS and proposed implementing directives have been reviewed under USDA procedures and Executive Order 12866 on regulatory planning and review. The Office of Management and Budget (OMB) has determined that the proposed TCS and implementing directives are not significant. Accordingly, the proposed TCS and implementing directives are not required to be reviewed by OMB.

Moreover, the proposed TCS and implementing directives have been considered in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). It has been determined that the proposed TCS and implementing directives would not have a significant economic impact on a substantial number of small entities as defined by the act because the proposed TCS and implementing directives would not impose record-keeping requirements on them; would not affect their competitive position in relation to large entities; and would not affect their cash flow, liquidity, or ability to remain in the market. The proposed TCS and implementing directives would have no direct effect on small businesses.

No Takings Implications

The proposed TCS and implementing directives have been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the proposed TCS and implementing directives would not pose the risk of a taking of private property.

Civil Justice Reform

The proposed TCS and implementing directives have been reviewed under Executive Order 12988 on civil justice reform. After adoption of the proposed TCS and implementing directives, (1) all State and local laws and regulations that conflict with the proposed TCS and implementing directives or that impede their full implementation would be preempted; (2) no retroactive effect would be given to the proposed TCS and implementing directives; and (3) administrative proceedings would not be required before parties could file suit in court challenging their provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of the proposed TCS and implementing directives on State, local, and Tribal governments and the private sector. The proposed TCS and implementing directives would not compel the expenditure of $100 million or more by any State, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered the proposed TCS and implementing directives under the requirements of Executive Order 13132 on federalism and has determined that the proposed TCS and implementing directives conform with the federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary.

Moreover, the proposed TCS and implementing directives would not have Tribal implications as defined by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' and therefore advance consultation with Tribes is not required.

Energy Effects

The proposed TCS and implementing directives have been reviewed under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' It has been determined that the proposed TCS and implementing directives would not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

The proposed TCS and implementing directives do not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (

44 U.S.C. 3501 et seq.) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: June 26, 2006.

Dale N. Bosworth,

Chief, Forest Service.

4. Proposed Directives

The Forest Service organizes its directives system by alphanumeric codes and subject headings. Only those sections of the FSM and FSH that are the subject of this notice are set out here. The intended audience for this direction is Forest Service employees charged with administering the agency's trails program.

FOREST SERVICE MANUAL

FSM 2300—RECREATION, WILDERNESS, AND RELATED RESOURCE MANAGEMENT

FSM 2353—NATIONAL FOREST SYSTEM TRAILS

* * * * *

2353.04g—Forest Supervisors

* * * * *

2. Apply the Trail Fundamentals in accordance with FSM 2353 for planning, management, and operation of National Forest System trails.

* * * * *

2353.05—Definitions

* * * * *

Design Parameters. Technical guidelines for trail survey, design, construction, maintenance, and assessment that are based on Designed Use and Trail Class.

Designed Use. The Managed Use of a trail that requires the most demanding design, construction, and maintenance parameters and that determines which design, construction, and maintenance parameters will apply to a trail.

Difficulty Level. The degree of challenge a trail presents to an average user's physical ability and skill, based on trail condition and route location factors such as alignment, steepness of grades, gain and loss of elevation, and amount and kind of natural barriers that must be crossed.

* * * * *

Managed Use. A mode of travel that is actively managed and appropriate on a trail, considering its design and management.

* * * * *

Trail Class. The prescribed scale of trail development, representing the intended design and management standards of the trail.

Trail Fundamentals. The five concepts that are the cornerstones of Forest Service trail management, consisting of Trail Type, Trail Class, Managed Use, Designed Use, and the Design Parameters.

Trail Management Objective. Documentation of the intended purpose and management of a National Forest System trail based on management area direction and access management objectives.

Trail Type. A category that reflects the predominant trail surface and general mode of travel accommodated by a trail.

* * * * *

2353.19—Trail Management Objectives

Manage each trail to meet the trail management objectives (TMOs) identified for that trail, based on land management plan direction, travel management plan direction, trail-specific decisions, and other related direction. For each National Forest System trail or trail segment, identify and document its TMOs including the five Trail Fundamentals, Recreation Opportunity Spectrum classifications, design criteria, travel management strategies, and maintenance criteria.

2353.2—Trail Fundamentals

Identify the five Trail Fundamentals for each National Forest System trail or trail segment based on applicable land management plan direction, travel management plan direction, trail-specific decisions, and other related direction. Each Trail Fundamental is addressed in FSH 2309.18, section 1.4.

2353.3—Difficulty Levels

1. For trails with a Designed Use of Hiker/Pedestrian, refer to the direction on signs in section 7.3.10 of the FSTAG.

2. For other trail uses, as deemed appropriate and based on Trail Class, Designed Use, and other management considerations, use difficulty levels to communicate to trail users what to expect when using a trail and to broaden their recreation experience by introducing various degrees of challenge. If used, difficulty level symbols may be displayed on maps, brochures, and signs (see FSH 2309.18, ch. 2).

3. The three difficulty levels are:

a. *Easiest.* Requiring limited skill and involving limited challenge to traverse.

b. *More Difficult.* Requiring some skill and involving some challenge to traverse.

c. *Most Difficult.* Requiring a high degree of skill and involving a high degree of challenge to traverse.

FOREST SERVICE HANDBOOK

FSH 2309.18—TRAIL MANAGEMENT HANDBOOK

Zero Code

Section 05—Definitions

Design Parameters. Technical guidelines for trail survey, design, construction, maintenance, and assessment that are based on Designed Use and Trail Class.

Designed Use. The Managed Use of a trail that requires the most demanding design, construction, and maintenance parameters and that determines which design, construction, and maintenance parameters will apply to a trail.

Difficulty Level. The degree of challenge a trail presents to an average user's physical ability and skill, based on trail condition and route location factors such as alignment, steepness of grades, gain and loss of elevation, and amount and kind of natural barriers that must be crossed.

Forest Trail. A trail wholly or partly within or adjacent to and serving the NFS that the Forest Service determines is necessary for the protection, administration, and utilization of the NFS and the use and development of its resources (36 CFR 212.1).

General Forest Area. National Forest System lands available for recreational use, other than wilderness areas, developed recreation sites, and administrative sites.

Managed Use. A mode of travel that is actively managed and appropriate on a trail, considering its design and management.

Maximum Pitch Density. The maximum percentage of the total trail length that falls within 5 percent (+/-) of the Short Pitch Maximum Grade.

National Forest System Trail. A forest trail other than a trail which has been authorized by a legally documented right-of-way held by a State, county, or other local public road authority (36 CFR 212.1).

Short Pitch Maximum, The steepest grade expected along the trail, in lengths not exceeding 200 feet and not exceeding the Maximum Pitch Density.

Target Grade. The trail grade expected over the majority (at least 90 percent) of the trail length.

Trail Class. The prescribed scale of trail development, representing the intended design and management standards of the trail.

Trail Fundamentals. The five concepts that are the cornerstones of Forest Service trail management, consisting of Trail Type, Trail Class, Managed Use, Designed Use, and the Design Parameters.

Trail Management Objective. Documentation of the intended purpose and management of a National Forest System trail based on management area direction and access management objectives.

Trail Type. A category that reflects the predominant trail surface and general mode of travel accommodated by a trail.

* * * * *

Chapter One

1.2—Planning

1. Many of the general objectives for trails are in the applicable land management plan or in more detailed travel management decisions. These decisions may lack the detail needed to guide field operations. Analyze specific concerns to determine standards for a specific trail or trail system, maintenance schedules, funding, management of trail use, and priorities for construction and reconstruction.

2. Recognize the need for more detailed analysis when resource conditions change, new recreation opportunities are discovered, conflicts among uses arise, or new public issues emerge.

3. Consider trail management in the context of a land unit. Establish and document trail management objectives and associated management requirements by examining the interaction of resource activities, recreation opportunities, and constraints of the area.

* * * * *

1.4—Trail Fundamentals

For each National Forest System trail or trail segment, apply the Trail Fundamentals in accordance with FSM 2353.2 and FSH 2309.18, sections 1.41 through 1.45.

1.41—Trail Types

1. There are three Trail Types applicable to National Forest System trails:

a. *Standard/Terra Trails:* Trails which have a surface consisting predominantly of the ground, and which are designed and managed to accommodate use on that surface.

b. *Snow Trails:* Trails, as opposed to winter play areas or other areas of concentrated public use, which have a surface consisting predominantly of snow or ice, and which are designed and managed to accommodate use on that surface.

c. *Water Trails:* Trails, as opposed to stretches of whitewater that are managed for river-based recreation., which have a surface consisting predominantly of water, which are designed and managed to accommodate use on that surface, and which may include land-based portages.

2. Trail Types are an inventory convention that allows managers to identify trail-specific Design Parameters, management needs, and the cost of managing the trail for particular uses or seasons.

3. There can be only one Trail Type identified per trail or trail segment. Identify the applicable Trail Type for each National Forest System trail based on applicable land management plan direction, travel management plan direction, trail-specific decisions, and other related direction.

4. When there is an overlap in Trail Types (such as, a snow trail overlaps a standard/terra trail), inventory the trail under both Trail Types in the Infra Trails Module.

1.42—Trail Classes

1. The five trail classes range from least developed (Trail Class 1) to most developed (Trail Class 5):

Trail Class 1: Minimal/Undeveloped Trail.

Trail Class 2: Simple/Minor Development Trail.

Trail Class 3: Developed/Improved Trail.

Trail Class 4: Highly Developed Trail.

Trail Class 5: Fully Developed Trail.

2. Trail Classes are an inventory convention used to identify applicable Design Parameters and to determine the cost to meet the National Quality Standards for trails.

3. Trail Class descriptors reflect typical attributes of trails in each class. Trail-specific exceptions may occur for any Trail Class descriptor, provided that the general intent of the corresponding Trail Class is retained.

4. There is a direct relationship between Trail Class and Managed Use: one cannot be determined without consideration of the other.

5. There can be only one Trail Class identified per trail or trail segment.

6. Identify the applicable Trail Class for each National Forest System trail or trail segment based on applicable land management plan direction, travel management plan direction, trail-specific decisions, and other related direction. The appropriate Trail Class should be determined at the trail-specific level. Apply the Trail Class that most closely matches the trail's TMOs.

7. See the Trail Class Matrix (FSH 2309.18, sec. 1.42, ex. 01).

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FSH 2309.18, section 1.42, Exhibit 01

Trail Classes

Trail Classes are general categories reflecting trail development scale, arranged along a continuum.[1] Trail Classes are used to identify applicable Design Parameters and are used in determining the cost to meet National Quality Standards. Trail Class descriptors reflect typical attributes of trails in each class. Exceptions may occur for any Trail Class descriptor, provided that the general intent of the corresponding Trail Class is retained.

Each National Forest System trail or trail segment is assigned an appropriate Trail Class to reflect the management direction established for the trail. The appropriate Trail Class should be determined at the trail-specific level, based on land management plan direction and other considerations. Apply the Trail Class that most closely matches the managed objectives of the trail.

Trail Attributes	**Trail Class 1** **Minimal/Undeveloped Trail**	**Trail Class 2** **Simple/Minor Development Trail**	**Trail Class 3** **Developed/Improved Trail**	**Trail Class 4** **Highly Developed Trail**	**Trail Class 5** **Fully Developed Trail**
Tread & Traffic Flow	• Tread intermittent and often indistinct • May require route finding • Native materials only	• Tread discernible and continuous, but narrow and rough • Few or no allowances constructed for passing • Native materials	• Tread obvious and continuous • Width accommodates unhindered one-lane travel with occasional constructed passing sections • Typically native materials	• Tread wide and relatively smooth with few irregularities • Width may consistently accommodate two-lane travel • Native or imported materials • May be hardened	• Width generally accommodates two-lane and two-directional travel, or provides frequent passing turnouts • Commonly hardened with asphalt or other imported material
Obstacles	• Obstacles common • Narrow passages; brush, steep grades, rocks and logs present	• Obstacles occasionally present • Blockages cleared to define route and protect resources • Vegetation may encroach into trailway	• Obstacles infrequent • Vegetation cleared outside of trailway	• Few or no obstacles exist • Grades typically < 12% • Vegetation cleared outside of trailway	• No obstacles • Grades typically < 8%
Constructed Features & Trail Elements	• Minimal to non-existent • Drainage is functional • No constructed bridges or foot crossings	• Structures are of limited size, scale, and number • Drainage is functional • Structures adequate to protect trail infrastructure and resources • Primitive foot crossings and fords	• Trail structures (walls, steps, drainage, raised trail) may be common and substantial • Trail bridges as needed for resource protection and appropriate access • Generally native materials used in Wilderness	• Structures frequent and substantial • Substantial trail bridges are appropriate at water crossings • Trailside amenities may be present	• Structures frequent or continuous; may include curbs, handrails, trailside amenities, and boardwalks • Drainage structures frequent; may include culverts and road-like designs

Trail Attributes	Trail Class 1 Minimal/Undeveloped Trail	Trail Class 2 Simple/Minor Development Trail	Trail Class 3 Developed/Improved Trail	Trail Class 4 Highly Developed Trail	Trail Class 5 Fully Developed Trail
Signs	• Minimum required • Generally limited to regulation and resource protection • No destination signs present	• Minimum required for basic direction • Generally limited to regulation and resource protection • Typically very few or no destination signs present	• Regulation, resource protection, user reassurance • Directional signs at junctions, or when confusion is likely • Destination signs typically present • Informational and interpretive signs may be present outside of Wilderness	• Wide variety of signs likely present • Informational signs likely (outside of Wilderness) • Interpretive signs possible (outside of Wilderness) • Trail Universal Access information likely displayed at trailhead	• Wide variety of signage is present • Information and interpretive signs likely • Trail Universal Access information is typically displayed at trailhead •
Typical Recreation Environs & Experience	• Natural, unmodified • ROS: Often Primitive setting, but may occur in other ROS settings • WROS: Primitive	• Natural, essentially unmodified • ROS: Typically Primitive to Semi-Primitive setting • WROS: Primitive to Semi–Primitive	• Natural, primarily unmodified • ROS: Typically Semi-Primitive to Roaded Natural setting • WROS: Semi-Primitive to Transition	• May be modified • ROS: Typically Roaded Natural to Rural setting • WROS: Transition (rarely present in Wilderness)	• Can be highly modified • ROS: Typically Rural to Urban setting • Commonly associated with Visitor Centers or high-use recreation sites • Not present in Wilderness

[1] For the Trail Class and Managed Use Application Guide, Design Parameters, and other related guidance, refer to Forest Service Manual 2353, Forest Service Handbook 2309.18, and other applicable agency references.

The National Quality Standards are posted under the Trails link at *www. fs.fed.us/r3/measures.*

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1.43—Managed Use

1. Managed Use indicates a management intent to accommodate a specific use.

2. The Managed Uses for a trail are usually a small subset of all the accepted uses on the trail (i.e., uses that are allowed unless specifically prohibited). For example, on a trail that is closed to all motorized use, but open to all non-motorized use, the Managed Uses could be Hiker/Pedestrian and Pack and Saddle. The accepted uses, however, would also include bicycles, llamas, and all other non-motorized uses.

3. There can be more than one Managed Use per trail or trail segment.

4. Identify the applicable Managed Use or Managed Uses for each National Forest System trail or trail segment based on applicable land management plan direction, travel management plan direction, trail-specific decisions, and other related direction. Develop trails for a variety of Managed Uses, such as hiking, horseback riding, and motorcycling.

5. There is a direct relationship between Managed Use and Trail Class: one cannot be determined without the other. Not all Trail Classes are applicable to all Managed Uses. For guidance on the potential applicability of each Trail Class to each Managed Use, see FSH 2309.18, section 1.43, exhibit 01, Trail Class and Managed Use Application Guide. The combinations presented in this matrix are generally applicable agency-wide, although trail-specific exceptions may occur.

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FSH 2309.18, section 1.43, Exhibit 01

Trail Class and Managed Use Application Guide

The Trail Classes identify the full spectrum of National Forest System trails by development scale, from minimum/undeveloped trails to fully developed trails. Managed Use identifies the uses that are actively managed and appropriate, considering the design and management of each trail. Not all Trail Classes are applicable to all Managed Uses. The matrix below provides guidance on the potential applicability of each Trail Class to each Managed Use. These combinations are generally applicable agency-wide, although trail-specific exceptions may occur.

Managed Use		Trail Class 1 Minimal/Undeveloped Trail	Trail Class 2 Simple/Minor Development Trail	Trail Class 3 Developed/Improved Trail	Trail Class 4 Highly Developed Trail	Trail Class 5 Fully Developed Trail
Standard/Terra Non-Motorized	Hiker/ Pedestrian	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use
	Bicycle	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use
	Pack and Saddle	Typically not a Managed Use, although use may be accepted	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Typically not a Managed Use, although use may be accepted
Standard/Terra Motorized	All-Terrain Vehicle (ATV)	Typically not a Managed Use, although use may be accepted	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Typically not a Managed Use, although use may be accepted
	Motorcycle	Typically not a Managed Use, although use may be accepted	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Typically not a Managed Use, although use may be accepted
	4-Wheel Drive Way	*(Trail Class and Manage Use Guidance to be developed)*				
Snow Trail	Cross-Country Ski	Typically not a Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Typically not a Managed Use
	Snowmobile	Typically not a Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Potentially applicable Managed Use	Typically not a Managed Use
Water Trail	Motorized Watercraft	*(Trail Class and Manage Use guidance to be developed)*				
	Non-Motorized Watercraft	*(Trail Class and Manage Use guidance to be developed)*				

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1.44—Designed Use

1. There is only one Designed Use per trail or trail segment. Although a trail or trail segment may have more than one Managed Use and numerous uses may be allowed, only one Managed Use is identified as the design driver or Designed Use.

2. Determine the Designed Use for a trail or trail segment from the Managed Uses identified for that trail.

1.45—Design Parameters

1. Design Parameters reflect the design objective for a trail and determine the dominant physical criteria that most define its geometric shape. These physical criteria include:

a. Design Tread Width.

b. Design Surface, expressed in terms of type and obstacles.

c. Design Grade, expressed as:

(1) Target Grade;

(2) Short Pitch Maximum; and

(3) Maximum Pitch Density.

e. Design Cross-Slope, expressed as a target range and maximum.

f. Design Clearing, expressed as width and height.

g. Design Turns, expressed as the radius.

2. Local exceptions to any Design Parameter can be established based on specific trail conditions, topography, and other factors, provided that the exceptions reflect the general intent of the corresponding Trail Class.

3. The complete set of Design Parameters is contained in section 2.31a, exhibit 01, through section 2.33b, exhibit 01, of this handbook.

4. Based on the Trail Class and Designed Use for a National Forest System trail or trail segment, identify the applicable Design Parameters for that trail or trail segment. For a Design Parameter expressed as a range of values (e.g., Design Tread Width, Design Clearing Width, and Design Turns), identify a specific value applicable to the trail or trail segment.

1.5—Analysis Process

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1.6—Information Needs

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1.64—Opportunities and Constraints

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11. What Trail Classes does the trail system offer?

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1.65—Relation to Existing Facilities

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4. Are accessible trails in the area?

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1.7—Establishment of Priorities and Management Requirements

1. In addition to Trail Class, Managed Uses, Designed Use, and the Designed Parameters, consider the following when establishing priorities and management requirements for trail projects:

a. Safety hazards to users.

b. Potential for or occurrence of resource damage.

c. Intensity of trail use.

d. Whether the trail is located in such a way as to affect or benefit from other resource activities.

e. Preliminary cost estimates for construction or reconstruction.

f. Preliminary requirements for supplemental trailhead and other trail-related facilities needed to complement the trail system.

g. Program funding, availability of volunteer support, and scheduling of work.

h. Public desires.

2. FSH 2309.18, section 1.6, exhibit 01, Trail Operation and Maintenance Considerations, offers general guidelines that assist in developing trail prescriptions and in subsequent program management, operation, and maintenance. The considerations are a general starting point and will likely be adapted to reflect local financial limitations and site-specific district, forest, or regional circumstances. Exceptions may occur at the trail-specific, district, forest, or regional level.

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FSH 2309.18, section 1.6, Exhibit 01

Trail Operation and Maintenance Considerations

Trail Operation and Maintenance Considerations are general guidelines that assist in development of trail prescriptions, program management, and trail operation and maintenance. These considerations offer a general starting point and will likely be adapted locally to reflect site-specific financial limitations and applicable district, forest, or regional circumstances.

Trail Attributes	Trail Class 1 Minimal/Undeveloped Trail	Trail Class 2 Simple/Minor Development Trail	Trail Class 3 Developed/Improved Trail	Trail Class 4 Highly Developed Trail	Trail Class 5 Fully Developed Trail
Trail Management	Typically managed to accommodate: • Low use levels. • Highly skilled users, comfortable off-trail. • Users with high degree of orienteering skill. • Some travel modes and ability levels may be impractical or impossible, and may not be encouraged. • Water Trails: users require high level of navigation/orientation and paddling skills.	Typically managed to accommodate: • Low-to-moderate use levels. • Mid-to-highly skilled users, capable of traveling over awkward condition/obstacles. • Users with moderate orienteering skill. • Trail suitable for many user types, but challenging and involves advanced skills. • Water Trails: moderate to high level of navigation/orientation and paddling/piloting skills required.	Typically managed to accommodate: • Moderate to heavy use. • Users with intermediate skill level and experience. • Users with minimal orienteering skills. • Moderately easy travel by managed use types. • Random potential for accessible use. • Water Trails: basic to moderate navigation and paddling/piloting skills required.	Typically managed to accommodate: • Very heavy use. • Users with minimal skills and experience. • Users with minimal or no orienteering skills. • Easy/comfortable travel by managed use types. • May be (or has potential to be made) accessible. • Water Trails: basic navigation and paddling/piloting skills required.	Typically managed to accommodate: • Intensive use. • Users with limited trail skills and experience. • Trail typically meets agency requirements for accessibility.
Maintenance Indicators	• Resource protection. • Safety commensurate with targeted recreational experience.	• Resource protection. • Safety commensurate with targeted recreational experience.	• Resource protection. • User convenience. • Safety commensurate with targeted recreational experience.	• User comfort and ease. • Resource protection. • Safety commensurate with targeted recreational experience.	• User comfort and ease. • High level of accessibility for key recreational pportunities. • Safety commensurate with targeted recreational experience.
Maintenance Frequency and Intensity[1]	• Infrequent or no scheduled recurring maintenance. • Maintenance interval is typically 5 or more years, or in response to reports of unusual resource problems requiring repair.	• Maintenance scheduled to preserve the trail facility and route location. • Maintenance interval typically 3-5 years, or in response to reports of unusual problems.	• Trail cleared to make available early in season of use and to preserve trail integrity. • Maintenance interval typically 1-3 years, or in response to reports of trail or resource damage or significant obstacles to managed use type and experience level.	• Trail cleared to make available for use at earliest opportunity in season of use. • Typically, maintenance performed at least annually.	• Maintenance performed at least annually, or as needed to meet posted conditions. • Major damage or safety concerns typically corrected or posted < 24 hours of notice.

[1] Maintenance frequency does not include routine trail condition assessment surveys.

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1.8—Considerations for Trail Planning

1. The following section provides an example of a district trail plan resulting from the analysis process. Section 1.8, exhibit 01, illustrates the plotting of projects on a map; section 1.8, exhibit 02, shows the incorporation of a trail plan into the district trail inventory; section 1.8, exhibit 03, illustrates how a trail plan is addressed in the budget process.

2. The following four trails in the trail plan illustrate how safety, protection of wilderness values, availability of resources, need for preconstruction, and availability to the user influence priority, scheduling, and management requirements.

a. *Big Rock Trail.* This trail currently is managed for motorcycles, with a Designed Use of Motorcycle. Motorcycle use on the trail is high and increasing. The lower 5 miles meet the Motorcycle Design Parameters, except for brushing out. The upper 5 miles are less than standard and would require major reconstruction to meet the Motorcycle Design Parameters. The trail falls into Trail Class 3. The area is managed for a roaded natural experience. There are limited opportunities for motorcycle trails in the area.

Analysis resulted in a decision to reconstruct the trail to meet the Motorcycle Design Parameters for Trail Class 3, so as to provide a high-volume, motorcycle trail consistent with the roaded natural character of the area. Preconstruction is necessary for the reconstruction.

b. *Kawishiwi Trail.* This is an unauthorized, four-wheel drive road in a wilderness area. The trail use is low-volume, four-wheel driving and moderate-volume hiking. The management goal for the area is to eliminate illegal motorized use in this wilderness area and to naturalize sections of the four-wheel drive way. Inadequate parking at the trailhead is also a problem. If this trail were linked to the Moraine Trail, a single trailhead could serve both trails.

Analysis resulted in a decision to close the route to vehicles and to allow it to revert to a moderate-volume, Trail Class 3 trail. Barriers to close the route are needed, and the parking facilities need to be decreased in order for the trail to qualify as Trail Class 3. Informational and regulatory signs are also needed. Actions are identified to hasten the return of this trail to a more primitive character. A short (1/3-mile) trail connecting the Kawishiwi Trail with the Moraine Trail will be constructed to allow use of a common trailhead. Planned use is consistent with the semiprimitive character and wilderness designation.

c. *Moraine Ski Trail.* This trail currently is used for cross-country skiing in the winter. Cross-country skiing on the trail is increasing rapidly, but users complain of a 3-mile segment that falls into Trail Class 2 on a long trail that generally falls into Trail Class 3. Preliminary reconnaissance indicates that minor clearing of brush and small trees has occurred and that marking of the trail is necessary. A local nordic club has volunteered to help on the project. This is one of few areas in this drainage where plowed roads provide winter access.

Analysis resulted in a decision to change the Trail Class for the 3-mile section from Trail Class 2 to Trail Class 3. Increased maintenance of those 3 miles will be required. Space is identified to expand the parking area and provide adequate parking to the shared trailhead with the Kawishiwi Trail. The desired recreation experience is consistent with the semiprimitive, non-motorized character of the area.

d. *Meadows Trail.* The District identified a need and opportunity to construct a relatively short, interpretive hiking trail to provide day hiking near a major campground.

Analysis based on estimated use resulted in a decision to construct a high-volume, Class 4 trail designed and managed for hiker/pedestrian use only. Other uses are prohibited. Planned use is consistent with the roaded natural character of the area.

Chapter Two

*   *   *   *   *

2.03—Policy

In determining the Designed Use of a National Forest System trail or trail segment, consider all Managed Uses that occur during all seasons of use of the trail or trail segment.

*   *   *   *   *

2.21—Trail Management Objectives (TMOs)

Consider and incorporate trail-specific TMOs in the design, development, maintenance, and condition assessment of all National Forest System trails.

*   *   *   *   *

2.23a—Trailhead Location

1. Provide trailheads in locations that allow access to the greatest number and types of trails. Match the development scale and size of the trailhead facility to the carrying capacity of the area and to the Trail Classes of the trails to be served.

2. Consider snow use as well as non-snow use where appropriate, along with opportunities for using existing facilities. Other considerations include pull-through parking for vehicles with trailers, space for unloading trailers and stock trucks, and safety of vehicles while unattended.

3. Use visual resource management principles to minimize the visual impacts of a trailhead on trail users.

4. All constructed features must comply with the applicable technical provisions of the Architectural Barriers Act Accessibility Standards (ABAAS) or the Forest Service Outdoor Recreation Accessibility Guidelines (FSORAG). The routes connecting trailhead constructed features must comply with the technical provisions for outdoor recreation access routes in the FSORAG. The FSORAG is available electronically at *http://www.fs.fed.us/recreation/programs/accessibility*.

2.23b—Trailhead Parking

1. When space is available, consider separate parking facilities for certain uses, such as horseback riding and hiking. Provide separate facilities within walking distance of areas of concentrated public use, such as campgrounds. Locate the trailhead next to the trail so that non-highway-legal vehicles (for example, non-highway-legal motorcycles and snowmobiles) are not forced to travel on roads that may be used only by highway-legal vehicles.

2. When 5 or more designated parking spaces are provided at a trailhead, they must comply with the technical provisions in the ABAAS for accessible parking spaces.

2.23c—Pack and Saddle Trailheads

*   *   *   *   *

2.23d—Snow Removal at Trailheads

*   *   *   *   *

2.23e—Application of Forest Service Trail Accessibility Guidelines (FSTAG)

Ensure that all new or altered trails with a Designed Use of Hiker/Pedestrian that connect directly to a currently accessible trail or to a trailhead comply with the Forest Service Trail Accessibility Guidelines. The FSTAG is available electronically at *http://www.fs.fed.us/recreation/programs/accessibility*.

2.24—Facilities and Associated Constructed Features Along Trails

1. Associated constructed features along trails include shelters, toilets, and other structures that provide support for trail users. These associated constructed features must comply with the

FSORAG. Under the Forest Service's universal design policy, with few exceptions, all new or altered facilities and associated constructed features must comply with the technical provisions of the FSORAG or ABAAS, rather than only a certain percentage of those facilities.

2. These associated constructed features must be designed appropriately for the setting and in compliance with the FSORAG to ensure that the facility can be used for its primary purpose by all hikers, including hikers with disabilities. See the FSORAG for specific technical provisions. This requirement applies but is not limited to:

a. Pit toilets With No Walls in a General Forest Area (GFA). The total height of the toilet seat and the riser it sits on must be 17 to 19 inches above the ground or floor. A clear floor or ground space complying with section 6.6.6 of the FSORAG must be provided adjacent to the riser. Since walls are not provided, grab bars are not required.

b. Trail Shelters or Lean-Tos With Three Walls in a GFA. Where the constructed finished floor elevation is above the ground, a shelter or lean-to must be located so that at least one section of the floor on the open side of the shelter or lean-to is 17 to 19 inches above ground to facilitate transfer from a wheelchair.

2.25—Wilderness Considerations

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8. To provide trail treads that do not exceed the tread widths specified for a wilderness area in the Design Parameters.

* * * * *

2.3—Design Parameters

1. The Design Parameters reflect the design objective for a trail and determine the dominant physical criteria that most define its geometric shape. These physical criteria include tread width, surface, grade, cross-slope, clearing width and height, and turning radius.

2. Although a variety of Trail Types, Managed Uses, and Designed Uses are discussed in this handbook, not every administrative unit or Ranger District must offer all Trail Types, Managed Uses, Designed Uses, or any combination of them. Planning should determine specific needs. A variety of other trail activities exists, including cave, glacier, underwater, and dogsled opportunities. Regional Design Parameters may be developed for these opportunities as needed. If a particular activity becomes common, a national set of Design Parameters will be developed.

3. The following sets of Design Parameters are included as exhibits in sections 2.31 through 2.33:

a. Standard/Terra Trails: Non-Motorized
(1) Hiker/Pedestrian
(2) Pack and Saddle
(3) Bicycle
b. Standard/Terra Trails: Motorized
(1) Motorcycle
(2) All-Terrain Vehicle (ATV)
c. Snow Trails
(1) Cross-Country Ski
(2) Snowmobile
d. Water Trails
[Reserved]

2.31—Standard/Terra Trails: Non-Motorized

2.31a—Hiker/Pedestrian Design Parameters

1. Trails with a Designed Use of Hiker/Pedestrian generally require less development than trails with other Designed Uses and offer maximum opportunity to bring users close to nature. Tread width, clearing width and height, alignment, and structures for crossing streams normally are of a smaller scale.

2. On trails with a Designed Use of Hiker/Pedestrian, grades leading to and away from switchbacks should not be less than 10 percent. Reduce the grade on the turn to less than 10 percent for a distance of 5 to 6 feet. The radius of switchbacks for these trails can be very tight, e.g., 2 feet to 4 feet. When needed, ensure the prevention of cross-cutting by installing rocks, logs, native vegetation, or other material.

3. When trails with a Designed Use of Hiker/Pedestrian cross wet areas or streams, select routes that require the fewest structures. In designing structures to cross wet areas, the tread, whether in the form of stepping stones or flattened logs, should be at least 12 inches wide. Set stepping stones no more than 24 inches apart.

4. Design bridges to prevent overloading, especially if they are located in areas used by pack and saddle stock.

5. The upper limit for grade for trails with a Designed Use of Hiker/Pedestrian reaches the lower limit for grade for mountaineering scramble routes. These routes, which require the use of non-constructed hand and toe holes or ropes, should not be included in the Hiker/Pedestrian trail category.

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FSH 2309.18, section 2.31a, Exhibit 01

Design Parameters

The Design Parameters are technical guidelines for assessment, survey, design, construction, repair, and maintenance of trails, based on Trail Class and Designed Use. These parameters reflect the design objective for the trail. Local exceptions can be established based on specific trail conditions, topography, and other factors, provided that the exceptions reflect the general intent of the corresponding Trail Class.

Designed Use HIKER/PEDESTRIAN		Trail Class 1	Trail Class 2	Trail Class 3[1]	Trail Class 4[1]	Trail Class 5[1]
Design Tread Width	Wilderness	0" – 12"	6" – 18"	12" – 24" Exception: may be 36" – 48" at switchbacks, turnpikes, fords and steep side slopes	24" Exception: may be 36" – 48" at switchbacks, turnpikes, fords and steep side slopes	Not applicable
	Non-Wilderness	0" – 12"	6" – 18"	18" – 48"	32" – 96"	36" – 120"
Design Surface	Type	Native, un-graded; Intermittent, rough	Native with limited grading; Continuous, rough	Native with some on-site borrow or imported materials	Imported materials or hardening is common	Uniform, firm, and stable
	Obstacles	Roots, rocks, logs, steps to 24"	Roots, rocks, and log protrusions to 6"; steps to 14"	Generally clear; Protrusions to 3"; steps to 10"	Smooth, few obstacles; Protrusions 2" – 3"; steps to 8"	Smooth, no obstacles; Protrusions <2"
Design Grade[2]	Target Grade[3] (>90% of Trail)	</= 25%	</= 18%	</= 12%	</= 10%	</= 5%
	Short Pitch Max[4] (Up to 200' lengths)	40%	35%	25%	15%	</=10%
	Max Pitch Density[5]	< 10% of trail	< 5% of trail	< 5% of trail	< 3% of trail	< 3% of trail
Design Cross-Slope	Target Range	Not applicable	5% – 20%	5% – 10%	3% – 7%	2% – 3% (or crowned)
	Maximum	Up to natural side-slope	Up to natural side-slope	15%	10%	3%
Design Clearing	Width	Sufficient to define trail corridor	24" – 36", with some encroachment into clearing area	12" – 18" outside of tread edge	12" – 18" outside of tread edge	12" – 24" outside of tread edge
	Height	6'	6' – 7'	8'	8'	>/= 8'
Design Turns	Radius	No minimum	2' – 3'	3' – 6'	4' – 8'	6' – 12'

1 Trail Class 3, Trail Class 4, and Trail Class 5, in particular, have the potential to provide accessible passage. If assessing or designing trails for accessibility, refer to the Forest Service Trail Accessibility Guidelines (FSTAG) for more specific technical provisions and tolerances.

2 Grade variances should be based upon soils, hydrological conditions, use levels, and other factors contributing to surface stability and erosion potential.

3 The trail grade expected over the majority (at least 90%) of the trail.

4 The steepest grade expected, in lengths of up to 200 feet and not exceeding the Maximum Pitch Density.

5 The maximum percentage of the trail that is within 5% (+/-) of the Short Pitch Maximum Grade.

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2.31b—Pack and Saddle Design Parameters

1. Trails with a Designed Use of Pack and Saddle are designed and maintained to accommodate a wide variety of pack and saddle animals, including horses, mules, donkeys, and burros. Some trails are simple day-use bridle paths and others are built to accommodate long strings of pack animals on journeys lasting many days. The combination of shorter and longer trails affords opportunities for natural experiences for the greatest range in user ability and knowledge.

2. Give special consideration to the care and safety of livestock and their riders when locating trails with a Designed Use of Pack and Saddle. If practicable, provide access to streams or lakes for stock watering at intervals no greater than 10 miles. Notify users if water intervals are excessive. Avoid locations near campgrounds or other concentrated-use areas where dogs or loud noises could startle pack and saddle animals. If the trail must cross highways or railroads, select sites with adequate sight distance.

3. Consider the use of climbing turns if the terrain permits. Design switchbacks with a curve radius that is as long as possible, but no less than 5 feet. To discourage short-cutting, design grades of at least 10 to 15 percent for a distance of 100 feet to and from switchbacks. Consider using a rock or log barrier for a distance of 15 to 30 feet back from the turning point.

4. Clearing needs vary depending on whether trails are designed for day rides or pack animals. Pack clearance normally is measured at a point 30 inches above the center of the tread. Three feet on both sides of the centerline is the minimum clearance for pack trails.

5. Additional widening is needed to accommodate pack clearance on trails cut through solid rock on steep sidehills. Along a precipice or other hazardous area, the trail base should be at least 48 to 60 inches wide to be safe for both animals and riders.

6. Pack and saddle animals can cause severe wear and tear on the trail tread, especially when soils are wet. When possible, locate trails on stable soil types or on side-slopes where water can be drained away. Gravel surfacing, turnpiking, or puncheon may be needed on wet sections.

7. Fords are preferred to bridges for stream crossings, provided the velocity and depth of the water are acceptable during the normal season of use. Route the trail to natural fords, rather than building fords. Generally, streams can be forded safely if they are less than 24 inches in depth. Construction of a ford requires widening the trail base to at least 36-inches, removing large rocks, and leveling the stream bottom to make a relatively smooth and level crossing. If necesssary, widen the streambed to reduce depth and velocity to make the ford viable. Ice buildup during late fall may be an important factor to consider.

8. If a decision is made to build a bridge for pack and saddle animals, select a bridge site with an adequate foundation for abutments and stream piers. The bridge must have a load-carrying capacity equal to the maximum number of loaded animals that can occupy it at one time or the maximum anticipated snow load, whichever is greater. Design railings to prevent packs from getting caught. For minimum bridge widths and railing heights, see FSH 7709.56b, section 7.69, exhibit 01, Trail Bridge Design Criteria.

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FSH 2309.18, section 2.31c, Exhibit 01

Design Parameters

The Design Parameters are technical guidelines for assessment, survey, design, construction, repair, and maintenance of trails, based on Trail Class and Designed Use. These parameters reflect the design objective for the trail. Local exceptions can be established based on specific trail conditions, topography and other factors, provided that the exceptions reflect the general intent of the corresponding Trail Class.

Designed Use PACK AND SADDLE		Trail Class 1	Trail Class 2	Trail Class 3	Trail Class 4	Trail Class 5
Design Tread Width	Wilderness	Typically not designed or actively managed for equestrians, although use may be accepted	12" – 18" Exception: may be to 48" at switchbacks, turn-pikes, fords and steep side slopes	12" – 24" Exception: may be to 48" at switchbacks, turn-pikes, fords and steep side slopes; up to 60" along precipices	24" Exception: may be to 48" at switchbacks, turn-pikes, fords and steep side slopes; up to 60" along precipices	Typically not designed or actively managed for equestrians, although use may be accepted
	Non-Wilderness		12" – 24" (with above exceptions)	18" – 48" (with above exceptions)	36" – 96"	
Design Surface	Type		Native, with limited grading	Native with some on-site borrow or imported materials	Native with some imported materials or stabilization	
	Obstacles		Roots, rocks, logs to 12"	Generally clear; Occasional protrusions to 6"	Smooth, few obstacles; Occasional protrusions 2" – 3"	
Design Grade[1]	Target Grade[2] (>90% of Trail)		</= 20%	</= 12%	</= 10%	
	Short Pitch Max[3] (Up to 200' lengths)		30%	20%	15%	
	Max Pitch Density[4]		< 5% of trail	< 5% of trail	< 3% of trail	
Design Cross-Slope	Target Range		5 – 10%	5%	5%	
	Maximum		Natural side-slope	10%	10%	
Design Clearing	Width		36" – 48"	60" – 78"	72" – 96"	
	Height		8' – 10'	10'	10' - 12'	
Design Turns	Radius		4' – 5'	5' – 6'	6' – 10'	

1 Grade variances should be based upon soils, hydrological conditions, use levels, and other factors contributing to surface stability and erosion potential.

2 The trail grade expected over the majority (at least 90%) of the trail.

3 The steepest grade expected, in lengths of up to 200 feet and not exceeding the Maximum Pitch Density.

4 The maximum percentage of the trail that is within 5% (+/-) of the Short Pitch Maximum Grade.

2.31c — Bicycle Design Parameters [Reserved]

FSH 2309.18, section 2.31c, Exhibit 01

Design Parameters

The Design Parameters are technical guidelines for the assessment, survey, design, construction, repair, and maintenance of trails, based on Trail Class and Designed Use. These parameters reflect the design objective for the trail. Local exceptions can be established based on specific trail conditions, topography, and other factors, provided that the exceptions reflect the general intent of the corresponding Trail Class.

Designed Use BICYCLE		Trail Class 1	Trail Class 2	Trail Class 3	Trail Class 4	Trail Class 5
Design Tread Width	One Lane	6" – 12"	12" – 24"	18" – 30"	24" – 48"	36" – 60"
	Two Lane	Not applicable	Not applicable	48 " – 60" Accommodate two-lane travel with passing lanes	60" – 84"	72" – 120"
Design Surface	Type	Native; Rough, unstable or soft tread	Native, with limited grading; Unstable or soft sections likely	Native with some on-site borrow or imported material;. Some soft areas	Likely imported or stabilized tread; Few, if any, loose or soft surfaces	Firm, hardened surface
	Obstacles	Rocks, logs and roots up to 6 – 12" common; Forced portages likely	Embedded rock, protrusions to 6"; Some portages may be needed	Generally smooth with few protrusions exceeding 3"	Smooth, few obstacles; 1 – 2" protrusions	No obstacles to wheeled transport
Design Grade[1]	Target Grade[2] (>90% of Trail)	15% – 18%	</= 12%	</= 10%	</= 8%	</= 5%
	Short Pitch Max[3] (Up to 200' lengths)	30% 50% on downhill-only travel	25% 35% on downhill-only travel	15%	10%	8%
	Max Pitch Density[4]	< 10% of trail	< 5% of trail	< 5% of trail	< 3% of trail	< 3% of trail
Design Cross-Slope	Target Range	5% – 10%	5% – 10%	5%	3% – 5%	3% – 5%
	Maximum					
Design Clearing	Width	24" – 36" Some vegetation may encroach into clearing area	36" – 48" Some light vegetation may encroach into clearing area	12" – 18" outside of tread edge	12" – 18" outside of tread edge	18" – 24" outside of tread edge
	Height	6' – 7'	7' – 8'	8'	8' - 9'	8' - 9'
Design Turns	Radius	3' - 4'	4' – 6'	6' – 8'	8' – 10'	8' - 12'

1 Grade variances should be based upon soils, hydrological conditions, use levels, and other factors contributing to surface stability and erosion potential.

2 The trail grade expected over the majority (at least 90%) of the trail.

3 The steepest grade expected, in lengths of up to 200 feet and not exceeding the Maximum Pitch Density.

4 The maximum percentage of the trail that is within 5% (+/-) of the Short Pitch Maximum Grade.

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2.32—Standard/Terra Trails: Motorized

2.32a—Motorcycle Design Parameters

1. Generally, motorcycling on National Forest System lands is a trail-based activity with an emphasis on the National Forest setting.

2. Avoid locating motorcycle trails on National Forest System roads where state laws require motorcycles to be highway-legal vehicles.

3. Designate suitable closed roads as National Forest System trails open to motorcycle use.

4. On Trail Class 4 trails, alignment is moderate, with no sharp curves combined with steep grades. Novice riders may be subjected to sharp curves, but not in combination with rough surfaces or steep grades.

5. Trail alignment should exhibit increasing randomness as the rating progresses from Trail Class 4 to Trail Class 2.

6. User needs for different distances and experiences can be accommodated by providing cutoffs on a system of loop trails. An experienced rider can ride approximately 50 miles in an average day. Some riders can cover over 100 miles of trail. This travel normally includes trails ranging from Trail Class 2 to Trail Class 4.

7. Favor drainage dips over water bars.

8. Use climbing turns, and avoid switchbacks whenever possible. Design turns to minimize excavation and cutbank exposure.

9. For trails in Trail Class 4, locate turns on level ground or on slopes of less than 6 percent. The minimum radius of a switchback is 8 feet. Tread width should be increased to 36 inches for switchbacks with a 4-foot radius. On novice and intermediate trails, provide a 4 to 6-foot barrier on the downhill exit of the switchback.

10. The radii of turns should vary depending on the speed of the motorcycle entering the turns. The trail designer can slow the speed of the motorcycle by decreasing the turning radius. The designer also may increase the length of a trail in a limited area by increasing the number of turns.

11. Hardening of switchback or climbing turns on sensitive soils is recommended. Suggested hardening materials include concrete blocks, soil, and cement.

12. For minimum bridge widths and railing heights, refer to FSH 7709.56b, section 7.69, exhibit 01, Trail Bridge Design Criteria. Bridges should have a straight approach and should not change directions. Special decking may be necessary to accommodate wheeled vehicles.

13. Locate trail junctions so that no more than 2 trails intersect at one point.

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FSH 2309.18, section 2.32a, Exhibit 01

Design Parameters

The Design Parameters are technical guidelines for the assessment, survey, design, construction, repair, and maintenance of trails, based on Trail Class and Designed Use. These parameters reflect the design objective for the trail. Local exceptions can be established based on specific trail conditions, topography, and other factors, provided that the exceptions reflect the general intent of the corresponding Trail Class.

Designed Use MOTORCYCLE		Trail Class 1	Trail Class 2	Trail Class 3	Trail Class 4	Trail Class 5
Design Tread Width (If side-slope >50%, increase widths by 6" – 18")	**One Lane**	Typically not designed or actively managed for motorcycles, although use may be accepted	8" – 24" At switchbacks, 36" – 48"	18" – 36" At switchbacks, >/= 48"	30" – 48" At switchbacks, >/= 48"	Typically not designed or actively managed for motorcycles, although use may be accepted
	Two Lane		Typically not designed for two-lane travel; Passing areas (uncommon) up to 60"	48 " – 60" Occasional passing lanes to 72"	60" – 72"	
Design Surface	**Type**		Native, with limited or no grading; Commonly unstable and soft	Native with some on-site borrow, pavers, or imported materials; Some loose or soft areas	Gravel, pavers or other imported materials possible; Relatively firm, stable surface	
	Obstacles		Soft sand and embedded rock, steps and protrusions up to 12"	Generally smooth with few protrusions exceeding 6"	Smooth, few obstacles; Few 2" – 4" protrusions	
Design Grade[1]	**Target Grade**[2] (>90% of Trail)		</= 25%	</= 15%	</= 10%	
	Short Pitch Max[3] (Up to 200' lengths)		40% Rarely to 50% on downhill-only travel	25%	15%	
	Max Pitch Density[4]		< 10% of trail	< 10% of trail	< 5% of trail	
Design Cross- Slope	**Target Range**		5% – 10%	5%	3% – 5%	
	Maximum		15%	10%	10%	
Design Clearing	**Width** (On steep side-hills, increase clearing on uphill side by 6" – 12")		36" – 48" Some vegetation may encroach into clearing area	12" – 18" outside of tread edge	> 18" outside of tread edge	
	Height		7' – 8'	8'	8' - 9'	
Design Turns	**Radius**		4' – 5'	5' – 6'	6' – 8'	

[1] Grade variances should be based upon soils, hydrological conditions, use levels, and other factors contributing to surface stability and erosion potential.

[2] The trail grade expected over the majority (at least 90%) of the trail.

[3] The steepest grade expected, in lengths of up to 200 feet and not exceeding the Maximum Pitch Density.

[4] The maximum percentage of the trail that is within 5% (+/-) of the Short Pitch Maximum Grade.

2.32b — All-Terrain Vehicle Design Parameters

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FSH 2309.18, section 2.32b, Exhibit 01

Design Parameters

The Design Parameters provide guidance for the assessment, survey, design, construction, repair, and maintenance of trails, based on Trail Class and Designed Use. These parameters reflect the design objective for the trail. Local exceptions can be established based on specific trail conditions, topography, and other factors, provided that the exceptions reflect the general intent of the corresponding Trail Class.

Designed Use ALL-TERRAIN VEHICLE		Trail Class 1	Trail Class 2	Trail Class 3	Trail Class 4	Trail Class 5
Design Tread Width [If sideslopes are >50%, increase widths by 6" – 18"]	**One Lane**	Typically not designed or actively managed for ATVs, although use may be accepted	30" – 48" At switchbacks, >/= 48"	42" – 60" At switchbacks, >/=60"	54" – 72" At switchbacks, >/=60"	Typically not designed or actively managed for ATVs, although use may be accepted
	Two Lane		Typically not designed for two-lane travel; Passing areas (uncommon) - 60"	60" and/or accommodate with passing areas 60" – 78"	72"-96"	
Design Surface	**Type**		Native with limited or no grading; commonly soft and unstable	Native with some onsite barrow or imported materials; some loose or soft sections	Relatively firm and stable; gravel, pavers or other imported materials possible	
	Obstacles		Embedded rock, steps, waterbars, holes and protrusions to 6"	Generally smooth, with few protrusions exceeding 4"; drain dips and low waterbars	Smooth, few obstacles; 1" – 3" protrusion; drain dips or waterbars with low-angle approach	
Design Grade[1]	**Target Grade**[2] (>90% of Trail)		</=25%	</=15%	</=10%	
	Short Pitch Max[3] (Up to 200' lengths)		35%	25%	15%	
	Max Pitch Density[4]		< 10% of trail	< 5% of trail	< 5% of trail	
Design Cross- Slope	**Target Range**		5% – 10%	3% – 5%	3% – 5%	
	Maximum		15%	10%	8%	
Design Clearing	**Width** (On steep side hills, increase clearing on uphill side by 6" – 12")		36"– 48" Some vegetation may encroach into clearing area	8" – 12" outside of tread edge	>/=12" outside of tread edge	
	Height		5' – 6'	6' – 7'	8'	
Design Turns	**Radius** (Use climbing turns versus switchbacks for ATVs whenever possible)		6' – 8'	8' – 10'	>/=10'	

1 Grade variances should be based upon soils, hydrological conditions, use levels, and other factors contributing to surface stability and erosion potential.

2 The trail grade expected over the majority (at least 90%) of the trail.

3 The steepest grade expected, in lengths of up to 200 feet and not exceeding the Maximum Pitch Density.

4 The maximum percentage of the trail that is within 5% (+/-) of the Short Pitch Maximum Grade.

BILLING CODE 3410–11–C

2.33—Snow Trails

2.33a—Cross-Country Ski Design Parameters

1. Trails with a Designed Use of Cross-Country Ski are snow trails that are designed specifically for winter travel. They may, however, also coincide with or overlay a standard/terra trail that is managed during the non-snow season of use. When this occurs, identification of applicable Design Parameters should be based on consideration of both the Designed Use identified for the standard/terra trail and the Designed Use identified for the Snow Trail. Select the Design Paramaters with the most demanding

design, construction, and maintenance requirements.

2. Opportunities to enjoy the natural setting are generally enhanced in the winter, but should be considered under both winter and summer conditions. Locate or review potential trail locations during the winter months.

3. Locate cross-country ski trails where reliable snow conditions exist for 2 to 3 months. Utilize topography to extend the period of snow cover. Consider aspect, prevailing wind direction, shading, and microclimate factors.

4. Avoid avalanche hazards. Consult with those knowledgeable of local avalanche hazards before developing cross-country ski trails.

5. Avoid hazardous stream and lake crossings. Normally, six inches of hard blue ice is considered safe for cross-country ski trails.

6. Avoid locating trails under dense canopies, especially in tall, old-growth stands. The canopy intercepts much of the snowfall, and when the air temperature rises, large chunks of snow fall on the trail.

7. Like downhill ski runs, cross-country ski trails are rated by difficulty level: easiest, more difficult, and most difficult. Although this is a relative rating, trails rated as easiest should always be designed for novice skiers under normal snow conditions. Trails rated most difficult should provide challenges but no unusual difficulties to experienced skiers. More difficult trails will fall somewhere between these two extremes.

8. Provide only sweeping curves on downhill sections. Locate outruns to permit users to slow down before turning. A check-space in midslope is desirable on long downhill runs. Alignment must correlate with grade. Avoid sharp turns on snow trails.

a. *Trail Width and Tread Considerations.* On trails with a Designed Use of Cross-Country Ski, widths vary depending on the terrain, steepness of the trail, sharpness of curves, amount of use, and number of tracks. On flat or gently rolling terrain (grades of up to 3 percent), single-track groomed trails are cleared to 6 to 8 feet wide, and double-track groomed trails are cleared to 10 to 12 feet wide. Steeper, uphill sections should include extra clearing width where herringbone or sidestep skiing techniques might be used. The extra clearing width should be one-half times the normal width, up to 14 feet. Downhill sections require extra widening commensurate with the speed of the hill: the lower portions and runout require the most widening, while the upper portions require less. Normally, a downhill run is cleared to 1.5 times the normal width from approximately one-third to two-thirds of the way down the hill. From two-thirds of the way down to the bottom and through the runout, the trail is cleared to twice the normal width.

b. *Trail Length.* Accommodate user needs for different distances and degrees of challenge by providing cutoffs on a system of loop trails, as follows:

Recommended lengths	Half day (mi)	Full day (mi)
Easiest Trail	3.2	6.4
Most Difficult Trail	6.4	9.5

c. *Height.* Clear overhead branches and obstructions the full width of the trail to a height of 10 feet above the average peak season snow depth.

d. *Bridges.* For minimum bridge widths and railing heights, see FSH 7709.56b, section 7.69, Exhibit 01, Trail Bridge Design Criteria. All ski trail bridges must be designed to allow skiers to stop safely before crossing and must provide adequate track width under maximum snow cover. Bridges on groomed trails must accommodate the width of grooming equipment.

e. *Intersections.* Approaches to intersections must have grades of 5 percent or less to allow for speed control. Clear intersections to a diameter of twice the trail width.

f. *Marking Standards.* Cross-country ski trails should be marked so that travelers unfamiliar with the trails can follow them during poor weather conditions, with no tracks to follow, under relatively poor lighting conditions. See FSH 7109.11, Sign Handbook, for guidance on marking trails.

BILLING CODE 3410–11–P

FSH 2309.18, section 2.33a, Exhibit 01

Design Parameters

The Design Parameters are technical guidelines for the assessment, survey, design, construction, repair, and maintenance of trails, based on Trail Class and Designed Use. These parameters reflect the design objective for the trail. Local exceptions can be established based on specific trail conditions, topography, and other factors, provided that the exceptions reflect the general intent of the corresponding Trail Class.

Designed Use **CROSS-COUNTRY SKI**		**Trail Class 1**	**Trail Class 2**	**Trail Class 3**	**Trail Class 4**	**Trail Class 5**
Design Groomed Width	**One Lane**	Typically not designed or actively managed for cross-country skiing	3' – 4' If groomed, width of grooming equipment	6' – 8' (or minimum width of grooming equipment)	8'– 10" (but typically managed to accommodate two-way passage)	Typically not designed or actively managed for cross-country skiing
	Two Lane		Typically not designed for two-lane travel, except in steep sections accommodate passing areas of 6' – 8'.	>/=8' (or min width of grooming equipment) and/or accommodate with passing areas 8' – 12' wide	12' – 14'	
Design Grooming and Surface	**Type**		Coarse compaction; Occasional or no grooming (may be ski-packed); over-snow vehicle packing sufficient Tracklayer optional	Groomed or compacted using implements or tracklayer when packed surface is snow-covered, drifted, melted or skied out	Well-groomed with tiller or other implements; Groomed frequently, and when groomed surface becomes degraded or buried	
	Obstacles		Dips, bumps, or ruts to 12" common and may be tightly spaced; Surface obstacles may occasionally require off-trail bypass	Generally smooth; Dips, bumps, or ruts to 8" uncommon and widely spaced; Surface obstructions not present	Consistently smooth; Small, rolling bumps, dips and rises; Surface obstructions not present	
Design Grade[1]	**Target Grade**[2] (>90% of Trail)		</=15%	</=10%	</=8%	
	Short Pitch Max[3] (Up to 200' lengths)		25%	20%	12%	
	Max Pitch Density[4]		<10% of trail	<5% of trail	<5% of trail	
Design Cross-Slope	**Target Range**		</=10%	</=5%	</=5%	
	Maximum [For up to 50']		20%	15%	10%	

Designed Use CROSS-COUNTRY SKI		Trail Class 1	Trail Class 2	Trail Class 3	Trail Class 4	Trail Class 5
Design Clearing	Width		4' – 6' (or minimum width of grooming equipment, if larger); Light vegetation may encroach into clearing area	>/=1' outside of groomed edge; Light vegetation may encroach slightly into clearing area	>/=2' outside of tread edge; Widen clearing at turns or if increased sight distance needed	
	Height (Above normal maximum snow level)		>/= 6' – 8' (or height of grooming machinery if used)	>/=8' (or height of grooming machinery)	10'	
Design Turns	Radius		8' – 10' if not snowcat-groomed (provide sufficient radius for grooming equipment if used)	15' – 20' (provide sufficient radius for grooming equipment)	>/=25'	

1 Grade variances should be based upon soils, hydrological conditions, use levels, and other factors contributing to surface stability and erosion potential.

2 The trail grade expected over the majority (at least 90%) of the trail.

3 The steepest grade expected, in lengths of up to 200 feet and not exceeding the Maximum Pitch Density.

4 The maximum percentage of the trail that is within 5% (+/-) of the Short Pitch Maximum Grade.

2.33b — Snowmobile Design Parameters

* * * * *

FSH 2309.18, section 2.33b, Exhibit 01

Trail Design Parameters

Trail Design Parameters provide guidance for the assessment, survey, design, construction, repair and maintenance of trails, based on the Trail Class and Designed Use identified for the trail. Local exceptions can be established based on specific trail conditions, topography and other factors, provided that the exceptions still reflect the general intent of the Trail Class.

Designed Use SNOWMOBILE		Trail Class 1	Trail Class 2	Trail Class 3	Trail Class 4	Trail Class 5
Design Tread Width	One Lane	Typically not designed or actively managed for snowmobiles.	Typically not groomed, but commonly signed. If groomed, 4'-6' (or minimum width of grooming equipment.)	6'-8' (or minimum width of grooming equipment). On tight-radius turns, increase groomed width to >/=10'.	8'-10'. On tight-radius turns, increase groomed width to >/=12'.	Typically not designed or actively managed for snowmobile.
	Two Lane		Typically not groomed, but commonly signed. If groomed, >/=8' groomed width.	>/=11' and/or accommodate with passing areas 12'-14' wide.	12'-16'. On tight-radius turns, increase groomed width to >/=14'.	
Design Surface	Type		Occasional or no grooming or user-packed. Coarse compaction with cat or snowmobile. Use of implements optional.	Groomed or compacted after significant snow accumulations or when moguled/rutted. Use of implements likely.	Well-groomed with tiller and/or other implements. Groomed frequently, soon after significant snow accumulations and before surface is degraded.	
	Obstacles		Dips/bumps/ruts to 24" common and may be tightly spaced. Obstacles may occasionally require off-trail bypass.	Generally smooth. Dips, bumps, ruts to 12" infrequent and widely spaced. Surface obstacles not present.	Consistently smooth. Small, rolling bumps, dips and rises. Surface obstacles not present.	
Design Grade[1]	Target Grade[2] (>90% of Trail)		</=20%	</=15%	</=10%	
	Short Pitch Max[3] (Up to 200' lengths)		35%	25%	20%	
	Max Pitch Density[4]		<10% of trail	<5% of trail	<5% of trail	
Design Cross-Slope	Target Range		</=15%	</=10%	</=5%	
	Maximum		25%	15%	10%	

Designed Use SNOWMOBILE		Trail Class 1	Trail Class 2	Trail Class 3	Trail Class 4	Trail Class 5
Design Clearing	Width		4'-6' (or minimum width of grooming equipment if used). Some vegetation may encroach into clearing area	>/=1' outside of groomed trail edge. Light vegetation may encroach into clearing area.	>/=2' outside of groomed trail edge. Widen clearing at turns or if increased sight distance needed.	
	Height [Above normal maximum snow level]		>/=6' (Provide sufficient clearance for grooming equipment if used).	>/=7' (Provide sufficient clearance for grooming equipment).	10' (Provide sufficient clearance for grooming equipment).	
Design Turns	Radius		8'-10' if not groomed. (Provide sufficient radius for grooming equipment if used – typically 15-20')	15'-20' (Provide sufficient radius for grooming equipment).	>/=25'	

[1] Grade variances should be based upon soils, hydrological conditions, use levels, and other factors contributing to surface stability and erosion potential.

[2] The trail grade expected over the majority (at least 90%) of the trail.

[3] The steepest grade expected, in lengths of up to 200 feet, and not exceeding the Maximum Pitch Density.

[4] The maximum percentage of the trail that is within 5% (+/-) of the Short Pitch Maximum Grade.

BILLING CODE 3410–11–C

2.34—Water Trails [Reserved]

2.35—Special Trails

2.35a—Accessibility

1. The Forest Service Trail Accessibility Guidelines (FSTAG) provide guidance for maximizing accessibility of trails in the National Forest System, while recognizing and protecting the unique characteristics of their natural setting. Appropriate application of the FSTAG will ensure

that the full range of trail opportunities continues to be provided, from primitive long-distance trails to highly developed trails and popular scenic overlooks. Application of FSTAG is not intended to change the Trail Class or Designed Use prescribed for a trail. The FSTAG is available electronically at *www.fs.fed.us/reacreation/programs/accessibility.*

2. To ensure integration between this handbook and the FSTAG, a synposis of application of the FSTAG to trails in the National Forest System follows.

3. Refer to the FSTAG for direction on assessment, development, and management of trails that are subject to the FSTAG.

4. The FSTAG applies to trails in the National Forest System that:

a. Are new or altered (an alteration is a change in the original purpose, intent, or design of a trail);

b. Have a Designed Use of Hiker/Pedestrian; and

c. Connect directly to a currently accessible trail or to a trailhead.

5. While trail designers and managers are encouraged to look for opportunities where accessibility may be improved beyond those trails where it is required, the uniqueness of each trail must be preserved. The FSTAG contains conditions for departure and exceptions that apply when application of a technical provision would cause a change in a trail's setting or the purpose or function for which a trail was designed.

6. The FSTAG probably will not apply to most portions of existing primitive, long-distance trails. However, the FSTAG may apply to some segments of those trails, such as where they pass through a more developed area. The FSTAG contains exceptions that will prevent accessibility from being pointlessly applied in a piecemeal fashion along a trail when access between trail segments is not possible. The FSTAG also contains requirements to provide accessibility to special features where possible.

7. If materials need to be obtained from or manipulated on a sign or kiosk, the sign or kiosk must be designed to meet the reach ranges in 308 of the ABAAS.

8. In accordance with the Forest Service policy of universal design, trail information must be provided in a manner that will permit users to evaluate the appropriateness of a trail for their ability, resources, and the type of trail experience they are seeking.

9. Signs must be posted at the trailhead of new or altered trails and trail segments that fall into Trail Class 4 or Trail Class 5, as well as at the trailhead of trails that have been evaluated for accessibility. At a minimum, in addition to the standard information including the name and length of the trail, these signs must include the typical and maximum trail grade, typical and maximum cross-slope, typical and minimum tread width, surface type and firmness, and obstacles. These signs also should state that the posted information reflects the condition of the trail when it was constructed or assessed and should include the date of the construction or assessment.

10. Where more extensive trail information is provided (e.g., an aerial map of the trail and related facilities), the location of specific trail features and obstacles that do not comply with the FSTAG's technical provisions should be identified and a profile of the trail grade should be included.

11. The international symbol of accessibility, (the wheelchair symbol), should not be used in trail signage.

12. Local managers have the discretion to decide whether to post FSTAG signage on newly constructed or altered trails that fall into Trail Class 1, Trail Class 2, or Trail Class 3.

2.35b—Interpretive Trails

1. While interpretive trails may be managed for a variety of uses, they most often fall into Trail Class 4 or Trail Class 5, with a Designed Use of Hiker/Pedestrian, but sometimes fall into Trail Class 3.

2. Interpretive trails offer access to areas with natural geologic, historical, or cultural significance. They provide a recreation experience to enrich visitors' understanding of the environment and fulfill national forest management objectives through interpretation. Consider providing interpretive trails in a wide range of forest settings with maximum interaction between users and the environment.

3. An interpretive plan is recommended as the basis for development of most interpretive trails. Interpretive plans vary in complexity and scope, depending on the trail being developed. In developing an interpretive plan, consider the following at a minimum:

a. Determine the audience to be reached. Invite user participation in development of the trail.

b. Determine the specific objectives of the message.

c. Determine the appropriate media (for example, trail signing, audio stations, or brochures) that are best suited to the message and audience.

d. Evaluate all sites that provide the intended message and theme. Consider population proximity, amount of expected use, adjacent facilities and services, and general desirability of the area.

e. Evaluate what the area has to offer and what visitors want. Develop the trail message to enhance visitors' knowledge.

f. Inventory the selected site to identify its limitations, opportunities, and fragile areas. Inventorying may be accomplished by developing a grid with parallel strips representing every 50 to 100 feet. On each strip the surveyor would note items of interest or map items. These rudimentary maps then would be refined into a more detailed map.

g. Use a multidisciplinary approach in developing an interpretive plan.

4. Avoid critical wildlife habitats and other fragile, unusual, and sensitive areas unless they can be adequately protected or conduct only guided walks through these areas.

5. The standard interpretive trail is usually less than 1 mile long. Additional shorter loops can be part of the longer section. Interpretation of special areas can be provided on any trail.

6. Locate interpretive trails near population centers or near heavily used national forest developments. However, locate the trail area away from noise and distracting activities. Some distracting conditions can be mitigated by a vegetation screen.

7. Select a route with a wide range of special features or one that illustrates a single purpose (sometimes known as a theme trail). This approach is preferred.

8. The following design criteria apply to most interpretive trails:

a. Design the message or theme of the trail to achieve management objectives, develop user awareness, and promote enjoyment of the area.

b. Space stops to allow users to absorb ideas. Plan for approximately 10 to 15 signs or stops per trail, with stops at least 200 feet apart. If more than 15 stops are planned, consider using brochures.

c. Separate trailheads may be located within walking distance from areas of concentrated public use, such as campgrounds.

d. Take special care in designing entry signs, registration stations, brochure distribution boxes, and other signs to present a positive image and a pleasant entrance experience.

e. Write the message at the educational and social level of the anticipated users. Indicate in the message why the item is important. Test stops and text on representatives of the intended audience before final development. Redesign as necessary.

f. Do not interpret all items on the trail. Those items not interpreted can be added later to vary the message. Consider a seasonal approach, if possible.

g. Call attention to items to observe between stops, such as birds and animals, by noting them on signs or in brochures.

Chapter 3—Trail Preconstruction and Reconstruction

3.1—Preconstruction

1. Preconstruction must begin early and must be completed prior to construction. The scope of preconstruction depends upon the type of facility being designed. A minimally developed hiker/pedestrian trail may require less preconstruction than a fully developed trail. Regardless of the level of development, the series of steps remains the same and begins with reconnaissance.

2. Determine whether the FSTAG will apply to the trail being constructed or reconsructed. If the FSTAG applies, it must be followed from initiation of reconnaissance. See the Process Overview in Appendix A of the FSTAG.

3.11—Reconnaissance

Reconnaissance includes identification and evaluation of alternative routes and leads to selection of the best possible routes and facility to meet established objectives for Trail Class, Managed Uses, and Designed Use. Application of sound principles of trail location, alignment, and grade will minimize future operation and maintenance problems.

* * * * *

3.12b—Grade

1. Early reconnaissance and environmental analysis should provide the range of preferred grades for a specific trail. The location of the grade line on the ground is the most important element of trail development: Trail grade influences the length of trail, level of difficulty, and drainage and maintenance requirements. Therefore, grade usually is the controlling factor for trail location. Undulate the grade to provide natural drainage and variation and to eliminate long, steady grades, which are tiring to the user.

2. A slight downhill grade is necessary to provide cross-drainage and to provide grade undulations for drainage purposes. These sections of grade must be designed to avoid excessively steep sections of trail grade.

3. In areas where there is a potential for trail erosion, roll the grade to create natural-appearing drainage dips at appropriate intervals to divert water from the trail.

4. Spacing of drainage facilities to intercept water running down a trail is influenced by soil type and grade, which affect water velocity. Determine the appropriate spacing before locating the trail and establishing cross drainage from rolling gradeline. Section 3.12, Exhibit 02, shows spacing requirements for various soil types and grade percentages.

5. Where soil types or tread-hardening techniques provide necessary resource protection, steeper grades may be permitted.

6. Some trails with a Designed Use of Hiker/Pedestrian could have runs of rock steps for 30 percent or more of the total trail length. A trail could have some short, steep pitches to take advantage of an area of hightly stable terrain that can be easily protected from erosion. Use runs of steps for certain types of trails when grades between control points would exceed either user comfort or soil stability.

7. Avoid flat grades where possible. Trails that must be located through meadows, savannahs, and other low areas should be considered for walkways, puncheon, or tread stabilization.

8. Increase grades 10 to 15 percent at approaches to switchbacks to avoid cross-cutting by trail users.

9. A level-off grade should be located at the end of steep, sustained grades. A level-off grade is any grade within the range of target grades identified for the Designed Use. The length and grade of the level-off section should correlate to the Designed Use and the Trail Class.

Chapter 4—Trail Operation and Maintenance

Trail management objectives, including the five Trail Fundamentals, provide the basis for developing trail operation and maintenance strategies. In addition to the Trail Fundamentals identified for the trail, some key considerations are expected amount, type, and timing of use.

4.1—Trail Operation

Trail operation involves management of the type, volume, and season of use for the Managed Uses of a trail to achieve its TMOs. Elements of trail operation include monitoring the volume of use, the type of use, and the effects of use on the TMOSs; implementing trail restrictions; and informing users through guides and signs of the intended use for each trail.

* * * * *

4.13—Public Information

General guidance on the appropriate level and type of signing by Trail Class is provided in the Design Parameters. Specific direction on signing and public information is contained in FSM 7160, Signs and Posters, and EM–7100–15, Standards for Forest Service Signs and Posters. Additional direction on signs for accessible trails is contained in the FSTAG, which is available electronically at *www.fs.fed.us/reacreation/programs/accessibility.*

* * * * *

4.14—Signs

Signs should follow the direction contained in FSM 7160, Signs and Posters, and EM–7100–15, Standards for Forest Service Signs and Posters. Additional direction on signs for accessible trails is contained in Section 7.3.10 of the FSTAG.

* * * * *

4.22—Recording Maintenance

Maintenance shall be recorded as standard when a trail is maintained in a manner adequate to meet its TMOs. Maintenance shall be recorded as less than standard when some needed maintenance activities are not performed, resulting in a trail that does not meet its TMOs. Refer to the Design Parameters (chapter 2) to determine whether maintenance is preserving the trail to a standard adequate to meet its TMOs.

4.23—Maintenance Activity Groups

Five activity groups are described below, along with a list of each maintenance activity. These maintenance activities (or others as desired by local units) should be used to maintain trails based on applicable Design Parameters. These maintenance activities are only a suggested list; different lists may be developed at the regional, forest, or district level.

4.25—Condition Assessment and Prescription Surveys

1. The condition assesment and prescription survey is the backbone of maintenance management. Those who perform condition surveys must be knowledgeable of the entire maintenance management process. The data gathered and the decisions made during the condition survey provide the information needed for subsequent trail management decisions. The condition survey also may be used for scheduling and reporting work accomplishments.

2. Review the TMOs for each trail prior to performing condition surveys. TMOs are used in development of the

annual maintenance plan and generally include the following considerations:

a. Requirements to protect adjacent resources or improvements, such as streams, lakes, meadows, vegetation, scenic strips, viewing areas, experimental forests, and facilities.

b. The planned use of the trail. The Trail Type, Trail Class, Managed Use, Designed Use, Design Parameters, season of use, volume of use, and trail restrictions and regulations are examples of the type of information that must be known before conducting a condition survey. Use this information to determine whether a trail is adequately providing for planned use.

3. Condition surveys are conducted to provide current information about the condition of all physical features that are of concern to the trail manager. Prior surveys provide information to forecast work requirements that are used in formulating the annual maintenance plan. Examples of possible deficiencies that should be noted in condition surveys include:

a. Inlets and outlets of culverts that are plugged.

b. Location of hazard trees.

c. Brushing growth within cleared limits.

d. Sluffing backslope.

e. Missing or damaged signs.

f. Subgrade failures.

g. Stone retaining wall failures.

h. Slide encroachment along the trail.

i. Trail tread erosion.

These surveys also provide data for reporting deficiencies and corrective measures that can be used in planning reconstruction projects.

4. The prescription survey identifies actions needed to correct the deficiencies noted on the ground. A qualified person can prescribe the action needed to correct the deficiency at the same time the condition survey is made. Specific maintenance activities or tasks should be noted in the survey.

5. A detailed condition survey may not be needed when trails are opened in the spring. (opening trails in the spring normally only involves removing logs and drainage maintenance). However, trail inspectors need to identify and verify the type and extent of work needed before dispatching crews or awarding contracts for trail maintenance.

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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 JULY 3, 2006

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Chiniak Gully Research Area; trawl fishing seasonal closure; published 6-1-06

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange Act:
- Market and large trader reporting; amendments; published 7-3-06

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- Texas; published 5-2-06

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- Michigan; published 6-1-06

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- Arkansas and Missouri; published 6-7-06
- Massachusetts; published 6-7-06
- Mississippi; published 6-7-06

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Customs and Border Protection Bureau

Merchandise entry:
- Single entry for unassembled or disassembled entities imported on multiple conveyances; published 6-2-06

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
- Oneida Lake, Brewerton, NY; published 6-26-06
- Pentwater, MI; July 3rd fireworks display; published 7-3-06
- Sodus Bay, Sodus Point, NY; published 6-26-06
- St. Lawrence River and Alexandria Bay, NY; Fourth of July fireworks display; published 7-3-06

LABOR DEPARTMENT

Labor-Management Standards Office

Standards of conduct:
- Federal sector labor organizations; published 6-2-06

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
- Approved spent fuel storage casks; list; published 4-18-06

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Federal Aviation Administration

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- Airbus; published 6-16-06
- Boeing; published 6-16-06
- Raytheon; published 6-16-06

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Merchandise entry:
- Single entry for unassembled or disassembled entities imported on multiple conveyances; published 6-2-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in Michigan, et al.; comments due by 7-11-06; published 6-21-06 [FR E6-09727]

Pistachios grown in California; comments due by 7-10-06; published 6-19-06 [FR E6-09539]

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- Missouri; comments due by 7-12-06; published 6-12-06 [FR 06-05250]
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 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)

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1	(869–060–00001–4)	5.00	[4]Jan. 1, 2006
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*141–199	(869–060–00057–7)	58.00	Apr. 1, 2006
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70–89	(869–056–00185–1)	14.00	[9] Oct. 1, 2005
90–139	(869–056–00186–0)	44.00	Oct. 1, 2005
140–155	(869–056–00187–8)	25.00	Oct. 1, 2005
156–165	(869–056–00188–6)	34.00	[9] Oct. 1, 2005
166–199	(869–056–00189–4)	46.00	Oct. 1, 2005
200–499	(869–056–00190–8)	40.00	Oct. 1, 2005
500–End	(869–056–00191–6)	25.00	Oct. 1, 2005
47 Parts:			
0–19	(869–056–00192–4)	61.00	Oct. 1, 2005
20–39	(869–056–00193–2)	46.00	Oct. 1, 2005
40–69	(869–056–00194–1)	40.00	Oct. 1, 2005
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–056–00196–7)	61.00	Oct. 1, 2005
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
1 (Parts 52–99)	(869–056–00198–3)	49.00	Oct. 1, 2005
2 (Parts 201–299)	(869–056–00199–1)	50.00	Oct. 1, 2005
3–6	(869–056–00200–9)	34.00	Oct. 1, 2005
7–14	(869–056–00201–7)	56.00	Oct. 1, 2005
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29–End	(869–056–00203–3)	47.00	Oct. 1, 2005
49 Parts:			
1–99	(869–056–00204–1)	60.00	Oct. 1, 2005
100–185	(869–056–00205–0)	63.00	Oct. 1, 2005
186–199	(869–056–00206–8)	23.00	Oct. 1, 2005
200–299	(869–056–00207–6)	32.00	Oct. 1, 2005
300–399	(869–056–00208–4)	32.00	Oct. 1, 2005
400–599	(869–056–00209–2)	64.00	Oct. 1, 2005
600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
1000–1199	(869–056–00211–4)	28.00	Oct. 1, 2005
1200–End	(869–056–00212–2)	34.00	Oct. 1, 2005
50 Parts:			
1–16	(869–056–00213–1)	11.00	Oct. 1, 2005
17.1–17.95(b)	(869–056–00214–9)	32.00	Oct. 1, 2005
17.95(c)–end	(869–056–00215–7)	32.00	Oct. 1, 2005
17.96–17.99(h)	(869–056–00215–7)	61.00	Oct. 1, 2005
17.99(i)–end and 17.100–end	(869–056–00217–3)	47.00	Oct. 1, 2005
18–199	(869–056–00218–1)	50.00	Oct. 1, 2005
200–599	(869–056–00218–1)	45.00	Oct. 1, 2005
600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
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Subscription (mailed as issued)		332.00	2006
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Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.

[10] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2006

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 3	July 18	August 2	August 17	Sept 1	Oct 2
July 5	July 20	August 4	August 21	Sept 5	Oct 3
July 6	July 21	August 7	August 21	Sept 5	Oct 4
July 7	July 24	August 7	August 21	Sept 5	Oct 5
July 10	July 25	August 9	August 24	Sept 8	Oct 10
July 11	July 26	August 10	August 25	Sept 11	Oct 10
July 12	July 27	August 11	August 28	Sept 11	Oct 10
July 13	July 28	August 14	August 28	Sept 11	Oct 11
July 14	July 31	August 14	August 28	Sept 12	Oct 12
July 17	August 1	August 16	August 31	Sept 15	Oct 16
July 18	August 2	August 17	Sept 1	Sept 18	Oct 16
July 19	August 3	August 18	Sept 5	Sept 18	Oct 17
July 20	August 4	August 21	Sept 5	Sept 18	Oct 18
July 21	August 7	August 21	Sept 5	Sept 19	Oct 19
July 24	August 8	August 23	Sept 7	Sept 22	Oct 23
July 25	August 9	August 24	Sept 8	Sept 25	Oct 23
July 26	August 10	August 25	Sept 11	Sept 25	Oct 24
July 27	August 11	August 28	Sept 11	Sept 25	Oct 25
July 28	August 14	August 28	Sept 11	Sept 26	Oct 26
July 31	August 15	August 30	Sept 14	Sept 29	Oct 30