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Contents

Federal Register

Vol. 71, No. 128

Wednesday, July 5, 2006

Separate Parts In This Issue

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register

Vol. 71, No. 128

Wednesday, July 5, 2006

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 625

Healthy Forests Reserve Program; Correction

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Interim final rule with request for comments; correction.

SUMMARY: This is to correct a URL address previously published in the Rules and Regulations section on Wednesday, May 17, 2006 (71 FR 28547). The error occurred in a URL in the **ADDRESSES** section on page 28548. The entire **ADDRESSES** section with the corrected URL is published below. This interim final rule sets forth how NRCS will implement HFRP to meet the statutory objectives of the program.

DATES: This rule is effective May 17, 2006. Comments must be received by August 15, 2006.

ADDRESSES: Send comments by mail to Robin Heard, Director, Easement Program Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013–2890; or by e-mail: *Rules@usda.gov*; attn: Healthy Forests Reserve Program. This rule may also be accessed via Internet through the NRCS homepage at *http://www.nrcs.usda.gov/programs/HFRP/ProgInfo/Index.html.* The rule may also be reviewed and comments may be submitted via the Federal Government's centralized rulemaking Web site at *http://www.regulations.gov.* All comments, including the name and address of each commenter, will become a matter of public record, and may be viewed during normal business hours by contacting NRCS at the address above.

FOR FURTHER INFORMATION CONTACT: Robin Heard, Director, Easement Programs Division, NRCS, P.O. Box 2890, Washington, DC 20013–2890; telephone: (202) 720–1854; fax: (202) 720–4265; e-mail: *Robin.Heard@wdc.usda.gov*, Attention: Healthy Forests Reserve Program. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

Signed in Washington, DC, on June 29, 2006.

Teressa Davis,

Federal Register Liaison, Natural Resources Conservation Service.

[FR Doc. E6–10462 Filed 7–3–06; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24430; Directorate Identifier 2006–NM–048–AD; Amendment 39–14671; AD 2006–13–18]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–31, DC–9–32, DC–9–32F, DC–9–33F, DC–9–34, and DC–9–34F Airplanes; and Model DC–9–40 and DC–9–50 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain transport category airplanes, identified above. This AD requires installing a bonding jumper from the boost pump volute to the fuel tank structure, and related investigative/corrective actions. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent point-contact arcing or filament heating in the fuel tank, which, in the event of a short or ground fault inside the fuel tank, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD becomes effective August 9, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of August 9, 2006.

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

Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain McDonnell Douglas transport category airplanes. That NPRM was published in the **Federal Register** on April 13, 2006 (71 FR 19140). That NPRM proposed to require installing a bonding jumper from the boost pump volute to the fuel tank structure, and related investigative/corrective actions.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 250 airplanes of the affected design in the worldwide fleet. This AD will affect about 152 airplanes of U.S. registry. The required actions will take about 9 work hours per airplane, at an average labor rate of $80 per work hour. Required parts will cost about $2,385 per airplane. Based on these figures, the estimated cost of this AD for U.S. operators is $471,960, or $3,105 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–13–18 McDonnell Douglas: Amendment 39–14671. Docket No. FAA–2006–24430; Directorate Identifier 2006–NM–048–AD.

Effective Date

(a) This AD becomes effective August 9, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–9–31, DC–9–32, DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, and DC–9–51 airplanes, certificated in any category; as identified in Boeing Service Bulletin DC9–28–214, dated December 16, 2005.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent point-contact arcing or filament heating in the fuel tank, which, in the event of a short or ground fault inside the fuel tank, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Installation

(f) Within 60 months after the effective date of this AD, install a bonding jumper from the boost pump volute to the fuel tank structure, and do all applicable related investigative and corrective actions before further flight; by doing all the actions specified in the Accomplishment Instructions of Boeing Service Bulletin DC9–28–214, dated December 16, 2005.

Alternative Methods of Compliance (AMOCs)

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

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

Material Incorporated by Reference

(h) You must use Boeing Service Bulletin DC9–28–214, dated December 16, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

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

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5871 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23704; Directorate Identifier 2006–NE–02–AD; Amendment 39–14674; AD 2006–14–03]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TPE331 Series Turboprop, and TSE331–3U Model Turboshaft Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Honeywell International Inc. TPE331 series turboprop, and TSE331–3U model turboshaft engines. This AD requires implementing a new flight cycle counting method for first, second, and third-stage turbine rotors used in aircraft that make multiple takeoffs and landings without an engine shutdown, and removing turbine rotors from service that have reached or exceeded their cycle life limits. This new flight cycle counting method requires determining total equivalent cycles accrued. This AD results from several reports of uncontained turbine rotor separation on engines used in special-use operations. We are issuing this AD to prevent uncontained failure of the turbine rotor due to low-cycle-fatigue (LCF), and damage to the aircraft.

DATES: This AD becomes effective August 9, 2006. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 9, 2006.

ADDRESSES: You can get the service information identified in this AD from Honeywell Engines, Systems & Services, Technical Data Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation); (602) 365–5535 (Commercial); fax: (602) 365–5577 (General Aviation and Commercial).

You may examine the AD docket on the Internet at *http://dms.dot.gov* or in Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (562) 627–5246; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to certain Honeywell International Inc. TPE331 series turboprop, and TSE331–3U model turboshaft engines. We published the proposed AD in the **Federal Register** on February 23, 2006 (71 FR 9281). That action proposed to require implementing a new flight cycle counting method for first, second, and third-stage turbine rotors used in aircraft that make multiple takeoffs and landings without an engine shutdown, and removing turbine rotors from service that have reached or exceeded their cycle life limits. This new flight cycle counting method requires determining total equivalent cycles accrued.

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the Docket Management Facility Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES.** Comments will be available in the AD docket shortly after the DMS receives them.

Comments

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

Suggestion To Delete Phrase ''To Ground Idle''

One commenter suggests that in the Discussion paragraph of the proposed AD, we delete the phrase ''to ground idle''. Doing this would reconcile the Discussion paragraph with the Definition paragraph (i) in the compliance section, because touch-and-go maneuvers require the logging of partial cycles. A touch-and-go maneuver is a landing and takeoff without shutdown.

We partially agree. The damage fraction for a minor cycle identified in the Honeywell Alert Service Bulletins is based on landings to normal ground-idle engine speed reductions without an engine shutdown. Any engine operation, such as a touch-and-go maneuver with an engine speed reduction to ground idle during touch-down, counts as a minor cycle. Engine speed reductions to ground idle during landing are an important factor in determining the counting of a minor cycle and, therefore, must be included in the definition. The AD does not repeat the proposed AD Discussion paragraph. We agree that the wording in our NPRM could be clearer. Therefore, we changed Definition paragraph (i), to include major and minor cycles, and paragraph (o), to state that a minor cycle, which occurs within a major cycle, is an additional landing with an engine speed reduction to ground idle with no engine shutdown, followed by a takeoff.

Request To Change Compliance Section Paragraph (f)(1)(ii)

One commenter requests that we change compliance section paragraph (f)(1)(ii) from ''If you are unable to determine equivalent cycles for prior special-use operations, you must use a onetime takeoff-to-engine shutdown ratio of six to estimate prior special-use equivalent cycles for each turbine rotor'' to ''For turbine rotors known to have prior special use operation, if you are unable to determine equivalent cycles for prior special-use operations, you must use a onetime takeoff-to-engine shutdown ratio of six to estimate prior special-use equivalent cycles for each turbine rotor.'' The commenter feels that this would clarify the phrase ''unable to determine'' because as-written it could be construed to mean that a rotor had special use operation, but exact minor-to-major cycle count cannot be determined.

We partially agree. We agree with the commenter's application of the phrase ''unable to determine'' but we do not agree that paragraph (f)(1)(ii) should be changed. That paragraph must be read in context with paragraph (f), which clearly states ''For turbine rotors installed before the effective date of this AD, and currently or previously used in special-use operations:'' However, we did clarify paragraph (f)(1)(ii) to add the reason why the operator or owner would be unable to determine equivalent cycles.

Request To Change the Phrase ''Used Turbine Rotors'' in Compliance Paragraph (f)

One commenter requests that we change the phrase ''used turbine rotors'' in compliance paragraph (f) to ''turbine rotors'' as these rotors may have had zero cycles-since-new at installation. We agree. The compliance action is the same for new or used turbine rotors installed before the effective date of the AD. We made that change in the AD.

Request To Add a Step to Compliance Paragraphs (f) and (g)

One commenter requests that we add a step to compliance paragraphs (f) and (g) to include the new counting method, which is also referenced in paragraph (h)(1) of the compliance section. The commenter states that this counting method should be used after determining equivalent cycles, whether the turbine rotor is new or used.

We partially agree. We agree that operators and maintenance personnel use the new counting method of counting major and minor cycles when accrued for new and used turbine rotors after the initial assessment from the Table 1 turbine removal schedules in the Honeywell ASBs. This schedule requires retiring the turbine rotors within a specified number of equivalent cycles, which infers that the owner or operator use the new counting method with minor and major cycles. We changed compliance section paragraph (f)(1)(ii) to read ''If you are unable to determine equivalent cycles for prior special-use operations due to the absence of actual data regarding the number of takeoffs and landings per major cycle, you must use a onetime ratio of six takeoffs and landings per major cycle to estimate prior special-use equivalent cycles for each turbine rotor''. Also, for clarification, we changed compliance section paragraph (h)(1) to read ''Use the new counting method by counting and recording minor and major cycles when accrued, and determine equivalent cycles by the method described in paragraph (f)(1)(i) and (f)(1)(iii) of this AD''.

In preparing the response to this commenter, we decided that proposed paragraphs (h) and (h)(2) could be clearer. Therefore, we changed compliance section paragraph (h) to read ''For all new (zero cycles) turbine rotors installed on or after the effective date of this AD used in special-use operations:'' and paragraph (h)(2) to read ''Using the ratio of six takeoffs and landings per major cycle for unknown cycle history, as referenced in paragraph (f)(1)(ii) of this AD, is not permitted''.

Comment That Previous Method of Counting Cycles Is Acceptable

One commenter states that the previous method of counting cycles is acceptable and that major and minor counting is unnecessary. The commenter cites their ''lower than red-line'' engine operation temperatures are an additional safety margin (excluding temperatures during startups and shutdowns).

We do not agree. The new counting method is necessary to preclude fatigue damage of turbine rotors and is appropriate for most operations when considering engine operation temperatures and rotor speeds. We did not change the AD based on this comment.

Suggestion That AD Action Does Not Target the Problem

Two commenters suggest that the AD action does not target the problem of why most turbine rotors fail. The commenters state that the proposed AD should be withdrawn.

We do not agree. The AD addresses our safety concern that use of the TPE331 engine beyond its original certified intended assumption of one cycle for each flight threatens safe operations. We understand that the AD does not address all causes for turbine rotor failure. We are investigating other turbine rotor features that may cause failures, and we may consider future AD action. We did not change the AD.

Ten Percent Estimate Seems Low

One commenter states that the proposed AD estimate of ten percent of affected engines are used on MU–2B airplanes, seems low, and that the special-use industry such as skydiving, agriculture, and some cargo, is a large industry.

We do not agree. Ten percent of the affected engines being used on MU–2B airplanes, is our best estimate based on FAA experience with special-use operators and the MU–2 fleet size.

Root of the Problem Seems To Be in Manufacturing

One commenter states that the root of the problem seems to be in manufacturing. The commenter asks if Honeywell International Inc. will provide a turbine rotor that can withstand low-cycle-fatigue.

We do not agree. We investigated the production and manufacturing of the affected turbine rotors and found no anomalies. Therefore, we concluded that the existing turbine rotors were manufactured to type design. However, we may consider future AD action if we find such action necessary.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect 200 TPE331 series turboprop, and TSE331–3U model turboshaft engines installed on airplanes and helicopters of U.S. registry. We also estimate that it will take about two work-hours per engine to perform the total equivalent cycles determination and recording. We also estimate that to replace a turbine rotor will take 40 work-hours per engine when done at an unscheduled maintenance interval. We also estimate that 38 rotors will be replaced at unscheduled maintenance intervals. We estimate the average labor rate to be $65 per work-hour. Required parts will cost about $20,000 per engine. The costs associated with this AD are dependent on the engine mission cycle. Operators accruing many minor and major cycles might replace first and second stage turbine rotors every two years. For the purpose of this AD, we estimate the costs for an eight-year period with moderate usage to be 10 minor cycles each flight and 200 flights each year, and the effective use of the first and second turbine rotors to be equivalent to 2,600 cycles. Based on these figures, we estimate the total cost to U.S. operators to be $9,350,630.

The Agency is committed to updating the aviation community of expected costs associated with the MU–2B series airplane safety evaluation conducted in 2005. As a result of that commitment, the accumulating expected costs of all ADs related to the MU–2B series airplane safety evaluation may be found at the following Web site: *http://www.faa.gov/aircraft/air_cert/design_approvals/small_airplanes/cos/mu2_foia_reading_library/.*

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

■ Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–14–03 Honeywell International Inc. (formerly AlliedSignal Inc., Garrett Engine Division; Garrett Turbine Engine Company; and AiResearch Manufacturing Company of Arizona): Amendment 39–14674. Docket No. FAA–2006–23704; Directorate Identifier 2006–NE–02–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective August 9, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International Inc. TPE331–1, –1U, –1UA, –2, –2UA, –3U, –3UW, –3W, –5, –5A, –5AB, –5B, –5U, –6, –6A, –6U, –8, –8A, –9, –9U, –10, –10A, –10AV, –10B, –10G, –10GP, –10GR, –10GT, –10J, –10N, –10P, –10R, –10T, –10U, –10UA, –10UF, –10UG, –10UGR, –10UJ, –10UK, –10UR, –11U, –11UA, –12, –12B, –12JR, –12UA, –12UAR, –12UER, and –12UHR series turboprop and TSE331–3U model turboshaft engines. These engines are installed on, but not limited to, the following aircraft:

Manufacturer	Airplane model
Aero Planes, LLC (formerly McKinnon Enterprises)	G–21G.
Allied AG Cat Productions (formerly Schweizer)	G–164 series.
Ayres	S–2R series.
British Aerospace Ltd (formerly Jetstream)	3201 series, and HP.137 Jetstream MK.1.
Cessna Aircraft Company	441 Conquest.
Construcciones Aeronauticas, s.a. (CASA)	C–212 series.
DeHavilland	DH104 series 7AXC (Dove).
Dornier	228 series.
Fairchild	SA226 AND SA227 series (Swearingen Merlin and Metro series).
Grumman American	G–164 series.
Mitsubishi	MU–2B series (MU–2 series).
Pilatus	PC–6 series (Fairchild Porter and Peacemaker).
Polskie Zaklady Lotnicze Spolka (formerly Wytwornia Sprzetu Komunikacyjnego).	PZL M18, PZL M18A, PZL M18B.
Prop-Jets, Inc.	400.
Raytheon Aircraft (formerly Beech)	C45G, TC–45G, C–45H, TC–45H, TC–45J, G18S, E18S–9700, D18S, D18C, H18, RC–45J, JRB–6, UC–45J, 3N, 3NM, 3TM, B100, C90, and E90.
Shorts Brothers and Harland, Ltd.	SC7 (Skyvan) series.
Thrush (Rockwell Commander)	S–2R.
Twin Commander (Jetprop Commander)	680 and 690 series.

Manufacturer	Helicopter Model
Sikorsky	S–55 series (Helitec Corp. S55T).

Unsafe Condition

(d) This AD results from several reports of uncontained turbine rotor separation on engines used in special-use operations. We are issuing this AD to prevent uncontained failure of the turbine rotor due to low-cycle-fatigue (LCF), and damage to the aircraft.

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.

Turbine Rotors Installed Before the Effective Date of This AD

(f) For turbine rotors installed before the effective date of this AD, and currently or previously used in special-use operations:

(1) Within 100 major cycles-in-service after the effective date of this AD, or upon removal of the turbine rotor(s) from the engine, whichever occurs first, do the following:

(i) Determine the total equivalent cycles accrued for turbine rotors. Use paragraph 2.A. of the Accomplishment Instructions of the applicable Honeywell Alert Service Bulletin (ASB) for your model engines listed in the following Table A, to make the determination.

TABLE A.—HONEYWELL ASBS FOR DETERMINING TOTAL EQUIVALENT CYCLES

For engines	Use ASB No.	Turbine rotor removal schedule
(A) TPE331–1 through –6 series and TSE331–3U model.	TPE331–A72–2111, dated November 12, 2002	Use ASB Table 1.
(B) TPE331–8 through –9 series	TPE331–A72–2123, dated February 8, 2006	Use ASB table 1.
(C) TPE331–10 through–11 series	TPE331–A72–2130, dated September 27, 2005	Use ASB Table 1.
(D) TPE331–12 series	TPE331–A72–2131, dated September 27, 2005	Use ASB Table 1.

(ii) If you are unable to determine equivalent cycles for prior special-use operations due to the absence of actual data regarding the number of takeoffs and landings per major cycle, you must use a onetime ratio of six takeoffs and landings per major cycle to estimate prior special-use equivalent cycles for each turbine rotor.

(iii) For each turbine rotor affected on the Life Limited Part Log Card, record the total equivalent cycles accrued, as determined in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, by complying with the recording requirements for your model engine listed in the following Table B:

TABLE B.—SERVICE BULLETINS (SBS) FOR RECORDING TOTAL EQUIVALENT CYCLES

For engines	Record using
(A) TPE331–1 through –6 series and TSE331–3U model	Honeywell SB No. TPE/TSE331–72–0019, Revision 22, dated May 16, 2001.
(B) TPE331–8 through –9 series	AlliedSignal SB No. TPE331–72–0117, Revision 11, dated November 13, 1997.
(C) TPE331–10 through –11 series	Honeywell SB No. TPE331–72–0180, Revision 31, dated November 7, 2003.
(D) TPE331–12 series	Honeywell SB No. TPE331–72–0476, Revision 27, dated September 17, 2003.

(2) Remove from service turbine rotors affected by paragraph (f) of this AD using the applicable Turbine Rotor Removal Schedule in Table A of this AD, or, within nine months after the effective date of this AD, whichever occurs later.

Used Turbine Rotors Installed On or After the Effective Date of this AD

(g) For used turbine rotors installed on or after the effective date of this AD, and currently or previously used in special-use operations:

(1) Before further flight, determine and record total equivalent cycles using paragraphs (f)(1)(i) through (f)(1)(iii) of this AD.

(2) Remove from service, turbine rotors affected by paragraph (g) of this AD using the applicable Turbine Rotor Removal Schedule in Table A of this AD.

New (Zero Cycles) Turbine Rotors Installed On or After the Effective Date of This AD

(h) For all new (zero cycles) turbine rotors installed on or after the effective date of this AD used in special-use operations:

(1) Use the new counting method by counting and recording minor and major cycles when accrued, and determine equivalent cycles by the method described in paragraphs (f)(1)(i) and (f)(1)(iii) of this AD.

(2) Using the ratio of six takeoffs and landings per major cycle for unknown cycle history, as referenced in paragraph (f)(1)(ii) of this AD, is not permitted.

Definitions

(i) An engine used in special-use operations is defined as an engine that accrues major and minor cycles and is installed in an aircraft that makes multiple takeoffs and landings without engine shutdown.

(j) Total equivalent cycles, is that combination of major and minor cycles as specified in the Honeywell ASBs listed in Table A of this AD.

(k) Total equivalent cycle life limits listed in the ASBs, are the cycle life limits specified in the SBs listed in Table B of this AD.

(l) The ‘‘recording of total equivalent cycles on the Life Limited Part Log Card’’ is that same procedure specified for ‘‘accumulated cycles’’ or ‘‘total cycles’’ in the SBs listed in Table B of this AD.

(m) ‘‘Turbine rotors’’ include first, second, and third stage seal plates, air seals, rotor disks, wheels, and assemblies, and are parts that have part numbers specified in the ASBs listed in Table A of this AD.

(n) A major cycle is an engine start, takeoff, landing, and shutdown.

(o) A minor cycle, which occurs within a major cycle, is an additional landing with an engine speed reduction to ground idle with no engine shutdown followed by a takeoff.

(p) A ‘‘used turbine rotor’’ is a turbine rotor whose cycles-since-new are more than zero.

Alternative Methods of Compliance

(q) The Manager, Los Angeles Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(r) You must use the service information specified in Table C of this AD to perform the actions required by this AD. The Director of the Federal Register approved the incorporation by reference of the documents listed in Table C of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Honeywell Engines, Systems & Services, Technical Data Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation); (602) 365–5535 (Commercial); fax: (602) 365–5577 (General Aviation and Commercial) for a copy of this service information. You may review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

TABLE C.—INCORPORATION BY REFERENCE

Service Bulletin (SB)	Page	Revision	Date
Honeywell SB No. TPE/TSE331–72–0019 Total Pages: 16	1	22	May 16, 2001.
	2–11	21	March 3, 2000.
	12	22	May 16, 2001.
	13–16	21	March 3, 2000.
AlliedSignal SB No. TPE331–72–0117 Total Pages: 10	1	11	November 13, 1997.
	2	9	May 24, 1995.
	3–10	11	November 13, 1997.
Honeywell SB No. TPE331–72–0180 Total Pages: 54	1	31	November 7, 2003.
	2–3	29	August 23, 2002.
	4–5	31	November 7, 2003.
	6–7	29	August 23, 2002.
	8–13	31	November 7, 2003.
	14	27	February 23, 2001.
	15–17	31	November 7, 2003.
	18	27	February 23, 2001.
	19	31	November 7, 2003.

TABLE C.—INCORPORATION BY REFERENCE—Continued

Service Bulletin (SB)	Page	Revision	Date
	20	29	August 23, 2002.
	21	31	November 7, 2003.
	22–24	29	August 23, 2002.
	25	31	November 7, 2003.
	26	29	August 23, 2002.
	27–54	31	November 7, 2003.
Honeywell SB No. TPE331–72–0476	1–2	27	September 17, 2003.
Total pages: 46	3	25	May 24, 2002.
	4	27	September 17, 2003.
	5	25	May 24, 2002.
	6	27	September 17, 2003.
	7–14	25	May 24, 2002.
	15	26	July 26, 2002.
	16–22	25	May 24, 2002.
	23–27	27	September 17, 2003.
	28–32	25	May 24, 2002.
	33	26	July 26, 2002.
	34	25	May 24, 2002.
	35	27	September 17, 2003.
	36	25	May 24, 2002.
	37–41	27	September 17, 2003.
	42	25	May 24, 2002.
	43	27	September 17, 2003.
	44	25	May 24, 2002.
	45	27	September 17, 2003.
	46	25	May 24, 2002.

Alert Service Bulletin (ASB)	Page	Revision	Date
Honeywell ASB No. TPE331–A72–2111 Total Pages: 12	ALL	Original	November 12, 2002.
Honeywell ASB No. TPE331–A72–2123 Total Pages: 12	ALL	Original	February 8, 2006.
Honeywell ASB No. TPE331–A72–2130 Total Pages: 16	ALL	Original	September 27, 2005.
Honeywell ASB No. TPE331–A72–2131 Total Pages: 14	ALL	Original	September 27, 2005.

Issued in Burlington, Massachusetts, on June 26, 2006.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 06–5929 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22524; Directorate Identifier 2005–NM–135–AD; Amendment 39–14672; AD 2006–14–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200, A330–300, A340–200, and A340–300 Series Airplanes, and Model A340–541 and A340–642 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes, and Model A340–541 and A340–642 airplanes. This AD requires inspecting to determine if certain emergency escape slides/slide rafts (referred to as slide/rafts) are installed in certain crew/passenger doors; and, if so, performing a one-time inspection to determine if the electrical harnesses of the slide/rafts are properly routed, and rerouting the harnesses if necessary. This AD results from report that a slide/raft failed to deploy properly during a deployment test. We are issuing this AD to detect and correct improper routing of the electrical harnesses of certain slide/rafts, which could prevent proper deployment of the slide/rafts and delay evacuation of passengers and flightcrew during an emergency.

DATES: This AD becomes effective August 9, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 9, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket

Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

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

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 street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes, and Model A340–541 and A340–642 airplanes. That supplemental NPRM was published in the **Federal Register** on March 27, 2006 (71 FR 15073). That supplemental NPRM proposed to require inspecting to determine if certain emergency escape slides/slide rafts (referred to as slide/rafts) are installed in certain crew/passenger doors; and, if so, performing a one-time inspection to determine if the electrical harnesses of the slide/rafts are properly routed, and rerouting the harnesses if necessary.

Comments

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

Request for Clarification of Compliance Time

The Air Transport Association (ATA), on behalf of its member Northwest Airlines (NWA), requests that the compliance time be clarified. NWA asserts that some operators may have prior knowledge of airplanes having slide/rafts with affected part numbers before the release of this AD. NWA requests that the compliance time be clarified to ensure that operators having such prior knowledge have the full span of 1,700 flight hours specified by this AD to accomplish corrective actions on any affected airplane. Though NWA did not specifically make such a statement, it appears that NWA is concerned that such prior knowledge might require immediate grounding of some airplanes because of the ''before further flight'' clause of the NPRM.

We partially agree. For any AD, compliance times are mandated during which operators are responsible for accomplishing the requirements of an AD. For example, operators may perform an inspection or, as allowed by this AD, review the maintenance records to comply with the AD. ''Compliance time'' specifies a period of time during which operators may determine the best time to accomplish the inspection, and we have no knowledge of individual operator inspection or review schedules within the compliance time limits. However, we acknowledge the concern of NWA and have determined that, in this case, ''before further flight'' is not needed to ensure an acceptable level of safety, provided that corrective actions are accomplished within the specified compliance time. Therefore, we have revised paragraphs (f)(1)(ii) and (f)(2)(ii) of the AD to read ''within 1,700 flight hours after the effective date of this AD.''

Conclusion

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

Costs of Compliance

This AD will affect about 27 airplanes of U.S. registry. The required actions will take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $5,265 or $195 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–14–01 Airbus: Amendment 39–14672. Docket No. FAA–2005–22524; Directorate Identifier 2005–NM–135–AD.

Effective Date

(a) This AD becomes effective August 9, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, –213, –311, –312, and –313 airplanes; and Model A340–541 and –642 airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report that an emergency escape slide/slide raft (referred to hereafter as a ''slide/raft'') failed to deploy properly during a deployment test. We are issuing this AD to detect and correct improper routing of the electrical harnesses of certain slide/rafts, which could prevent proper deployment of the slide/raft and delay evacuation of passengers and flightcrew during an emergency.

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.

Inspections and Corrective Actions

(f) Within 1,700 flight hours after the effective date of this AD: Inspect certain crew/passenger doors as required by paragraph (f)(1) or (f)(2), as applicable, of this AD to determine if slide/rafts having certain part numbers (P/Ns) are installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the presence of the subject slide/rafts can be conclusively determined from that review.

(1) For Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes and Model A340–211, –212, –213, –311, –312, and –313 airplanes: On both right- and left-hand sides, inspect to determine the P/N of the slide/rafts of crew/passenger doors 1 and 4, and—only if it is a type 1 door—crew/passenger door 3. If crew/passenger door 3 is not a type 1 door, it is not subject to any requirement of this AD.

(i) If a slide/raft does not have P/N 7A1508–( ) or 7A1509–( ), no further action is required for that slide/raft by this paragraph.

(ii) If a slide/raft has P/N 7A1508–( ) or 7A1509–( ), within 1,700 flight hours after the effective date of this AD, perform a general visual inspection of the electrical harness of that slide/raft and reroute the harness, as applicable, in accordance with paragraphs 4.2 through 4.2.4 of Airbus All Operators Telex (AOT) A330–25A3272, Revision 02; or Airbus AOT A340–25A4259, Revision 02, both dated June 1, 2005, as applicable.

(2) For Model A340–541 and –642 airplanes: On both right- and left-hand sides, inspect to determine the P/N of the slide/rafts of crew/passenger doors 1 and 4.

(i) If a slide/raft does not have P/N 7A1508–( ), no further action is required for that slide/raft by this paragraph.

(ii) If a slide/raft has P/N 7A1508–( ), within 1,700 flight hours after the effective date of this AD, perform a general visual inspection of the electrical harness of that slide/raft and reroute the harness, as applicable, in accordance with paragraphs 4.2 through 4.2.4 of Airbus AOT A340–25A5091, Revision 02, dated June 1, 2005.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Actions Accomplished According to Previous Issues of AOTs

(g) Actions accomplished before the effective date of this AD in accordance with the Airbus AOTs listed in Table 1 of this AD, as applicable, are considered acceptable for compliance with the corresponding actions specified in paragraph (f) of this AD.

TABLE 1.—PREVIOUS ISSUES OF AOTS

Airbus AOT	Revision level	Date
A330–25A3272 [1]	Original	March 17, 2005.
A330–25A3272–2005 [1]	01	March 24, 2005.
A340–25A4259 [2]	Original	March 17, 2005.
A340–25A4259–2005 [2]	01	March 24, 2005.
A340–25A5091 [3]	Original	March 17, 2005.
A340–25A5091–2005 [3]	01	March 24, 2005.

[1] For Model A330–200 and –300 series airplanes.
[2] For Model A340–200 and –300 series airplanes.
[3] For Model A340–541 and –642 airplanes.

Parts Installation

(h) After the effective date of this AD, no person may install any slide/raft having P/N 7A1508–( ) or 7A1509–( ) on any airplane unless the electrical harness of that slide/raft is determined to be properly routed in accordance with the requirements of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(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 14 CFR 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

(j) French airworthiness directive F–2005–077, dated May 11, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use the service information specified in Table 2 of this AD, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Airbus All Operators Telex	Revision level	Date
A330–25A3272	02	June 1, 2005.
A340–25A4259	02	June 1, 2005.
A340–25A5091	02	June 1, 2005.

The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5944 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–247–AD; Amendment 39–14673; AD 2006–14–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200 and A330–300 Series Airplanes, and Airbus Model A340–200 and A340–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330–200 and A330–300 series airplanes; and Airbus Model A340–200 and A340–300 series airplanes. This AD requires lubrication of the upper and lower shortening mechanism (SM) link of the main landing gear, and consequent detection of resistance or blockage of the greaseway. Depending upon the resistance finding and upon whether or not the airplane has a certain modification, this AD also requires various other actions including unblocking the greaseway; accomplishing all necessary repairs; performing various inspections; and accomplishing the eventual replacement of the SM8 pin, if necessary. This action is necessary to prevent failure of the landing gear lengthening system, which could result in reduced controllability of the airplane on the ground during landing. This action is intended to address the identified unsafe condition.

DATES: Effective August 9, 2006.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 9, 2006.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A330 series airplanes; Airbus Model A340–300 series airplanes; and Airbus Model A340–541 airplanes was published in the **Federal Register** on April 1, 2004 (69 FR 17088). That action proposed to require lubrication of the upper and lower shortening mechanism (SM) link of the main landing gear, and consequent detection of resistance or blockage of the greaseway. Depending upon the resistance finding and upon whether or not the airplane has a certain modification, that action also proposed to require various other actions including unblocking the greaseway; accomplishing all necessary repairs; performing various inspections; and accomplishing the eventual replacement of the SM8 pin, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed AD

US Airways expresses support for the proposed AD. Northwest Airlines notes that it does not operate any airplanes affected by the proposed AD.

Request To Remove Certain Airplanes From Applicability

Airbus notes that the applicability of the proposed AD should not include Airbus Model A340–541 airplanes. Airbus states that Model A340–541 airplanes do not have SM8 pins that are affected by the actions in this proposed AD.

We agree. Airbus Model A340–541 airplanes are not included in either the French airworthiness directives or the all-operators telexes (AOTs) that are referenced in the proposed AD. We included the Airbus Model A340–541 inadvertently in our proposed AD. We have revised the final rule to exclude this airplane model.

Request To Revise Compliance Time in Paragraph (e)(1) of the Proposed AD

Airbus also observes that the proposed AD includes in paragraph (e)(1) the requirement to make all necessary repairs and unblock any blocked greaseway ‘‘before further flight.’’ Airbus suggests that we may have misunderstood the intent of the French airworthiness directives and the AOTs, and requests that we change this compliance time to agree with the time in those documents. Instead of ‘‘before further flight,’’ Airbus states that the compliance time should be ‘‘within 700 flight hours.’’

We agree. We have changed paragraph (e)(1) of the final rule to state that operators should comply with the actions in that paragraph ‘‘within 700 flight hours after the general visual inspection’’ rather than ‘‘before further flight.’’ We have determined that extending the compliance time will not adversely affect safety.

Requests To Revise Compliance Time in Paragraph (e)(2) of the Proposed AD

Air Transportation Association, on behalf of U.S. Airways, expresses concern over the facilities needed to perform the ‘‘tall’’ airplane jacking that must be done to accomplish the SM8 pin replacement. U.S. Airways notes that this jacking procedure must be accomplished indoors and requires equipment and a facility capable of handling the abnormal jacking height. U.S. Airways recommends that we revise paragraph (e)(2) of the proposed AD to allow 180 flight cycles for operators to plan for the pin replacement after a finding in accordance with paragraph (e) of the proposed AD. ATA supports the observation and recommends that we adopt U.S. Airways' recommendation.

We partially agree. We agree with the commenters that a grace period should be added. We disagree with the proposed 180 flight cycles. Instead, we have changed paragraph (e)(2) of the final rule to require that the actions in paragraph (e)(2) be performed ‘‘within 20 flight cycles after the general visual inspection’’ to match the intent of the

French airworthiness directives and the AOTs.

Explanation of Further Changes to Applicability

We have revised the applicability of the proposed AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

We also have made minor editorial changes to clarify the applicability and paragraph (b)(1) of this AD, as follows. We changed the phrases ''original Airworthiness Certificate'' to ''original French standard Airworthiness Certificate,'' and ''Export Certificate of Airworthiness'' to ''original Export Certificate of Airworthiness. We also removed an unnecessary phrase, ''whichever occurs later,'' from the applicability. In addition, we revised paragraph (b)(1) of this AD to remove an unnecessary phrase—''whichever occurs first.''

Furthermore, we inadvertently excluded Airbus Model A340–200 series airplanes from the applicability of the NPRM. Both French airworthiness directive 2002–265(B) R2, dated January 8, 2003, and Airbus AOT 323A4189, dated March 26, 2002, are applicable to both A340–200 and A340–300 series airplanes. Since there are no affected A340–200 series airplanes on the U.S. register, we find that this correction does not expand the scope of the NPRM. We have revised the final rule to include the Model A340–200 series airplanes.

Clarification of Editorial Changes to AD

We have clarified paragraphs (b), (c), (e), and (f) of the AD to reference specific paragraphs of the AOT that are necessary for accomplishing the specified actions.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

After careful review of the available data, including the comments noted above, we have determined that air safety and the public interest require the adoption of the rule with the changes previously described. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

We estimate that 9 Model A330 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the proposed lubrication, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $585, or $65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Currently, there are no affected Model A340 airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, it would take approximately 1 work hour per airplane to accomplish the proposed lubrication at an average labor rate of $65 per work hour. Based on these figures, we estimate the cost of the lubrication required by this AD for these airplanes to be $65 per airplane.

Authority for this Rulemaking

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

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2006–14–02 Airbus: Amendment 39–14673. Docket 2002–NM–247–AD.

Applicability: Model A330–201, –202, –203, –223, –243, –301, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213, –311, –312, and –313 airplanes, certificated in any category; having a date of issuance of the original French standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness of May 24, 2002, or earlier.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the landing gear lengthening system, which could result in reduced controllability of the airplane on the ground during landing, accomplish the following:

All Operators Telex Reference

(a) The term ''all operators telex,'' or ''AOT,'' as used in this AD, means the Short-

Term Action section of the following AOTs, as applicable:

(1) For Model A330–201, –202, –203, –223, –243, –301, –321, –322, –323, –341, –342, and –343 airplanes: Airbus A330 AOT 32A3151, dated March 26, 2002; and

(2) For Model A340–211, –212, –213, –311, –312, and –313 airplanes: Airbus A340 AOT 32A4189, dated March 26, 2002.

Lubrication

(b) At the later of the compliance times in paragraphs (b)(1) and (b)(2) of this AD: Lubricate the upper and lower shortening mechanism (SM) link of the main landing gear in accordance with paragraph 4.2.1 of the applicable AOT.

(1) Within 6 months after the date of issuance of the original French standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness.

(2) Within 700 flight hours or 60 days after the effective date of this AD, whichever occurs first.

(c) If, during the lubrication required by paragraph (b) of this AD, any corrective actions are required, do paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) If Airbus Modification 46904 has been accomplished, the corrective actions must be performed in accordance with paragraphs 4.2.2 and 4.3 of the applicable AOT.

(2) If Airbus Modification 46904 has not been accomplished, do the applicable inspection and all necessary corrective actions in accordance with paragraph 4.3 of the applicable AOT.

(d) If, during the lubrication required by paragraph (b) of this AD, there is noticeable resistance or blockage of the greaseway: Before further flight, do the applicable inspection and all necessary corrective actions in paragraphs (e) and (f) of this AD.

Inspections and Corrective Action

(e) For airplanes on which Airbus Modification 46904 has been incorporated that have a discrepant greaseway per paragraph (d) of this AD; and for airplanes on which Airbus Modification 46904 has not been incorporated that do not have a discrepant greaseway: Before further flight following the lubrication required by paragraph (b) of this AD, do a general visual inspection for clearance of the end caps of the SM8 pin, and the presence of the split pin, the nut, the end caps, and the bolts; in accordance with paragraph 4.2.2 of the applicable AOT.

(1) If the combined gap of both end caps to the outer flanges of the bushes in the lower SM is less than 0.75 mm: Within 700 flight hours after the general visual inspection, make all necessary repairs and unblock any blocked greaseway, in accordance with paragraphs 4.2.2 and 4.3 of the applicable AOT.

(2) If the inspection required by paragraph (e) of this AD reveals a migration of the SM8 pin end caps to a gap of 0.75 mm to 3.0 mm: Within 20 flight cycles after the general visual inspection, unblock any blocked greaseway in accordance with paragraph 4.3 of the applicable AOT, and repeat the inspection required by paragraph (e) of this AD at intervals not to exceed 20 flight cycles until the action in paragraph (e)(3) is accomplished.

(3) If the inspection required by paragraph (e) of this AD reveals a migration of the SM8 pin end caps to a gap of 3.0 mm or greater: Before further flight, remove the SM8 pin, and perform a general visual inspection of the SM upper link, SM lower link, and SM8 pin for damage or blockage, and make all necessary repairs before further flight in accordance with paragraph 4.3 of the applicable AOT.

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop light and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Detailed Inspections and Corrective Actions

(f) If no noticeable resistance or blockage of the greaseway is noted during the lubrication required by paragraph (b) of this AD: Within 700 flight hours after the effective date of this AD, do a detailed inspection of the SM8 pin for damage or corrosion; unblock any blocked greaseway; and replace any damaged or corroded pin with a new part; in accordance with paragraph 4.2.2 of the applicable AOT.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

No Reporting Requirements

(g) Although the AOTs referenced in this AD specify to report inspection results to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance

(h)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

(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.

Note 3: The subject of this AD is addressed in French airworthiness directives 2002–262(B) R1, and 2002–265(B) R2, both dated January 8, 2003.

Incorporation by Reference

(i) Unless otherwise specified in this AD, the actions must be done in accordance with Airbus A330 All Operators Telex 32A3151, dated March 26, 2002; and Airbus A340 All Operators Telex 32A4189, dated March 26, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of this service information, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(j) This amendment becomes effective on August 9, 2006.

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

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5943 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30501; Amdt. No. 3173]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 5, 2006. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 5, 2006.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave., SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to title 14, Code of Federal Regulations, part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on June 16, 2006.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, title 14, Code of Federal Regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
05/01/06	DC	Washington	Ronald Reagan Washington National	6/6582	COPTER ILS 007, Orig-A.
06/03/06	LA	Alexandria	Alexandria Intl	6/8811	RNAV (GPS) Rwy 18, Orig.

FDC date	State	City	Airport	FDC No.	Subject
06/03/06	LA	Alexandria	Alexandria Intl	6/8812	VOR/DME Rwy 32, Orig.
06/05/06	MI	Davison	Athelone Williams Memorial	6/8856	RNAV (GPS) Rwy 8, Orig.
06/05/06	MI	Davison	Athelone Williams Memorial	6/8857	VOR Rwy 8, Orig.
06/05/06	MI	Davison	Athelone Williams Memorial	6/8858	RNAV (GPS) Rwy 26, Orig.
06/05/06	CA	Long Beach	Long Beach/Daugherty Field	6/8881	ILS Rwy 30, Amdt 32B.
06/05/06	OH	Medina	Medina Muni	6/8899	VOR Rwy 27, Amdt 2.
06/09/06	MA	Norwood	Norwood Memorial	6/9367	RNAV (GPS) Rwy 35, Amdt 1.
06/09/06	IA	Newton	Newton Muni	6/9381	ILS Rwy 32, Amdt 1C.
06/09/06	TX	Mesquite	Mesquite Metro	6/9406	LOC BC Rwy 35 Amdt 2A.
6/10/06	MO	Cape Girardeau	Cape Girardeau Regional	6/9428	VOR Rwy 10, Amdt 2A.
6/10/06	MO	Cape Girardeau	Cape Girardeau Regional	6/9429	LOC/DME BC Rwy 28, Amdt 6A.
06/13/06	CO	Eagle County Regional	Eagle	6/9602	LDA/DME Rwy 25, Orig.
06/13/06	MO	Kaiser/Lake Ozark	Lee C Fine Memorial	6/9672	LOC/DME Rwy 21, Amdt 1B.
06/13/06	FL	Kendall-Tamiami Executive	Miami	6/9689	RNAV (GPS) Rwy 9R, Orig.
06/14/06	MI	Detroit	Willow Run	6/9833	RNAV (GPS) Rwy 23L, Orig.
06/14/06	NY	New York	LA Guardia	6/9835	ILS Rwy 22, Amdt 19.
06/14/06	MI	Detroit	Willow Run	6/9838	RNAV (GPS) Rwy 23R, Orig.

[FR Doc. 06–5637 Filed 7–3–06; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM95–4–000]

Revisions to Uniform System of Accounts, Forms, Statements and Reporting Requirements for Natural Gas Companies; Correction

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to a final rule (RM95–4–000) that the Federal Energy Regulatory Commission published in the **Federal Register** on October 11, 1995 (60 FR 53020). That action amended the Commission's Uniform System of Accounts.

DATES: *Effective Date:* July 5, 2006.

FOR FURTHER INFORMATION CONTACT: Sandra J. Delude, Federal Energy Regulatory Commission, (202) 502–8583.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections amended the Commission's Uniform System of Accounts, its forms, and its reports and statements for natural gas companies.

Need for Correction

As published, the final regulations contain an error which is misleading and needs to be clarified.

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

■ Accordingly, 18 CFR part 284 is corrected by making the following correcting amendment:

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

■ 1. The authority citation for part 284 continues to read as follows:

Authority: 18 U.S.C. 717–717w, 3301–3432, 42 U.S.C. 7201–7352; 43 U.S.C 1331–1356.

§ 284.126 [Amended]

■ 2. In § 284.126, paragraph (d) is removed.

Magalie R. Salas,
Secretary.

[FR Doc. E6–10468 Filed 7–3–06; 8:45 am]
BILLING CODE 6717–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

RIN 0960–AE89

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income; Collection of Overdue Program and Administrative Debts Using Federal Salary Offset

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: The proposed rules published in the **Federal Register** on March 13, 2006 at 71 FR 12648, are adopted as final with no changes. These regulations modify our regulations dealing with the recovery of benefit overpayments under titles II and XVI of the Social Security Act (the Act), as well as recovery of administrative debts owed to us. Specifically, we are modifying our regulations to implement statutory authority for the use of Federal Salary Offset (FSO). FSO is a process whereby the salary-paying agency withholds and pays to us up to 15 percent of the debtor's disposable pay until the debt has been repaid. In the case of title II program overpayment debts, we would apply FSO to collect only overpayments made to a person after he or she attained age 18, and we would pursue FSO after that person ceases to be a beneficiary and we determine that the overpayment is otherwise unrecoverable under section 204 of the Act. In the case of title XVI program overpayment debts, these same restrictions apply, but we must determine the overpayment to be otherwise unrecoverable under section 1631(b) of the Act, rather than section

204 of the Act. FSO is only applicable if the debtor is a Federal employee.

DATES: These regulations are effective August 4, 2006.

FOR FURTHER INFORMATION CONTACT: Suzanne DiMarino, Social Insurance Specialist, Office of Regulations, Social Security Administration, Room 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1769, or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

Background

Section 204 of the Act prescribes many of the methods that we may use to recover Social Security benefits overpaid under title II of the Act (title II program overpayments), as distinguished from the methods that we may use to collect administrative debts owed the agency that are recoverable under other statutory authority. Until 1994, we were authorized to recover title II program overpayments only by adjusting future title II benefits payable to the overpaid individual or to others on the earnings record on which the overpayment was made, by direct recovery from the overpaid person (or the overpaid person's estate, if deceased), or by offset against Federal income tax refunds due from the Department of the Treasury. Amendments to section 204 of the Act and other statutes by section 5 of Public Law 103–387 (1994) and section 31001(z)(2) of Public Law 104–134 (1996) permit us to use several debt collection procedures that have been available to other Federal agencies by statute since 1982, but that we had been precluded from using to recover title II program overpayments. Among other things, these procedures include recovering debts by FSO under 5 U.S.C. 5514 and by offset under 31 U.S.C. 3716 against other Federal payments to which the debtor is entitled. Under section 204(f) of the Act (42 U.S.C. 404(f)), these additional debt collection procedures may be used to recover title II program overpayments only if the overpayment was made to a person after he or she attained age 18 and the overpayment has been determined to be otherwise unrecoverable under section 204 of the Act after the overpaid person ceases to be a beneficiary under title II of the Act.

Section 1631(b) of the Act prescribes many of the methods we may use to recover supplemental security income (SSI) overpayments that occur under title XVI of the Act. Until enactment of Public Law 106–169 on December 14, 1999, we were not authorized to use certain methods found in 31 U.S.C. Chapter 37 and 5 U.S.C. 5514 to recover SSI overpayments. Section 203 of Public Law 106–169 amended section 1631(b) of the Act to permit recovery of SSI overpayments using several of the debt management practices that have been available for the recovery of title II program overpayments. Among other things, these practices include using FSO to recover debts. Under section 1631(b)(4)(B) of the Act, these additional methods may be used only if the SSI overpayment was made to a person after he or she attained age 18 and the overpayment has been determined to be otherwise unrecoverable under section 1631(b) of the Act after the overpaid person ceases to be a beneficiary under title XVI of the Act.

For both title II and title XVI program overpayments, FSO is only applicable if the debtor is a Federal employee.

Before we can begin to use FSO to recover debts, we must issue regulations that comply with standards prescribed in the regulations of the Office of Personnel Management (OPM). See 5 U.S.C. 5514(b) and 5 CFR 550.1104. The Department of the Treasury administers FSO as part of the Treasury Offset Program, the Government-wide process for offsetting Federal payments to collect delinquent debts owed by debtors to the Federal Government. (See 31 CFR 285.7) Our current regulations at 20 CFR part 422, subpart D, address the procedures required for participation in the Treasury Offset Program. We are amending appropriate sections of those regulations to comply with the standards prescribed in the OPM regulations and make other changes.

Explanation of Changes

Subject to certain exceptions, 5 U.S.C. 5514(a) requires us to do the following before initiating FSO to collect a debt that a Federal employee owes:

- Send written notice to the debtor at least 30 days before taking FSO action explaining the nature and amount of the debt, our intention to collect by deduction from Federal pay, and the debtor's rights described below;
- Give the debtor an opportunity to inspect and copy our records relating to the debt;
- Give the debtor an opportunity to enter into a written agreement with us establishing a repayment schedule; and
- Give the debtor the opportunity for a hearing on the existence and amount of the debt and any payment schedule mentioned in the notice. According to 5 U.S.C. 5514(a)(2), the hearing must be conducted by a person who is not under the supervision or control of the Commissioner of Social Security or by an administrative law judge.

The OPM regulations on FSO impose these and several additional requirements. Our current regulations on administrative offset against Federal payments due the debtor already reflect many of the requirements of 5 U.S.C. 5514 and the OPM regulations. We are revising 20 CFR 422.301, 422.310 and 422.317 so that our regulations permit the use of FSO and meet the requirements of the statute and OPM standards and to make other changes as set forth below. In addition, we are adding a new section 20 CFR 422.303 to meet OPM standards.

Clarifying the Scope of 20 CFR Part 422, Subpart D

We are revising § 422.301(a) and (b), adding a new paragraph (c) and deleting information from § 422.306(b) to clarify that subpart D of part 422 does not apply to administrative debts incurred by our employees, including overpayments of pay and allowances. As authorized by section 106(b) of Public Law 103–296, we have applied the rules of the Department of Health and Human Services in 45 CFR part 30 that were in effect immediately before March 31, 1995. The rules in 45 CFR part 30 allow us to collect administrative debts owed by our employees by withholding money payable to our employees by the U.S. Government. Amounts available for such withholding include the Federal salaries of our employee/debtors. For this reason, the current provisions in subpart D of 20 CFR part 404 on Treasury offset and the FSO provisions described in these final rules do not apply to administrative debts owed by our employees.

Restrictions on the Use of FSO

In § 422.301(c), we explain that we will not use FSO to recover an employee's debt while:

- The employee's title II disability benefits are stopped during the reentitlement period, under 20 CFR 404.1592a(a)(2) of this chapter;
- The employee's Medicare entitlement is continued because the individual is deemed to be entitled to

title II disability benefits under section 226(b) of the Social Security Act; or

• The employee is participating in the Ticket to Work and Self-Sufficiency Program and the ticket is in use as described in 20 CFR 411.170 through 411.225.

Charging Interest, Late Payment Penalties, and Administrative Costs When Authorized by SSA Regulations

OPM regulations require that our regulations on FSO contain a provision about charging the debtor with interest, late payment penalties, and administrative costs of collection on the delinquent debt pursuant to 31 U.S.C. 3717. See 5 CFR 550.1104(n). We are authorized, but are not required, to impose these charges on a debtor. See 42 U.S.C. 404(f) and 1383(b)(4). In order to comply with 5 CFR 550.1104(n), we are adding § 422.303 to subpart D. This new section provides that we will impose these charges when authorized by specific regulations that we will issue in accordance with the Federal Claims Collection Standards (FCCS) at 31 CFR 901.9.

Notice and Procedures for Initiating FSO

In § 422.310, we describe generally the procedures we use to initiate recovery of debts under the Treasury Offset Program and the notice required before we initiate recovery. Paragraph (a)(1) states that, if the debtor is a Federal employee, we will recover overdue debts through this program by reducing the debtor's Federal ''disposable pay,'' defined in 5 CFR 550.1103, and that such action is called ''Federal salary offset'' in part 422, subpart D. Paragraph (a)(2) states that we will use FSO to collect overdue program debts from our employees and overdue program and administrative debts from employees of other Federal agencies.

We are deleting the specific dollar amount in current § 422.310 (b) to allow more flexibility in the regulation to accommodate changes in the dollar threshold amount as required by the Treasury. Currently, the minimum dollar threshold amount for FSO is $100.

Paragraph (c) of § 422.310 describes the written notice requirements for initiating recovery under the Treasury Offset Program. We are revising the paragraph to include provisions required for FSO. The notice explains the nature and amount of the debt, our determination that the debt is overdue, our intention to refer the debt for administrative offset (including FSO if the debtor is a Federal employee), and the frequency and amount of any FSO deduction. The notice also explains that the debtor has the following rights:

• To inspect and copy our records relating to the debt;

• To request review of the existence or amount of the debt or our right to collect it and any payment schedule for FSO stated in the notice; and

• To request an installment payment plan.

The notice also informs the debtor that we will refer the debt to the Department of the Treasury for administrative offset at the expiration of 60 calendar days after the date of the notice unless, within that period, the debtor pays the full amount of the debt, requests review of the debt or the FSO payment schedule stated in the notice, or requests an installment payment plan. Finally, the notice advises that, if the debtor furnishes false or frivolous statements, representations, or evidence, the debtor may be subject to civil or criminal penalties and (if the debtor is a Federal employee) appropriate disciplinary actions.

We are adding paragraph (c)(9), which explains that we will refer the debt for FSO at the expiration of not less than 30 calendar days after the date of the notice in accordance with 5 U.S.C. 5514(a), unless the debtor takes the action described above within that period.

We are adding paragraph (d) to § 422.310 to address the amount, frequency and duration of FSO deductions and hearing request timeframes. This new paragraph explains that deductions from a debtor's Federal salary will not exceed 15% of the debtor's disposable pay every payday. FSO will begin no sooner than the first payday following 30 calendar days after the date of the notice to the debtor and will continue until we recover the full amount of the debt, the debt is otherwise resolved, or the debtor ceases to be a Federal employee, whichever occurs first.

We are adding paragraph (e) to § 422.310 regarding refunds. Paragraph (e) explains that we will promptly refund to the debtor any amounts collected that the debtor does not owe. Such refunds will not bear interest unless required or permitted by law or contract.

Procedures for Conducting the Review (Hearing) on the Validity and Amount of the Debt and the Repayment Schedule for FSO

Section 422.317 addresses our procedures for reviewing the debt when requested by the debtor. Under new paragraph (a), a debtor who receives the notice under §§ 422.305(b), 422.306(b), or 422.310(c) has the right to have a review (a hearing) on the validity and amount of the debt described in the notice and the payment schedule for FSO stated in the notice. The debtor must notify us that he or she wants such review and give us evidence that he or she does not owe all or part of the debt, or that we do not have the right to collect it.

We explain in new paragraph (a)(1) that, if the debtor requests review and gives us evidence within 60 calendar days from the date of our notice (except as provided in new paragraph (a)(3) for FSO), we will not take any action described in our notice until we consider all of the evidence and send the debtor our findings that all or part of the debt is overdue and legally enforceable. A similar explanation is deleted from current paragraph (b) of § 422.317.

Under new paragraph (a)(2), if the debtor does not notify us and give us evidence within 60 calendar days from the date of our notice (except as provided in new paragraph (a)(4) for FSO), we will conduct the review, but we may take the action described in the notice (refer information on the debt for offset against Federal payments or refer information about the debt to consumer reporting agencies or credit reporting agencies).

New paragraph (a)(3) explains that, if the debtor is a Federal employee who requests review and gives us evidence within 30 calendar days from the date of our notice, we will not take any FSO action described in our notice until we consider all of the evidence and send the debtor our findings that all or part of the debt is overdue and legally enforceable and (when appropriate) our findings on the FSO payment schedule.

Under new paragraph (a)(4), if the debtor does not notify us and give us evidence within 30 calendar days from the date of our notice regarding FSO, the review will occur, but we may take the FSO action described in the notice.

We are revising paragraphs (a) and (b) of § 422.317 to allow an exception when the debtor has good cause for failing to request review within the 60-day period described in paragraph (a)(1) or the 30-day period described in paragraph (a)(3). If the debtor has good cause for making the request late, we will treat the request as received within the prescribed period. Thus, if the debtor requests review late, but has good cause, we will not take any action (or we will stop any action we had initiated) while our decision on the request is pending. New paragraphs (a)(2) and (a)(4) provide that if the debtor does not notify us and give us evidence within the prescribed period and does not have good cause for failing to request review on time, we will conduct the review, but we may initiate any action described in our notice without further delay.

Under § 422.317(b), we will determine good cause under the rules in § 422.410(b)(1) and (2) of subpart E, part 422, the regulations on administrative wage garnishment. In determining whether the debtor had good cause, we will consider: any circumstances that kept the debtor from making the request on time; whether our action misled the debtor; whether the debtor had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) that prevented the debtor from making a request on time or from understanding the need to make a request on time.

As revised by these final rules, paragraph (c) of § 422.317 will generally describe our review (hearing) process. The review will cover our records pertaining to the debt and all of the evidence and statements presented by the debtor.

We are adding a new paragraph (d) to § 422.317 that provides special rules on the conduct of the review when we would use FSO. The review available to the debtor under revised § 422.317 will satisfy the requirement in 5 U.S.C. 5514(a)(2) that, before we begin to collect a debt by FSO, we must provide the debtor with the opportunity for a hearing concerning the existence and amount of the debt and the terms of the repayment schedule stated in the notice. The following special rules apply to the conduct of the review:

- An official designated in accordance with 5 U.S.C. 5514(a)(2) will conduct the review requested by a Federal employee who is subject to FSO.
- The Federal employee's request for review must be written and be signed by that employee, must explain with reasonable specificity the facts and evidence that support the employee's position, and must identify any witnesses.
- When reviewing the payment schedule for FSO, the reviewing official will apply the rules regarding financial hardship in § 422.415 (b), (c), and (d) of subpart E, part 422, the regulations on administrative wage garnishment.
- The reviewing official will review our records on the debt and any evidence and written statements submitted by the debtor and would issue the final decision.
- The reviewing official will complete the review within 60 calendar days from the date on which we receive the request for review and the debtor's evidence. If the reviewing official does not make a decision on the request within that 60-day period and the debt was referred to the Department of the Treasury for FSO (e.g., when the request was received late), we will notify the Department of the Treasury to suspend FSO. Offset will not begin or resume before we send the debtor the findings that all or part of the debt is overdue and legally enforceable or (if appropriate) the findings on the payment schedule.

The OPM regulations provide that the proper content and form of the hearing required by 5 U.S.C. 5514(a)(2) depend on the nature of the matter under which the debt arose and that we must consult the Federal Claims Collection Standards (FCCS) for guidance. 5 CFR 550.1104(g)(2). Our current regulations provide an administrative appeal process for the debtor on our original determination of indebtedness, including the opportunity for an oral hearing conducted by an administrative law judge. (See 20 CFR part 404, subpart J & part 416, subpart N). This appeal process will be available to the debtor before we initiate the process for using FSO, described in § 422.310, or any other action described in 20 CFR part 422, subpart D. The appeal process for the determination of indebtedness is available to resolve any issue pertaining to that determination, including credibility or veracity, for which an oral hearing would be appropriate.

The review process for FSO described in § 422.317 affords the debtor a ''paper hearing'' on issues pertaining to the current status of the debt and the terms of repayment stated in the notice described in § 422.310. We believe that review of written evidence and statements will be adequate and appropriate to resolve those issues. We have determined that the combination of the administrative appeal process available on the original determination of indebtedness and the hearing afforded by the review of documents and written statements described in our final regulations meet the requirements of the applicable provisions in the FCCS. (See 31 CFR 901.3(b)(4)(iv), (e)).

The provisions regarding the review findings, currently in paragraph (c) of § 422.317, appear in new paragraph (e). Issuing the review findings is our final action on the debtor's request for review. We are revising the current provisions to clarify the actions we take based on the findings, particularly where FSO is involved. If the debtor requested review of the payment schedule for FSO, the written findings will cover that matter. If the reviewing official finds that the payment schedule will cause financial hardship, we will notify the debtor and the Department of the Treasury of the revised payment schedule. If we already initiated FSO, but the reviewing official finds that the individual does not owe the debt, the debt is not overdue, or we do not have the right to collect it, we will cancel that action and refund any amounts collected that the debtor does not owe or that we do not have the right to collect.

Comments on the Notice of Proposed Rulemaking

On March 13, 2006, we published the Notice of Proposed Rulemaking (NPRM) in the **Federal Register** at 71 FR 12648 and provided the public a 60-day comment period that ended on May 12, 2006. We received no comments. Therefore, we are publishing these final rules unchanged.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, OMB reviewed them.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These final rules contain information collection activities at §§ 422.310 and 422.317. However, the activities are exempt from the Paperwork Reduction Act as administrative actions under 44 U.S.C. 3518(c)(1)(B)(ii) and from the clearance requirements of 44 U.S.C. 3507 as amended by section 2 of Public Law 104–13 (May 22, 1995), the Paperwork Reduction Act of 1995.

(Catalog of Federal Domestic Assistance Programs No. 96.001, Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 422

Administrative practice and procedure, Organization and functions (Government agencies), Social Security.

Dated: June 19, 2006.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set forth in the preamble, we are amending subpart D of part 422 of Chapter III of Title 20 of the Code of Federal Regulations as follows:

PART 422—[AMENDED]

■ 1. The authority citation for subpart D of part 422 is revised to read as follows:

Authority: Secs. 204(f), 205(a), 702(a)(5), and 1631(b) of the Social Security Act (42 U.S.C. 404(f), 405(a), 902(a)(5), and 1383(b)); 5 U.S.C. 5514; 31 U.S.C. 3711(e); 31 U.S.C. 3716.

■ 2. Section 422.301 is revised to read as follows:

§ 422.301 Scope of this subpart.

(a) Except as provided in paragraphs (b) and (c) of this section, this subpart describes the procedures relating to collection of:

(1) Overdue administrative debts, and

(2) Overdue program overpayments described in §§ 404.527 and 416.590 of this chapter.

(b) This subpart does not apply to administrative debts owed by employees of the Social Security Administration, including, but not limited to, overpayment of pay and allowances.

(c) The following exceptions apply only to Federal salary offset as described in § 422.310(a)(1).

(1) We will not use this subpart to collect a debt while the debtor's disability benefits are stopped during the reentitlement period, under § 404.1592a(a)(2) of this chapter, because the debtor is engaging in substantial gainful activity.

(2) We will not use this subpart to collect a debt while the debtor's Medicare entitlement is continued because the debtor is deemed to be entitled to disability benefits under section 226(b) of the Social Security Act (42 U.S.C. 426(b)).

(3) We will not use this subpart to collect a debt if the debtor has decided to participate in the Ticket to Work and Self-Sufficiency Program and the debtor's ticket is in use as described in §§ 411.170 through 411.225 of this chapter.

■ 3. Section 422.303 is added to read as follows:

§ 422.303 Interest, late payment penalties, and administrative costs of collection.

We may charge the debtor with interest, late payment penalties, and our costs of collection on delinquent debts covered by this subpart when authorized by our regulations issued in accordance with the Federal Claims Collection Standards (31 CFR 901.9).

§ 422.306 [Amended]

■ 4. Paragraph (a) of § 422.306 is amended by removing ''overpayments of pay and allowances paid to employees,'' from the second sentence.

■ 5. Section 422.310 is revised to read as follows:

§ 422.310 Collection of overdue debts by administrative offset.

(a) *Referral to the Department of the Treasury for offset.*

(1) We will recover overdue debts by offsetting Federal payments due the debtor through the Treasury Offset Program (TOP). TOP is a Government-wide delinquent debt matching and payment offset process operated by the Department of the Treasury, whereby debts owed to the Federal Government are collected by offsetting them against Federal payments owed the debtor. Federal payments owed the debtor include current ''disposable pay,'' defined in 5 CFR 550.1103, owed by the Federal Government to a debtor who is an employee of the Federal Government. Deducting from such disposable pay to collect an overdue debt owed by the employee is called ''Federal salary offset'' in this subpart.

(2) Except as provided in paragraphs (b) and (c) of § 422.301, we will use Federal salary offset to collect overdue debts from Federal employees, including employees of the Social Security Administration. A Federal employee's involuntary payment of all or part of a debt collected by Federal salary offset does not amount to a waiver of any rights which the employee may have under any statute or contract, unless a statute or contract provides for waiver of such rights.

(b) *Debts we will refer.* We will refer for administrative offset all qualifying debts that meet or exceed the threshold amounts used by the Department of the Treasury for collection from Federal payments, including Federal salaries.

(c) *Notice to debtor.* Before we refer any debt for collection by administrative offset, we will send the debtor written notice that explains all of the following:

(1) The nature and amount of the debt.

(2) We have determined that payment of the debt is overdue.

(3) We will refer the debt for administrative offset (except as provided in paragraph (c)(9) of this section) at the expiration of not less than 60 calendar days after the date of the notice unless, within that 60-day period:

(i) The debtor pays the full amount of the debt, or

(ii) The debtor takes any of the actions described in paragraphs (c)(6) or (c)(7) of this section.

(4) The frequency and amount of any Federal salary offset deduction (the payment schedule) expressed as a fixed dollar amount or percentage of disposable pay.

(5) The debtor may inspect or copy our records relating to the debt. If the debtor or his or her representative cannot personally inspect the records, the debtor may request and receive a copy of such records.

(6) The debtor may request a review of the debt by giving us evidence showing that the debtor does not owe all or part of the amount of the debt or that we do not have the right to collect it. The debtor may also request review of any payment schedule for Federal salary offset stated in the notice. If the debtor is an employee of the Federal Government and Federal salary offset is proposed, an official designated in accordance with 5 U.S.C. 5514(a)(2) will conduct the review.

(7) The debtor may request to repay the debt voluntarily through an installment payment plan.

(8) If the debtor knowingly furnishes any false or frivolous statements, representations, or evidence, the debtor may be subject to:

(i) Civil or criminal penalties under applicable statutes;

(ii) Appropriate disciplinary procedures under applicable statutes or regulations, when the debtor is a Federal employee.

(9) We will refer the debt for Federal salary offset at the expiration of not less than 30 calendar days after the date of the notice unless, within that 30 day period the debtor takes any actions described in paragraphs (c)(3)(i), (c)(6) or (c)(7) of this section.

(d) *Federal salary offset: amount, frequency and duration of deductions.*

(1) We may collect the overdue debt from an employee of the Federal Government through the deduction of an amount not to exceed 15% of the debtor's current disposable pay each payday.

(2) Federal salary offset will begin no sooner than the first payday following 30 calendar days after the date of the notice to the debtor described in paragraph (c) of this section.

(3) Once begun, Federal salary offset will continue until we recover the full amount of the debt, the debt is otherwise resolved, or the debtor's Federal employment ceases, whichever occurs first.

(4) After Federal salary offset begins, the debtor may request a reduction in the amount deducted from disposable pay each payday. When we determine that the amount deducted causes financial harm under the rules in § 422.415(b), (c), and (d) of this chapter, we will reduce that amount.

(e) *Refunds.* We will promptly refund to the debtor any amounts collected that the debtor does not owe. Refunds do not bear interest unless required or permitted by law or contract.

■ 5. Section 422.317 is revised to read as follows:

§ 422.317 Review of the debt.

(a) *Notification and presentation of evidence by the debtor.* A debtor who receives a notice described in § 422.305(b), § 422.306(b), or § 422.310(c) has a right to have a review of the debt and the payment schedule for Federal salary offset stated in the notice. To exercise this right, the debtor must notify us and give us evidence that he or she does not owe all or part of the debt, or that we do not have the right to collect it, or that the payment schedule for Federal salary offset stated in the notice would cause financial hardship.

(1) If the debtor notifies us and presents evidence within 60 calendar days from the date of our notice (except as provided for Federal salary offset in paragraph (a)(3) of this section), we will not take the action described in our notice unless and until review of all of the evidence is complete and we send the debtor the findings that all or part of the debt is overdue and legally enforceable.

(2) If the debtor notifies us and presents evidence after that 60 calendar-day period expires (except as provided for Federal salary offset in paragraph (a)(4) of this section) and paragraph (b) of this section does not apply, the review will occur, but we may take the actions described in our notice without further delay.

(3) If the debtor notifies us and presents evidence within 30 calendar days from the date of our notice, we will not refer the debt for Federal salary offset unless and until review of all of the evidence is complete and we send the debtor the findings that all or part of the debt is overdue and legally enforceable and (if appropriate) the findings on the payment schedule for Federal salary offset.

(4) If the debtor notifies us and presents evidence after that 30 calendar-day period expires and paragraph (b) of this section does not apply, the review will occur, but we may refer the debt for Federal salary offset without further delay.

(b) *Good cause for failure to timely request review.*

(1) If we decide that the debtor has good cause for failing to request review within the applicable period mentioned in paragraphs (a)(1) and (a)(3) of this section, we will treat the request for review as if we received it within the applicable period.

(2) We will determine good cause under the rules in § 422.410(b)(1) and (2) of this chapter.

(c) *Review of the evidence.* The review will cover our records and any evidence and statements presented by the debtor.

(d) *Special rules regarding Federal salary offset.*

(1) When we use Federal salary offset to collect a debt owed by an employee of the Federal Government, an official designated in accordance with 5 U.S.C. 5514(a)(2) will conduct the review described in this section and will issue the findings.

(2) In addition to the requirements in paragraphs (a) and (b) of this section, the Federal employee must submit the request for review in writing. The request must

(i) Be signed by the employee,

(ii) Explain with reasonable specificity the facts and evidence that support the employee's position, and

(iii) Include the names of any witnesses.

(3) In reviewing the payment schedule described in the notice to the Federal employee, the reviewing official must apply the rules in § 422.415(b), (c), and (d) of this chapter regarding financial hardship.

(4) The reviewing official will review our records and any documents, written statements, or other evidence submitted by the debtor and issue written findings.

(5) The reviewing official will complete the review within 60 calendar days from the date on which the request for review and the debtor's evidence are received. If the reviewing official does not complete the review within that 60-day period and the debt was referred to the Department of the Treasury for Federal salary offset, we will notify the Department of the Treasury to suspend Federal salary offset. Offset will not begin or resume before we send the debtor findings that all or part of the debt is overdue and legally enforceable or (if appropriate) findings on the payment schedule.

(e) *The findings.*

(1) Following the review described in paragraphs (c) or (d) of this section, we will send the written findings to the debtor. The findings will state the nature and origin of the debt, the analysis, findings and conclusions regarding the amount and validity of the debt, and, when appropriate, the repayment schedule for Federal salary offset. Issuance of these findings will be the final action on the debtor's request for review.

(2) If the findings state that an individual does not owe the debt, or the debt is not overdue, or we do not have the right to collect it, we will not send information about the debt to consumer or other credit reporting agencies or refer the debt to the Department of the Treasury for administrative offset. If we had referred the debt to the Department of the Treasury for administrative offset, we will cancel that action. If we had informed consumer or credit reporting agencies about the debt, we will inform them of the findings.

(3) If the findings state that the payment schedule for Federal salary offset would cause financial hardship, we will notify the debtor and the Department of the Treasury of the new payment schedule.

[FR Doc. E6–10435 Filed 7–3–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Liquid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Med-Pharmex, Inc. The supplemental ANADA provides for revisions to labeling for ivermectin liquid, administered by mouth or nasogastric tube to horses for treatment and control of various internal parasites or parasitic conditions.

DATES: This rule is effective July 5, 2006.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–9808, e-mail: *john.harshman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767–1861, filed a supplement to ANADA 200–292 for IVERSOL (ivermectin) Liquid for Horses for the oral treatment and control of various species of internal parasites or parasitic conditions. The supplement provides for revisions to label indications and to the food safety warning. The supplemental ANADA is approved as of May 30, 2006, and 21 CFR 520.1195 is amended to reflect the approval.

Approval of this supplemental ANADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.1195 [Amended]

■ 2. In § 520.1195, in paragraph (b)(1) remove ''No. 050604'' and add in its place ''Nos. 050604 and 054925''; and in paragraph (b)(2) remove ''054925, 058829,'' and add in its place ''058829''.

Dated: June 22, 2006.

Steven D. Vaughn,

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

[FR Doc. E6–10444 Filed 7–3–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Vétoquinol NA, Inc. The ANADA provides for use of oxytetracycline soluble powder to prepare medicated drinking water for the treatment of various bacterial diseases of livestock.

DATES: This rule is effective July 5, 2006.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223, e-mail: *daniel.benz@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Vétoquinol NA, Inc., 2000 chemin Georges, Lavaltrie (PQ), Canada J5T 3S5, filed a supplement to ANADA 200–305 that provides for use of Oxytetracycline HCl Soluble Powder to prepare medicated drinking water for the treatment of various bacterial diseases of livestock. Vétoquinol NA, Inc.'s Oxytetracycline HCl Soluble Powder is approved as a generic copy of Alpharma, Inc.'s OXY–TET (oxytetracycline hydrochloride) Soluble approved under NADA 130–435. The ANADA is approved as of June 2, 2006, and the regulations are amended in 21 CFR 520.1660d to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.1660d [Amended]

■ 2. Amend § 520.1660d as follows:
■ a. Revise the section heading;
■ b. In paragraphs (d)(1)(ii)(A)(*3*), (d)(1)(ii)(B)(*3*), (d)(1)(ii)(C)(*3*), and (d)(1)(iii)(C), remove ''and 061133'' and add in its place ''059320, and 061133''; and
■ c. Add paragraphs (a)(10) and (b)(8).

The revisions read as follows:

§ 520.1660d Oxytetracycline powder.

(a) * * *

(10) Each 2.73 grams of powder contains 1 gram of OTC HCl (packets: 9.87 and 19.74 oz; pails: 5 lb).

(b) * * *

(8) No. 059320 for use of OTC concentration in paragraph (a)(10) of this section in chickens, turkeys, and swine as in paragraph (d) of this section.

* * * * *

Dated: June 22, 2006.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E6–10445 Filed 7–3–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Griseofulvin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (ANADA) filed by IVX Animal Health, Inc. The ANADA provides for veterinary prescription use of griseofulvin powder orally as a systemic antifungal agent in horses.

DATES: This rule is effective July 5, 2006.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223, e-mail: *daniel.benz@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: IVX Animal Health, Inc., 3915 South 48th Street Ter., St. Joseph, MO 64503, filed ANADA 200–391 that provides for veterinary prescription use of Griseofulvin Powder Microsize, orally as a systemic antifungal agent in horses. IVX Animal Health's Griseofulvin Powder Microsize, is approved as a generic copy of Schering-Plough Animal Health Corp.'s FULVICIN–U/F (griseofulvin) Powder approved under NADA 39–792. The ANADA is approved as of June 1, 2006, and the regulations are amended in 21 CFR 520.1100 to reflect the approval and a current format. The basis of approval is discussed in the freedom of information summary.

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

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. Amend § 520.1100 as follows:
■ a. Revise paragraphs (a), (b), (c), and (d)(1);
■ b. Remove paragraphs (d)(2) and (d)(3)(iii); and
■ c. Redesignate paragraphs (d)(3) introductory text, (d)(3)(i), (d)(3)(i)(*a*), (d)(3)(i)(*b*), and (d)(3)(ii) as paragraphs (d)(2) introductory text, (d)(2)(i), (d)(2)(i)(A), (d)(2)(i)(B), and (d)(2)(ii).

The revisions read as follows:

§ 520.1100 Griseofulvin.

(a) *Specifications*—(1) The powder complies with U.S.P. for griseofulvin, microsize.

(2) Each bolus contains 2.5 grams griseofulvin.

(3) Each tablet contains 125 or 500 milligrams griseofulvin.

(b) *Sponsors*. See sponsors in § 510.600(c) of this chapter.

(1) No. 000061 for use of products described in paragraph (a) for use as in paragraph (d) of this section.

(2) No. 059130 for use of the powder described in paragraph (a)(1) for use as in paragraphs (d)(1)(i)(A) and (d)(1)(ii) of this section.

(c) *Special considerations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use*—(1) *Horses*—(i) *Amount and indications for use*—(A) For equine ringworm infection caused by *Trichophyton equinum* or *Microsporum gypseum*, administer soluble powder described in paragraph (a)(1) of this section daily as a drench or as a top dressing on feed for not less than 10 days as follows: adults, 2.5 grams; yearlings, 1.25 to 2.5 grams; and foals, 1.25 grams.

(B) For treating ringworm infection caused by *T. equinum*, administer boluses described in paragraph (a)(2) of this section daily for not less than 10 days as follows: adults, 1 bolus; yearlings, one-half to 1 bolus; and foals, one-half bolus.

(ii) *Limitations*. Not for use in horses intended for food.

* * * * *

Dated: June 23, 2006.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E6–10406 Filed 7–3–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Copper Naphthenate Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Farnam Companies, Inc. The supplemental NADA provides for a revised food safety warning on labeling for copper naphthenate topical solution for horse and pony hooves.

DATES: This rule is effective July 5, 2006.

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

SUPPLEMENTARY INFORMATION: Farnam Companies, Inc., 301 West Osborn, Phoenix, AZ 85013–3928, filed a supplement to NADA 100–616 for THRUSH-XX (copper naphthenate), a solution approved for topical use on horse and pony hooves as an aid in treating thrush. The supplemental NADA provides for a revised food safety warning on the labeling. The supplemental NADA is approved as of May 30, 2006, and the regulations are amended in 21 CFR 524.463 to reflect the approval and a current format.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

The agency has determined under 21 CFR 25.33(d)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

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

■ 2. In § 524.463, revise the section and paragraph (c) headings, and paragraphs (a) and (c)(3) to read as follows:

§ 524.463 Copper naphthenate.

(a) *Amount*. The drug is a 37.5 percent solution of copper naphthenate.

* * * * *

(c) *Conditions of use in horses*—* * *

* * * * *

(3) *Limitations*. Use on horses and ponies only. Avoid contact around eyes. Do not contaminate feed. Do not use in horses intended for human consumption.

Dated: June 22, 2006.

Steven D. Vaughn,

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

[FR Doc. E6–10407 Filed 7–3–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9271]

RIN 1545–BB68

Effect of Elections in Certain Multi-Step Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that give effect to section 338(h)(10) elections in certain multi-step transactions. These final regulations are necessary in order to provide taxpayers with guidance regarding the validity of certain elections made under section 338(h)(10). These final regulations affect corporations and their shareholders.

DATES: *Effective Date:* These regulations are effective July 5, 2006.

Applicability Date: For dates of applicability, see § 1.338(h)(10)–1(h) of these regulations.

FOR FURTHER INFORMATION CONTACT: Daniel F. Heins, at (202) 622–7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The IRS published temporary regulations (TD 9071) in the **Federal Register** on July 9, 2003 (68 FR 40766) (the temporary regulations), along with a notice of proposed rulemaking by cross-reference to the temporary regulations (REG–143679–02) (the proposed regulations). These temporary regulations provide, notwithstanding anything to the contrary in § 1.338–3(c)(1)(i), a section 338(h)(10) election may be made for T where P's acquisition of T stock, viewed independently, constitutes a qualified stock purchase and, after the stock acquisition, T merges or liquidates into P (or another member of the affiliated group that includes P), whether or not, under relevant provisions of law, including the step transaction doctrine, the acquisition of the T stock and the merger or liquidation of T qualify as a reorganization described in section 368(a). If a section 338(h)(10) election is made in a case where the acquisition of T stock followed by a merger or liquidation of T into P qualifies as a reorganization described in section 368(a), for all Federal tax purposes, P's acquisition of T stock is treated as a qualified stock purchase and is not treated as part of a reorganization described in section 368(a). For rules about the operation of the step transaction doctrine and the relationship between section 338 and the reorganization provisions when a section 338 election is not made, see § 1.338–3(d). See also Rev. Rul. 90–95 (1990–2 CB 67). See § 601.601(d)(2).

No public hearing regarding the proposed regulations was requested or held. The IRS received written and electronic comments regarding the proposed regulations. After consideration of the comments, the proposed regulations are adopted by this Treasury decision. The most significant comments received with respect to the proposed regulations are discussed in this preamble.

Explanation of Provisions

A. Section 338(g) Elections

Some commentators recommend that the final regulations allow section 338(g) elections, as well as section 338(h)(10) elections, to turn off the step transaction doctrine in a multi-step transaction that constitutes a reorganization under section 368(a). Although a section 338(g) election is made by the purchasing corporation and the shareholders of the target corporation (target) do not consent to the election, one commentator states that the IRS will not be subject to whipsaw if the IRS provides regulations requiring the shareholders of the acquired corporation to treat the transaction consistently with the acquiring corporation's election, rather than as a reorganization under section 368(a).

The final regulations do not adopt the commentators' recommendation, and continue to turn off the step transaction doctrine only in the case of section 338(h)(10) elections. Extending the final regulations to section 338(g) elections would allow the acquiring corporation to unilaterally elect to treat the transaction, for all parties, as other than a reorganization under section 368(a). In light of potential whipsaw and other concerns, the final regulations continue to apply only to section 338(h)(10) elections, not section 338(g) elections.

B. Corporate Purchaser Requirement

One commentator suggests that § 1.338–3(b) be amended to clarify under what circumstances a corporation will be considered, for tax purposes, to have purchased the stock of target pursuant to section 338(d)(3).

Under § 1.338–3(b), an individual cannot make a qualified stock purchase of target. If an individual forms a corporation (new P) to acquire target stock, new P can make a qualified stock purchase of target if new P is considered, for tax purposes, to purchase the target stock. Facts that may indicate that new P does not purchase the target stock include new P's merging downstream into target, liquidating, or otherwise disposing of the target stock following the purported qualified stock purchase.

The IRS and Treasury Department are continuing to study whether any amendments to the portion of the regulations under section 338 related to the corporate purchaser requirement are appropriate.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations do not have a significant economic impact on a substantial amount of small entities. The number of corporations affected is limited because section 338(h)(10) elections are made only in extraordinary circumstances, the sale of a business. Furthermore, these regulations only affect transactions in which the stock of the acquiring corporation is a significant part of the consideration. Accordingly, a regulatory flexibility analysis does not apply. Since these final regulations make no changes to the current effective temporary regulations, a delayed effective date pursuant to 5 U.S.C. 553(d)(1) and (3) is not necessary. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Daniel F. Heins of the Office of the Associate Chief Counsel (Corporate).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.338(h)(10)–1 also issued under 26 U.S.C. 337(d), 338, and 1502.

■ **Par 2.** § 1.338–3 is amended by revising the last sentence in paragraph (c)(1)(i) to read as follows:

§ 1.338–3 Qualification for the section 338 election.

* * * * *

(c) * * *

(1) * * *

(i) * * * See § 1.338(h)(10)–1(c)(2) for special rules concerning section 338(h)(10) elections in certain multi-step transactions.

■ **Par. 3.** § 1.338(h)(10)–1 is amended as follows:

■ 1. Paragraph (c)(2) is revised.

■ 2. Paragraph (e) *Examples 11* through *14* and paragraph (h) are added.

The revision and additions read as follows:

§ 1.338(h)(10)–1 Deemed asset sale and liquidation.

* * * * *

(c) * * *

(2) *Availability of section 338(h)(10) election in certain multi-step transactions.* Notwithstanding anything to the contrary in § 1.338–3(c)(1)(i), a section 338(h)(10) election may be made for T where P's acquisition of T stock, viewed independently, constitutes a qualified stock purchase and, after the stock acquisition, T merges or liquidates into P (or another member of the affiliated group that includes P), whether or not, under relevant provisions of law, including the step transaction doctrine, the acquisition of the T stock and the merger or liquidation of T qualify as a reorganization described in section 368(a). If a section 338(h)(10) election is made in a case where the acquisition of T stock followed by a merger or liquidation of T into P qualifies as a reorganization described in section 368(a), for all Federal tax purposes, P's acquisition of T stock is treated as a qualified stock purchase and is not treated as part of a reorganization described in section 368(a).

* * * * *

(e) * * *

Example 11. Stock acquisition followed by upstream merger—without section 338(h)(10) election. (i) P owns all the stock of Y, a newly formed subsidiary. S owns all the stock of T. Each of P, S, T and Y is a domestic corporation. P acquires all of the T stock in a statutory merger of Y into T, with T surviving. In the merger, S receives consideration consisting of 50% P voting stock and 50% cash. Viewed independently of any other step, P's acquisition of T stock constitutes a qualified stock purchase. As part of the plan that includes P's acquisition of the T stock, T subsequently merges into P. Viewed independently of any other step, T's merger into P qualifies as a liquidation described in section 332. Absent the application of paragraph (c)(2) of this section, the step transaction doctrine would apply to treat P's acquisition of the T stock and T's merger into P as an acquisition by P of T's assets in a reorganization described in section 368(a). P and S do not make a section 338(h)(10) election with respect to P's purchase of the T stock.

(ii) Because P and S do not make an election under section 338(h)(10) for T, P's acquisition of the T stock and T's merger into P is treated as part of a reorganization described in section 368(a).

Example 12. Stock acquisition followed by upstream merger—with section 338(h)(10) election. (i) The facts are the same as in *Example 11* except that P and S make a joint election under section 338(h)(10) for T.

(ii) Pursuant to paragraph (c)(2) of this section, as a result of the election under section 338(h)(10), for all Federal tax purposes, P's acquisition of the T stock is treated as a qualified stock purchase and P's acquisition of the T stock is not treated as part of a reorganization described in section 368(a).

Example 13. Stock acquisition followed by brother-sister merger—with section 338(h)(10) election. (i) The facts are the same as in *Example 12,* except that, following P's acquisition of the T stock, T merges into X, a domestic corporation that is a wholly owned subsidiary of P. Viewed independently of any other step, T's merger into X qualifies as a reorganization described in section 368(a). Absent the application of paragraph (c)(2) of this section, the step transaction doctrine would apply to treat P's acquisition of the T stock and T's merger into X as an acquisition by X of T's assets in a reorganization described in section 368(a).

(ii) Pursuant to paragraph (c)(2) of this section, as a result of the election under section 338(h)(10), for all Federal tax purposes, P's acquisition of T stock is treated as a qualified stock purchase and P's acquisition of T stock is not treated as part of a reorganization described in section 368(a).

Example 14. Stock acquisition that does not qualify as a qualified stock purchase followed by upstream merger. (i) The facts are the same as in *Example 11,* except that, in the statutory merger of Y into T, S receives only P voting stock.

(ii) Pursuant to § 1.338–3(c)(1)(i) and paragraph (c)(2) of this section, no election under section 338(h)(10) can be made with respect to P's acquisition of the T stock because, pursuant to relevant provisions of law, including the step transaction doctrine, that acquisition followed by T's merger into P is treated as a reorganization described in section 368(a)(1)(A), and that acquisition, viewed independently of T's merger into P, does not constitute a qualified stock purchase under section 338(d)(3). Accordingly, P's acquisition of the T stock and T's merger into P is treated as a reorganization described in section 368(a).

* * * * *

(h) *Effective date.* This section is applicable to stock acquisitions occurring on or after July 5, 2006. For stock acquisitions occurring before July 5, 2006, see § 1.338(h)(10)–1T as contained in the edition of 26 CFR part 1, revised as of April 1, 2006.

* * * * *

§ 1.338(h)(10)–1T [Removed]

■ **Par. 4.** Section 1.338(h)(10)–1T is removed.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: June 20, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E6–10253 Filed 7–3–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 58

[Docket No. EOUST 100]

RIN 1105–AB17

Application Procedures and Criteria for Approval of Nonprofit Budget and Credit Counseling Agencies and Approval of Providers of a Personal Financial Management Instructional Course by United States Trustees

AGENCY: Executive Office for United States Trustees, Justice.

ACTION: Interim final rule.

SUMMARY: This interim final rule (''rule'') sets forth the proposed application procedures to be used by United States Trustees for approval of nonprofit budget and credit counseling agencies (''agencies'') and for approval of providers of a personal financial management instructional course (''providers'') under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (''BAPCPA''). Under the BAPCPA, individual debtors are required to consult with approved agencies to receive a briefing on the opportunities for credit counseling and a budget analysis, within 180 days before filing for bankruptcy relief, and to consult with approved providers of a personal financial management instructional course, after filing for relief, before receiving a discharge of their debts. The BAPCPA also sets forth procedures and standards for the United States Trustees to use in approving agencies and providers for subsequent inclusion on a publicly available agency list and provider list in each federal judicial district where they are deemed qualified to counsel or instruct individuals.

DATES: *Effective Date:* July 5, 2006.

Comment Date: Comments due by September 5, 2006.

ADDRESSES: Comments on the rule should be submitted by e-mail to *ust.ccderules.comment@usdoj.gov,* by telefax to 202–514–4100, or by postal mail to: Executive Office for United States Trustees (''EOUST''), Credit Counseling Application Processing, 20 Massachusetts Ave, 8th floor, Washington, DC 20530. To ensure proper handling, please reference EOUST Docket No. 100 on your correspondence. You may view an electronic version of this proposed rule at *www.regulations.gov.* You may also comment via the Internet using the *www.regulations.gov* comment form for this regulation. When submitting comments electronically you must include EOUST Docket No. 100 in the subject box. Comments filed after the end of the comment period may be considered to the extent feasible. Comments received are public records.

SUPPLEMENTARY INFORMATION: This rule implements the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (enacted April 20, 2005), Public Law 109–8, sections 106(a), 119 Stat. 37 (codified at 11 U.S.C. 109(h)) and 106(e)(1), 119 Stat. 38 (codified at 11 U.S.C. 111(a)–(e)). Under the BAPCPA, which became effective on October 17, 2005, individual debtors are required to consult with approved agencies to receive a briefing on the opportunities for credit counseling and a budget analysis, within 180 days before filing for bankruptcy relief. 11 U.S.C. 109(h)(1). Debtors are also required to participate in a personal financial management instructional course with approved providers to receive instruction on how to establish and maintain a budget, how to manage one's money, and how to use credit wisely. The debtor will not be granted a discharge if this instruction is not obtained. 11 U.S.C. 727(a)(11), 1328(g)(1), 1141(d)(3)(c).

11 U.S.C. 111(b) provides that, in applicable jurisdictions, the United States Trustee shall only approve an agency or provider after the United States Trustee has thoroughly reviewed, under the standards set forth in BAPCPA, the qualifications of the agency or provider and the services that will be offered by such agency or provider, and has determined that such agency or provider fully satisfies the standards. The United States Trustee may require such agency or provider that has sought approval to provide information with respect to such review.

According to the new Bankruptcy Code provision, 11 U.S.C. 111, the United States Trustee shall only approve an agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

Under 11 U.S.C. 111, the United States Trustee shall only approve a provider that demonstrates that it will provide trained personnel with adequate experience and training in providing effective instruction and services, provide learning materials and teaching methodologies designed to assist debtors in understanding personal financial management, provide adequate facilities situated in reasonably convenient locations where the instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective, and prepare and retain reasonable records to permit evaluation of the effectiveness of such instructional course by the EOUST and the United States Trustee.

As Congress stated in its conference report, ''the purpose of the bill is to improve bankruptcy law and practice by restoring personal responsibility and integrity in the bankruptcy system and ensure that the system is fair for both debtors and creditors * * * the bill requires debtors to receive credit counseling before they can be eligible for bankruptcy relief so that they will make an informed choice about bankruptcy, its alternatives, and consequences * * * the bill also penalizes a creditor who unreasonably refuses to negotiate a pre-bankruptcy debt repayment plan with a debtor.'' H.R. Rep. 109–31, pt. 1 at 2.

By submitting an application, an agency or provider is declaring under penalty of perjury that the information on the application is true, correct, accurate, and complete.

The remaining requirements set forth in the amending regulatory text are self-explanatory. In determining whether an agency or provider meets the qualifications for approval and inclusion on the approved list, the EOUST and United States Trustee may rely on the application submitted by the agency or provider.

The application form that credit counseling agencies must use to apply for approval under these regulations is EOUST–CC1, *''Application for Approval as a Nonprofit Budget and Credit Counseling Agency,''* which is available on the EOUST's Web site along with the instructions. The application form that providers of an instructional course must use to apply for approval under these regulations is EOUST–DE1, *''Application for Approval of Provider of a Personal Financial Management Instructional Course,''* which is also available on EOUST's Web site along with the instructions. Completed and signed credit counseling application forms should be mailed to the EOUST, Credit Counseling Application Processing, 20 Massachusetts Ave., 8th Floor, Washington, DC 20530. Completed and signed debtor education provider application forms should be mailed to the EOUST, Debtor Education Processing, 20 Massachusetts Ave. 8th

Floor, Washington, DC 20530. Applicants should refer to the EOUST's Web site (*http://www.usdoj.gov/ust*) to determine the current mailing address at the time they submit subsequent applications.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), The Principles of Regulation. The Department has determined that this rule is a ''significant regulatory action'' and accordingly this rule has been reviewed by the Office of Management and Budget.

The Department has also assessed both the costs and benefits of this rule as required by section 1(b)(6) and has made a reasoned determination that the benefits of this regulation justify its costs. The costs considered in this regulation include the costs of submission of applications required if an agency or provider wishes to be approved for inclusion on the approved list. Costs considered also include the cost of establishing and maintaining the approved list in each Federal judicial district. In an effort to minimize the applicant's burden, the application keeps the number of items on the application to a minimum.

The costs to applicants will be minimal. The only anticipated costs are the photocopying and mailing of the requested records, along with the salaries of the employees who complete the applications equaling approximately $500 per application for agencies, and $300 per application for providers. These costs are inherent in the qualification process mandated by Congress. Those applying for approval as credit counseling agencies must also obtain a surety bond in the amount of two percent of the agency's prior year's gross disbursements made from trust accounts or equal to the average daily balance maintained in all trust accounts for the six months prior to submission of the application. In addition, credit counseling agencies must obtain employee fidelity insurance that equals fifty percent of the surety bond. Agencies are entitled to receive a credit for any state bonds already obtained.

The number of applicants that will ultimately apply is unknown, though the EOUST believes the number may reach approximately eight hundred applicants for agencies and eight hundred for providers. The annual hour burden on agencies is estimated to be ten (10) hours, and the annual hour burden on providers is estimated to be eight (8) hours. This estimate is based on consultations with individuals in the credit counseling and debtor education industries and from the experience of applicants who completed the initial applications.

The benefits of the rule clearly outweigh the costs because the costs are the lowest costs feasible to comply with the requirement that a list be established as required pursuant to Public Law No. 109–8, section 106(e)(1).

Executive Order 13132

This rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The information collection requirements contained in this rule are currently under pending review by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, and assigned OMB control number 1105–0084, for the ''*Application for Approval as a Nonprofit Budget and Credit Counseling Agency*,'' form number EOUST–CC1. The information collection in connection with the ''*Application for Approval as a Provider of a Personal Financial Management Instructional Course*,'' form number EOUST–DE1, has been assigned OMB control number 1105–0085. The Department notes that full notice and comment opportunities were provided to the general public through the Paperwork Reduction Act process, and that the applications and associated requirements were modified to take into account the concerns of those who commented in this process.

Further comments and suggestions on these collections should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Comments should address one or more of the following four points: (1) Evaluate whether the collections are necessary for the proper performance of the functions of the United States Trustee, including whether the information will have practical utility; (2) evaluate the accuracy of the agency or provider'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 or other forms of information technology (*e.g.*, permitting electronic submission of responses).

The form ''*Application for Approval as a Nonprofit Budget and Credit Counseling Agency*'' EOUST–CC1, is required to evaluate whether the applicants met the established qualifications for credit counseling. The respondents are credit counseling agencies who seek to counsel individuals before they file bankruptcy. The number of applicants for the next year is unknown, though the EOUST estimates there will be approximately 800 applicants, who will complete one application, or a renewal application if submitted previously. The estimated burden imposed on the applicant is ten hours, each, totaling 8,000 estimated annual burden hours.

The form ''*Application for Approval as a Provider of a Personal Financial Management Instructional Course*,'' EOUST–DE1, is required to evaluate whether the applicants met the established qualifications for providers of a personal financial management instructional course. The respondents are providers who seek to educate individuals after they file bankruptcy. The number of applicants for the next year is unknown, though EOUST estimated there may be approximately 800 applicants, who will complete one application, or a renewal application if submitted previously. The estimated burden imposed on the applicant is eight hours, each, totaling 6,400 estimated annual burden hours.

Regulatory Flexibility Act

This interim rule does not fall within the definition of ''rule'' in the Regulatory Flexibility Act, 5 U.S.C. 601(2) because there is good cause for not publishing it as a general notice of proposed rulemaking pursuant to section 553(b) of the Administrative Procedure Act.

Unfunded Mandates Reform Act of 1995

This rule does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C.

1531. This rule does not include a Federal mandate that may result in the annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of more than the annual threshold established by the Act ($123 million in 2005, adjusted annually for inflation). Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Administrative Procedure Act, 5 U.S.C. 553

This rule provides that nonprofit budget and credit counseling agencies and providers of a personal financial management instructional course desiring to be included on a publicly available list of agencies or providers deemed qualified to counsel or instruct debtors in each federal judicial district shall submit a specified application to the United States Trustee. Under the new Bankruptcy Code provisions, an agency or provider may initially be approved for a period of time not to exceed six months. Agencies or providers must then re-apply for approval annually. In order to have a sufficient number of qualified agencies and providers operating for debtors to receive the requisite credit counseling and debtor education, the United States Trustees must rapidly gather information about agencies and providers through an application process. This information must be gathered with enough time to allow the United States Trustee to review the application materials in order to approve only qualified agencies and providers. Without this information, the United States Trustee will be unable to perform its Congressionally mandated duties.

Existing agencies and providers were approved for a six-month probationary period beginning on September 16, 2005. In light of the imminent expiration of the six-month probationary period for a large group of initially approved agencies and providers, the Department has determined that there is ''good cause'' to implement this application process immediately, and that delaying the implementation in order to provide the Administrative Procedure Act's normal pre-promulgation notice-and-comment period would be impracticable and contrary to the public interest. 5 U.S.C. 553(b)(B). This is especially true given that the public has already had an opportunity to comment during the Paperwork Reduction Act review process for the applications and that the Department did make modifications pursuant to public commenters' suggestions.

For the same reasons, the Department also finds ''good cause'' for exempting this rule from the provision of the Administrative Procedure Act providing for a delayed effective date. U.S.C. 553(d). Delaying the opportunity for agencies and providers to submit an application and to seek to be included on the approved list would be contrary to the public interest since there must be sufficient agencies to offer services after the six month probationary term expires and without the availability of approved agencies, individuals may not have access to bankruptcy relief. In addition, without the availability of approved providers, debtors may not be able to obtain a discharge of debts because the personal financial management instructional course is mandatory before a discharge may be granted. In order for the United States Trustee to evaluate the qualifications of the agencies and providers, an application must be available for the agencies and providers to complete.

The Department welcomes post-promulgation comments regarding this interim final rule including the applications and appendices, which can be viewed at the EOUST's Web site at *http://www.usdoj.gov/ust*, and will consider those comments carefully in continuing to review the application process in the future. The Department also notes that it will publish more comprehensive regulations later this year through a notice of proposed rulemaking with full opportunity for public notice and comment.

Privacy Act Statement.

Section 111 of title 11, United States Code, authorizes the collection of this information. The primary use of this information is by the Executive Office for United States Trustees to approve nonprofit budget and credit counseling agencies and to approve providers of personal financial management instructional courses. Additional disclosure of the information may be to district and regional offices of each United States Trustee. The information will not be shared with any other agencies unless allowed by law.

Public Law 104–134 (April 26, 1996) requires that any person doing business with the federal government furnish a Social Security Number or Tax Identification Number. This is an amendment to title 31, section 7701. Furnishing the Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application.

List of Subjects in 28 CFR Part 58

Administrative practice and procedure, Bankruptcy, Credit, Debts.

■ Accordingly, for the reasons set forth in the preamble, part 58 of chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

PART 58—[AMENDED]

■ 1. The authority citation for part 58 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 586; 11 U.S.C. 109(h), 111, 727(a)(11), 1328(g)(1), 1141(d)(3)(c).

■ 2. Add §§ 58.15, 58.16, and 58.17 to read as follows:

§ 58.15 Qualifications for approval as a nonprofit budget and credit counseling agency.

(a) *Definition of agency.* As used in this section the term ''agency'' means nonprofit budget and credit counseling agency.

(b) *Qualifications.* To be included on the list of approved nonprofit budget and credit counseling agencies under 11 U.S.C. 111 an agency shall meet the qualifications set forth in paragraphs (d) through (i) of this section. An agency shall continuously meet these qualifications in order to remain included on this list when the list is updated thereafter.

(c) *Preemption.* Nothing contained in these regulations or the related application, appendices or instructions is intended to preempt any applicable law or regulation governing the conduct or operations of an agency.

(d) *Structure and organization.* A nonprofit budget and credit counseling agency must:

(1) Be organized and operated as a nonprofit entity;

(2) Be in compliance with all applicable laws and regulations of the United States and each state, commonwealth, district, or territory of the United States in which the agency conducts credit counseling services;

(3) Have an independent board of directors the majority of which:

(i) Are not employed by such agency; and

(ii) Will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

(4) Ensure that no member of the board of directors or trustees, officer, manager, employee, counselor, or agent is a United States Trustee Program employee, a panel or standing trustee, a Federal judge, a Federal court employee, a certified public accountant that performs audits of the agency's trust accounts, or a person with a financial or familial connection to the United States Trustee Program.

(5) Avoid any conduct or transactions that generate or create the appearance of generating a private benefit for any individual or group related or connected to the Agency.

(e) *Fees.* If a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee; the agency's criteria for providing services without a fee or at a reduced rate must be provided to the United States Trustee. In addition, an agency shall:

(1) Have sufficient computer capabilities or secure access to issue certificates of completion of credit counseling in conformance with the directives established by the EOUST;

(2) Not withhold a certificate of counseling completion because of a client's inability to pay;

(3) Advise the client of the fee schedule before services are provided and inform the client that services are available for free or at a reduced rate based on a client's ability to pay;

(4) Issue a certificate to any client who completes credit counseling and a budget analysis, regardless of whether a client agrees to participate in a debt management plan and without regard to the client's ability to pay;

(5) Issue the certificate within one business day to a client after completion of the required counseling or upon the earlier of the following:

(i) A request by a client for the issuance of a certificate; or

(ii) The completion or termination of a counseling session, which may include the administration of a debt management plan;

(6) Not charge a separate fee for the issuance of a certificate of counseling unless the agency has clearly disclosed such fee before the initial credit counseling session;

(7) Issue a certificate to each spouse whether counseling was provided individually or in a joint session;

(8) Maintain adequate records to issue replacement certificates and to verify the authenticity of certificates filed by bankruptcy debtors;

(9) Provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, the cost of services to be paid by the client and how such costs will be paid, before services are rendered and regardless of whether the client enters into a debt management plan.

(f) *Standards for counseling and counselors.* Agencies and credit counselors shall not, unless otherwise authorized by law, provide legal advice on any matter. Agencies and credit counselors shall:

(1) Provide adequate briefings, budget analysis, and credit counseling services to clients lasting an average of 60 to 90 minutes in length that include an outline of available counseling opportunities to resolve a client's credit problems, an analysis of the client's current financial condition, discussion of the factors that caused such financial condition, and assistance in developing a plan to respond to the client's problems without incurring negative amortization of debt;

(2) Provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in sub-paragraph (1) of this paragraph. A counselor shall be deemed to have adequate training and experience to provide credit counseling and budget analysis if the counselor is accredited or certified by a recognized independent organization, or has successfully completed a course of study acceptable to the United States Trustee and has worked a minimum of six months in a related area, including personal finance, budgeting, and debt management. The United States Trustee Program does not endorse any specific course or certification program;

(3) Demonstrate adequate experience and background in providing credit counseling, which means, at a minimum, that an agency must:

(i) Have experience in providing credit counseling for the previous two years. Alternatively, if an agency fails to meet the two-year requirement, the agency must currently employ in each office location that serves clients at least one office supervisor with experience and background in providing credit counseling for no less than two of the five years preceding the relevant application date, including only experience obtained on or after January 1, 2003; and

(ii) If an agency offers telephone or Internet credit counseling services, the agency must, in addition to all other requirements, demonstrate sufficient experience and proficiency in designing and providing such services over the telephone and/or Internet, including verification procedures to identify the person receiving the counseling services and to ensure that the counseling services are properly completed.

(g) *Activity report.* Upon application for annual approval, the agency must furnish an estimate of the information requested in Appendix E, ''*Activity Report for Approved Agencies,*'' of the application projected to the end of either the probationary period or annual period. Within thirty (30) days after the completion of either the probationary period or annual period, the agency must furnish an amended Appendix E which includes the actual information.

(h) *Agency declarations and acknowledgments.* (1) The agency's president, chairman, trustee, or other authorized official is required to declare, by signing the application, that such individual is authorized to complete the application on behalf of the agency; that such individual has read and knows the contents of the application and all enclosures and attachments submitted; and that such individual affirms under penalty of perjury that all of the representations and statements contained therein are true and correct to the best of such individual's knowledge, information, and belief;

(2) By executing and submitting the ''*Application for Approval as a Nonprofit Budget and Credit Counseling Agency*,'' the agency acknowledges and agrees to abide by the prohibitions, limitations, and obligations set forth in Appendix A, ''*Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Nonprofit Budget and Credit Counseling Agency*,'' of the application which include, but are not limited to, the following:

(i) Making all records relating to the agency's compliance with 11 U.S.C. 111 available to the United States Trustee and EOUST upon request and cooperating with the United States Trustee and EOUST for any scheduled or unscheduled on-site visits and customer service audits;

(ii) Cooperating with the United States Trustee and the EOUST in timely responding to any questions or inquiries concerning the agency's operations and services;

(iii) Not excluding a creditor from a debt management plan because the creditor declines to make a ''fair share'' contribution to the agency;

(iv) Agreeing that any forms, agreements, contracts, or other materials provided to a client will not limit the client's right to seek damages against an agency as provided for in 11 U.S.C. 111(g)(2);

(v) Conducting a state and Federal criminal background check at least every five years for each person providing credit counseling services, if such criminal background check is authorized under state law, and not employing as a counselor anyone who has been convicted of any felony, or a crime involving fraud, dishonesty, or false statements, unless the United States Trustee determines, upon review and in his or her discretion, circumstances warrant a waiver of this employment requirement. The state criminal background check shall be conducted in the state where the counselor resides. If a criminal background check is not authorized by state law, the agency shall obtain a sworn statement from each counselor, at least every five years, which attests to whether the counselor has been convicted of any felony or a crime involving fraud, dishonesty, or false statements;

(vi) Referring clients for counseling services only to agencies that are approved by the United States Trustee;

(vii) Complying with the EOUST's directions on approved advertising, which is located in Appendix A to the application;

(viii) Not disclosing or providing to a credit reporting agency information concerning whether a client has received or sought instruction concerning credit counseling or personal financial management from an agency, and not selling information about a client to any third party without the client's written permission, regardless of whether the counseling is presented in a classroom, on the telephone, on the Internet, or any other venue;

(3) Upon request of the United States Trustee or EOUST, an agency shall submit a completed and signed tax waiver, which authorizes the United States Trustee or EOUST to seek confidential information regarding the agency from the Internal Revenue Service.

(i) *Agency financial requirements and surety bonds.* (1) If an agency offers debt management plans, the agency must have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan, and provide for the safekeeping and payment of client funds, including an annual audit of the trust accounts in accordance with generally accepted auditing standards by an independent certified public accountant, and appropriate employee bonding; which includes:

(i) Depositing all client funds into a trust account insured by a Federal institution with respect to each client. The records creating the trust account must demonstrate that the trust account was established in a fiduciary capacity and must comply with the Federal institution's regulations so that each client's funds are insured up to the maximum amount allowable by the Federal institution;

(ii) Keeping and maintaining books, accounts, and records to provide a clear and readily understandable record of all business conducted by the agency; and

(iii) Obtaining a surety bond payable to the United States in an amount which is the lesser of:

(A) Two percent of the agency's prior year disbursements made from trust accounts; or

(B) Equal to the average daily balance maintained in all trust accounts for the six months prior to submission of the application. At a minimum, the bond must be $5,000;

(2) An agency may receive an offset or credit for the surety bond amount as follows:

(i) The agency has obtained a surety bond, or similar cash, securities, insurance (other than employee fidelity insurance), or letter of credit, in compliance with the requirements of the state, commonwealth, district, or territory (''state'') in which the agency seeks approval from the United States Trustee;

(ii) The surety bond, or similar cash, securities, insurance (other than employee fidelity insurance), or letter of credit provides protection for the clients of the agency;

(iii) The surety bond, or similar cash, securities, insurance, or letter of credit, must be written in favor of the state or the appropriate state agency; and

(iv) The offset or credit is based on the annual disbursements or average daily bank balance directly related to the clients in the particular state;

(3) An agency must have adequate employee bonding or fidelity insurance. The amount of such bonding or fidelity shall be 50 percent of the surety bond amount calculated prior to any offset/credit that the agency may receive for state bonds. At a minimum, the employee bond or fidelity insurance must be $5,000;

(4) An agency may receive an offset or credit in the employee bond/fidelity insurance amount as follows:

(i) The agency has obtained an employee bond or fidelity insurance in compliance with the requirements of a state, commonwealth, district, or territory in which the agency seeks approval from the United States Trustee;

(ii) The deductible cannot exceed a reasonable amount considering the financial resources of the agency; and

(iii) The offset/credit is based on the annual disbursements or average daily bank balance directly related to the clients in the particular state;

(5) If the agency has contracted with another entity (''service provider'') to administer any part of its debt management plan, the service provider is approved by the United States Trustee as a nonprofit budget and credit counseling agency, or the service provider is specifically covered under the agency's surety bond or has a surety bond in a sufficient amount to provide for the safekeeping of the agency's client funds, and the service provider agrees in writing to allow the United States Trustee or EOUST to audit the trust accounts maintained by the service provider and to review the service provider's internal controls and administrative procedures.

§ 58.16 Procedures for inclusion on the approved list.

(a) As used in this section the term ''agency'' means nonprofit budget and credit counseling agency.

(b) Each nonprofit budget and credit counseling agency seeking to be included on the list of approved agencies must complete in its entirety the application form EOUST–CC1, *''Application for Approval as a Nonprofit Budget and Credit Counseling Agency''* (application), including all appendices, and submit it at the address indicated on the application.

(c) The application must be executed under penalty of perjury in a manner specified in 28 U.S.C. 1746.

(d) An application may not be accepted by the EOUST unless it is complete and has been signed by an agency representative who is authorized to sign on behalf of the agency. An application that is incomplete or has been altered, amended, or changed in any respect from the application at the United States Trustee Program's Web site may not be accepted by the EOUST. Such an application will be denied, and no further action will be taken on the request for inclusion on the approved list until a new application is submitted that corrects the defects.

(e) The EOUST will not accept an application submitted by an agency on behalf of another individual or group of individuals. Each agency that desires to be included on the approved list must submit its own application.

(f) Each agency must submit a new application 45 to 60 days before expiration of its six month probationary period or annual period to be considered for annual approval. After the application is completed and signed, the originals must be mailed to the EOUST, Credit Counseling Application Processing, at the address indicated on the application. The EOUST will not accept a photocopy or facsimile of the application.

(g) An agency whose name appears on the list incorrectly may submit a written request that the name be corrected. An agency whose name appears on the list may submit a written request that its name be removed from the list.

(h) By submitting an application, the agency expressly consents to the release and disclosure of the agency's name on the approved list and the publication of the agency's contact information.

(i) Obligation to Update Information: (1) The agency has a continuing duty to promptly notify the EOUST of any circumstances that would materially alter or change a response to any section of the application, including but not limited to, changes in the location of primary or satellite business office(s); the principal contact person; name or fictitious name under which the agency does business; management, including the board of directors; a merger or consolidation with another entity; and the banks or financial institutions used by the agency;

(2) The agency shall request approval by amendment to its application, and prior to occurrence of the following changes:

(i) Cancellation or change in amount of the surety bond or employee fidelity bond or insurance;

(ii) The engagement of a service provider to provide counseling services to administer debt management plans, or to otherwise control or account for client funds;

(iii) An increase in the fees, contributions, or payments received from clients for counseling services or a change in the agency's policy for the reduction or waiver of fees;

(iv) Expansion into additional judicial districts or withdrawal from judicial districts where the agency is approved; and

(v) Method of delivery or type of counseling services;

(3) The agency must include with any amendment to its application, a newly executed ''certification and signature;''

(4) The agency will notify the EOUST immediately upon the occurrence of any of the below noted events:

(i) Cancellation or termination of tax exempt status of the agency by the Internal Revenue Service;

(ii) Cessation of business of the agency or of any office of the agency;

(iii) Termination or cancellation of any surety bond or fidelity insurance;

(iv) Any action brought against the agency by a Federal or state agency, including, but not limited to, the Federal Trade Commission, or any action against the surety bond or fidelity insurance;

(v) Any action by a state agency to suspend the license or cancel other authorization to do business;

(vi) A suspension by an accreditation organization or denial of accreditation;

(vii) Withdrawal as an approved agency; and

(viii) Change in the agency's nonprofit status;

(j) An approved agency may not transfer or assign its United States Trustee approval under section 111 as a nonprofit budget and credit counseling agency to any party.

§ 58.17 Procedures for denying an application or removing an agency from the approved list, and the administrative review rights granted to denied or removed agencies.

(a) As used in this section the term ''agency'' means nonprofit budget and credit counseling agency.

(b) No administrative review will be granted to any applicant that submitted an incomplete application and had its application denied due to incompleteness and failed to subsequently submit a completed application.

(c) The agency shall be notified in writing of any decision to deny the agency's application or to remove the agency from the approved list (''notice''). The notice shall state the reason(s) for the decision and shall reference any documents or communications with the agency, which were relied upon in making the denial or removal decision. If such documents or communications were not provided to the United States Trustee or the EOUST by the agency, copies of the documents or communications shall be provided with the notice. The notice shall be sent to the agency by overnight courier, for delivery the next business day.

(d) The notice shall advise the agency that the decision is final unless the agency requests in writing a review (''request for review'') by the Director, Executive Office for United States Trustees (''Director''), no later than 20 calendar days from the date of issuance of the denial or removal notice. In order to be timely, a request for review must be received at the Office of the Director no later than 20 calendar days from the date of the denial or removal notice to the agency.

(e) A decision to remove an agency from the approved list shall take effect upon the expiration of an agency's time to seek review from the Director or, if the agency timely seeks such review, upon the issuance of a final written decision by the Director.

(f) Notwithstanding sub-paragraph (e) of this section, a decision to remove an agency from the approved list may include, or may later be supplemented by, an interim directive, which may immediately remove an agency from the approved list. Such an interim directive may be issued if one or more of the following are specifically found:

(1) The agency is not providing for the safekeeping and payment of client funds;

(2) The agency's surety bond has been canceled;

(3) The agency made a material false statement on the application;

(4) The agency (board of directors, officer, manager, employee, counselor, or agent) has engaged in conduct that is dishonest, deceitful, fraudulent, or criminal in nature;

(5) The agency (board of directors, officer, manager, employee, counselor, or agent) has engaged in other gross misconduct that is unbefitting the agency's position as an approved agency;

(6) The agency's nonprofit status has been revoked by the entity that issued the agency its nonprofit status;

(7) Revocation of the agency's license to do business in a particular state, provided the immediate removal shall apply only to the federal judicial districts within the particular state; or

(8) The Internal Revenue Service revokes the agency's tax exempt status.

(g) The agency's request for review shall fully describe why the agency disagrees with the denial or removal decision, and shall be accompanied by all documents and materials that the agency wants the Director to consider in reviewing the decision. The agency shall send a copy of the request for review, and the accompanying documents and materials, to the Director by overnight courier, for delivery the next business day, and must be received by the Director within

20 calendar days of the denial or removal notice.

(h) The Director may seek additional information from any party, in the manner and to the extent the Director deems appropriate.

(i) The Director shall issue a written decision no later than 45 calendar days from the receipt of the agency's request for review, unless the agency agrees to a longer period of time or the Director extends the period. That decision shall determine whether the denial or removal decision is supported by the record and the action is an appropriate exercise of discretion, and shall adopt, modify, or reject the denial or removal decision. The Director's decision shall constitute final government agency action.

(j) In reaching a determination, the Director may specify a person to act as a reviewing official. The reviewing official shall not be a person who was involved in the denial or removal decision. The reviewing official's duties shall be specified by the Director on a case by case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director with written recommendations, or such other duties as the Director shall prescribe in a particular case.

(k) An agency that files a request for review shall bear its own costs and expenses, including counsel fees.

§§ 58.18 through 58.24 [Reserved]

■ 3. Add and reserve §§ 58.18 through 58.24.

■ 4. Add §§ 58.25, 58.26, and 58.27 to read as follows:

§ 58.25 Qualifications for approval as providers of a personal financial management instructional course:

(a) *Definition of provider.* As used in this section the term ''provider'' means a provider of a personal financial management instructional course.

(b) *Qualifications.* To be included on the list of approved providers under 11 U.S.C. 111, a provider shall meet the qualifications set forth in paragraphs (d) through (k) of this section. A provider shall continuously meet these qualifications in order to remain included on this list when the list is updated thereafter.

(c) *Preemption.* Nothing contained in these regulations or the related application, appendices or instructions is intended to preempt any applicable law or regulation governing the conduct or operations of a provider.

(d) *Structure and organization.* A provider of a personal financial management instructional course must be in compliance with all applicable laws and regulations of the United States and each state, commonwealth, district, or territory of the United States in which the provider conducts courses. Nothing contained in these instructions, the application, or the appendices thereto, is intended to preempt any applicable law or regulation governing the conduct or operations of the provider.

(e) *Standards for teachers.* A provider shall employ trained personnel with adequate experience and training in providing effective instruction and services, which means the provider shall employ, at a minimum, an individual who holds at least one of the following current certifications and/or accreditations, or who has equivalent training or experience, to supervise instructors:

(1) A state teacher's certificate in any subject;

(2) Certification as a Certified Financial Planner (CFP);

(3) Certification or accreditation as a credit counselor or a financial counselor by a recognized independent organization;

(4) Certification by the American Association of Family and Consumer Sciences;

(5) Registered as a Registered Financial Consultant (RFC); or

(6) Certified as a Certified Public Accountant (CPA).

(f) *Learning materials and methodologies.* A provider shall provide learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course, which include written information and instruction on all of the following topics:

(1) Budget development, which consists of the following:

(i) Setting short-term and long-term financial goals, as well as developing skills to assist in achieving these goals;

(ii) Calculating gross monthly income and net monthly income;

(iii) Identifying and classifying monthly expenses as fixed, variable, or periodic;

(2) Money management, which consists of the following:

(i) Keeping adequate financial records;

(ii) Developing decision-making skills required to distinguish between wants and needs, and to comparison shop for goods and services;

(iii) Maintaining appropriate levels of insurance coverage, taking into account the types and costs of insurance;

(iv) Saving for emergencies, for periodic payments, and for financial goals;

(3) Wise use of credit, which consists of the following:

(i) The types, sources, and costs of credit and loans;

(ii) Identifying debt warning signs;

(iii) Appropriate use of credit and alternatives to credit use;

(iv) Checking a credit rating;

(4) Consumer information, which consists of the following:

(i) Public and non-profit resources for consumer assistance;

(ii) Applicable consumer protection laws and regulations, such as those governing correction of a credit record and protection against consumer fraud.

(g) *Course procedures.* A provider shall ensure the following procedures are followed:

(1) Generally, the provider shall:

(i) Require each debtor student to provide proof of identification, to provide his/her bankruptcy case number, and to sign in and sign out of the course;

(ii) Conduct the course for a minimum of two hours in length. Courses offered via the Internet or telephone should be designed for completion with a minimum of two hours;

(iii) At the end of the course, collect from each debtor student a completed course evaluation. The evaluation shall be in a form acceptable to the EOUST;

(2) For classroom instruction, the provider shall ensure:

(i) A teacher is present for purposes of instruction and interaction with debtor students;

(ii) Class size is reasonably limited to ensure an effective presentation of the course materials;

(3) For telephone instruction, the provider shall:

(i) Provide a toll-free telephone number;

(ii) Comply with the Americans with Disabilities Act and also include a toll-free number for deaf or hearing-impaired debtor students, e.g. TTY, TDD, or Text Telephone;

(iii) Employ adequate procedures to ensure that the debtor student is the individual who completed the course;

(iv) Ensure that a teacher is present telephonically for purposes of instruction and interaction with debtor students;

(v) Provide copies of the learning materials to debtor students before the telephone instruction session;

(4) For Internet instruction, the provider shall:

(i) Comply with the Americans with Disabilities Act and its application to the Internet;

(ii) Employ adequate procedures to ensure that the debtor student is the individual who completed the course and that the individual received two hours of instruction;

(iii) Ensure that a teacher will respond within one business day to a debtor student's questions or comments;

(5) In addition to meeting all other requirements, the provider who conducts telephone or Internet courses must demonstrate sufficient experience and proficiency in designing and providing services over the telephone or Internet.

(h) *Facilities.* A provider shall provide adequate facilities situated in a reasonably convenient location at which such instructional course is offered, except that such facilities may include the provisions of such instructional course by telephone or through the Internet, if such instructional course is effective;

(1) The provider shall ensure that any facility used by debtor students complies with all applicable laws and regulations including, but not limited to, the Americans with Disabilities Act Accessibility Guidelines, and all federal, state, and local fire, health, safety, and occupancy laws, codes, rules, or regulations.

(i) *Activity report and records.* A provider shall prepare and retain reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the EOUST or the United States Trustee for the district in which such instructional course is offered;

(1) Upon application for annual approval, the provider must furnish an estimate of the information requested in Appendix F to the application, projected to the end of either the probationary period or annual period. Within 30 days after the completion of either the probationary period or annual period, the provider must furnish an amended Appendix F which includes the actual information;

(2) Make all records related to the provider's compliance with 11 U.S.C. 111 available to the United States Trustee or EOUST upon request and cooperate with the United States Trustee or EOUST for any scheduled or unscheduled on-site visit or customer service audit.

(j) *Fees and certificates.* If a fee is charged for counseling services, a provider shall charge a reasonable fee, and provide services without regard to ability to pay the fee; the provider's criteria for providing services without a fee or at a reduced rate must be provided to the United States Trustee. In addition, a provider shall:

(1) Have sufficient computer capabilities to issue certificates of completion of an instructional course in conformance with the directives established by the EOUST;

(2) Advise the debtor student of the fee schedule before the instructional course is provided and inform the debtor student that services are available for free or at a reduced rate based on the debtor student's ability to pay;

(3) Issue certificates to any debtor student who completes an instructional course without regard to the debtor student's ability to pay;

(4) Issue the certificate within three business days to a debtor student after completion of the required instructional course;

(5) Not withhold the issuance of a certificate because of a debtor student's failure to obtain a passing grade on a quiz, examination, or test. Although a test may be incorporated into the curriculum to evaluate the effectiveness of the course and to ensure that the course has been completed, the provider cannot deny a certificate to a debtor student if the debtor student has completed the course as designed;

(6) Not charge a separate fee for the issuance of a certificate unless the provider has clearly disclosed such fee before the beginning of the instructional course;

(7) Issue a certificate to each spouse in a joint case whether the course is completed independently or jointly;

(8) Maintain adequate records to issue replacement certificates and to verify the authenticity of certificates filed by bankruptcy debtors.

(k) *Provider declarations and acknowledgments.* (1) The provider's owner, president, chairman, trustee, or other authorized official is required to declare, by signing the application, that such individual is authorized to complete the application on behalf of the provider; that such individual has read and knows the contents of the application and all enclosures and attachments submitted; and to affirm under penalty of perjury that all of the representations and statements contained therein are true and correct to the best of such individual's knowledge, information, and belief;

(2) The provider shall disclose the following information to each debtor student before the commencement of the instructional course:

(i) The provider's fee schedule, including any cost to the debtor student in addition to the course fee;

(ii) A statement that the course is offered to debtor students without regard to a debtor student's ability to pay;

(iii) The qualifications, including educational and training background, of the provider's teachers;

(iv) A schedule of course dates, times, and locations;

(v) A statement that the provider does not pay or receive fees or other consideration for the referral of debtor students to or by the provider;

(vi) A statement that, upon completion of the course, the provider will provide a certificate of course completion to the debtor student;

(3) By executing and submitting the ''*Application for Approval as a Provider of a Personal Financial Management Instructional Course*,'' the provider acknowledges and agrees to abide by the prohibitions, limitations, and obligations set forth in Appendix A, ''*Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Provider of a Personal Financial Management Instructional Course*,'' which include, but are not limited to, the following:

(i) Ensuring that no member of the board of directors or trustees, owner, officer, manager, employee, or agent is a United States Trustee Program employee, panel trustee, or person with a financial or familial connection to a panel trustee or an employee of the United States Trustee Program. For purposes of this paragraph, a person is not deemed to have a financial relationship to a panel trustee solely because the person is an employee of the panel trustee;

(ii) Not paying or receiving referral fees or other consideration for the referral of debtor students;

(iii) Ensuring that the course will not contain any commercial advertising, and that the provider shall not promote, market, or sell financial products; solicit business of any type; or sell information about the debtor to any third party without the debtor's permission, whether the course is presented in a classroom, on the telephone, or on the Internet;

(iv) Complying with the EOUST's directions on approved advertising, which is located in Appendix A to the application;

(v) Cooperating with the EOUST and the United States Trustee in timely responding to any questions or inquiries concerning the provider's operations and/or instructional course;

(vi) Consenting that any forms, agreements, contracts, or other materials furnished to a debtor student will not limit the debtor student's ability to bring an action or claim under the provision of the United States Bankruptcy Code. 11 U.S.C. 101 et. seq.

(l) Universities. Accredited universities and community colleges (''universities'') are eligible to apply to become providers using a streamlined version of the application. Universities need to complete only the following portions of the application:

(1) In section 1—General Information Concerning the Provider—complete sections: 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.8, and 1.10;

(2) In section 4—Learning Materials and Methodologies—complete sections: 4.1, 4.2, 4.4, 4.5, 4.6, 4.7, and 4.8;

(3) In section 6—Fees and Issuance of Certificates—complete section 6.1;

(4) In section 7—Activity Report for Approved Providers—complete section 7.1;

(5) In section 8—Acknowledgments, Agreements, and Declarations—complete sections 8.1 and 8.2;

(6) In section 9—Certification and Signature—execute the application as indicated in the instructions;

(7) Completed applications should be submitted to the EOUST in accordance with the procedures in section 58.19.

§ 58.26 Procedures for inclusion on the approved provider list.

(a) As used in this section the term ''provider'' means a provider of a personal financial management instructional course.

(b) Each provider seeking to be included on the list of approved providers must complete in its entirety the application form EOUST–DE1, ''Application for Approval as a Provider of a Personal Financial Management Course'' (application), including all appendices, and submit it at the address indicated on the application. Accredited universities may complete only the portions of the application as indicated in section 58.25(l).

(c) The application must be executed under penalty of perjury in a manner specified in 28 U.S.C. 1746.

(d) An application will not be accepted by the EOUST unless it is complete and has been signed by a provider representative who is authorized to sign on behalf of the provider. An application that is incomplete or has been altered, amended, or changed in any respect from the application at the United States Trustee Program's Web site will not be accepted by the EOUST. Such an application will be denied, and no further action on the request for inclusion on the approved list will be taken until a new application is submitted that corrects the defects.

(e) The EOUST will not accept an application submitted by a provider on behalf of another individual or group of individuals. Each provider that desires to be included on the approved list must submit its own application.

(f) Each provider must submit a new application 45 to 60 days before expiration of its six month probationary period or annual period to be considered for annual approval. After the application is completed and signed, the originals and a copy must be mailed to the EOUST, Debtor Education Provider Application Processing, at the address indicated on the application. The EOUST will not accept a photocopy or facsimile of the application in lieu of the original.

(g) A provider whose name appears on the list incorrectly may submit a written request that the name be corrected. A provider whose name appears on the list may submit a written request that its name be removed from the list.

(h) By submitting an application, the provider expressly consents to the release and disclosure of the provider's name on the approved list, and the publication of the provider's contact information.

(i) Obligation to Update Information: (1) The provider has a continuing duty to promptly notify the EOUST of any circumstances that would materially alter or change a response to any section of the application, including but not limited to, changes in the location of primary or satellite business office(s); the principal contact person; name or fictitious name under which the provider does business; management, including the board of directors; and a merger or consolidation with another entity;

(2) The provider shall request approval by amendment to its application, and prior to occurrence of the following changes:

(i) An increase in the fees, contributions, or payments received from debtor students for the instructional course or a change in the provider's policy for the reduction or waiver of fees;

(ii) Expansion into additional judicial districts or withdrawal from judicial districts where the provider is approved; and

(iii) Method of delivery type of instructional services or course curriculum;

(3) The provider must include with any amendment to its application, a newly executed ''certification and signature;''

(4) The provider will notify the EOUST immediately upon the occurrence of any of the below noted events:

(i) Cessation of business of the provider or of any office of the provider;

(ii) Any action by a state agency to suspend the license or cancel other authorization to do business;

(iii) A suspension by an accreditation organization or denial of accreditation; and

(iv) Withdrawal as an approved provider;

(j) An approved provider may not transfer or assign its United States Trustee approval under section 111 as a provider of a personal financial management instructional course.

§ 58.27 Procedures for denying an application or removing a provider from the approved list, and the administrative review rights granted to denied or removed providers.

(a) As used in this section the term ''provider'' means a provider of a personal financial management instructional course.

(b) No administrative review will be granted to any applicant that submitted an incomplete application and had its application denied due to incompleteness and failed to subsequently submit a completed application.

(c) The provider shall be notified in writing of any decision denying the provider's application or to remove the provider from the approved list (''notice''). The notice shall state the reason(s) for the decision and shall reference any documents or communications with the provider, which were relied upon in making the denial or removal decision. If such documents or communications were not provided to the United States Trustee or the EOUST by the provider, copies of the documents or communications shall be provided with the notice. The notice shall be sent to the provider by overnight courier, for delivery the next business day.

(d) The notice shall advise the provider that the decision is final unless the provider requests in writing a review (''request for review'') by the Director, Executive Office for United States Trustees (''Director''), no later than 20 calendar days from the date of issuance of the denial or removal notice. In order to be timely, a request for review must be received at the Office of the Director no later than 20 calendar days from the date of the removal notice to the provider.

(e) A decision to remove a provider from the approved list shall take effect upon the expiration of a provider's time to seek review from the Director or, if the provider timely seeks such review, upon the issuance of a final written decision by the Director.

(f) Notwithstanding sub-paragraph (e) of this section, a decision to remove a provider from the approved list may include, or may later be supplemented by, an interim directive, which may immediately remove a provider from the approved list. Such an interim directive may be issued if one or more of the following are specifically found:

(1) The provider made a material false statement on the application;

(2) The provider (board of directors, officer, manager, employee, counselor, or agent) has engaged in conduct that is dishonest, deceitful, fraudulent, or criminal in nature;

(3) The provider (board of directors, officer, manager, employee, counselor, or agent) has engaged in other gross misconduct that is unbefitting the provider's position as an approved provider;

(4) Revocation of the provider's license to do business in a particular state, provided the immediate removal shall apply only to the federal judicial districts within the particular state.

(g) The provider's request for review shall fully describe why the provider disagrees with the denial or removal decision, and shall be accompanied by all documents and materials that the provider wants the Director to consider in reviewing the decision. The provider shall send a copy of the request for review, and the accompanying documents and materials, to the Director by overnight courier, for delivery the next business day, and must be received by the Director within 20 calendar days of the denial or removal notice.

(h) The Director may seek additional information from any party, in the manner and to the extent the Director deems appropriate.

(i) The Director shall issue a written decision no later than 45 calendar days from the receipt of the provider's request for review, unless the provider agrees to a longer period of time or the Director extends the period. That decision shall determine whether the denial or removal decision is supported by the record and the action is an appropriate exercise of discretion, and shall adopt, modify, or reject the denial or removal decision. The Director's decision shall constitute final government agency action.

(j) In reaching a determination, the Director may specify a person to act as a reviewing official. The reviewing official shall not be a person who was involved in the denial or removal decision. The reviewing official's duties shall be specified by the Director on a case by case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director with written recommendations, or such other duties as the Director shall prescribe in a particular case.

(k) A provider that files a request for review shall bear its own costs and expenses, including counsel fees.

Dated: June 22, 2006.

Clifford J. White III,

Acting Director, Executive Office for United States Trustees.

[FR Doc. E6–10234 Filed 7–3–06; 8:45 am]

BILLING CODE 4410–40–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

RIN 1218–AB45

Occupational Exposure to Hexavalent Chromium; Approval of Information Collection Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; notice of Office of Management and Budget (OMB) approval of collection of information requirements.

SUMMARY: OSHA is announcing that the collection of information requirements contained in the Chromium (VI) standard (29 CFR parts 1910, 1915, 1917, 1918, and 1926) have been approved by OMB under the Paperwork Reduction Act of 1995. The OMB approval number is 1218–0252.

DATES: This final rule is effective July 5, 2006.

FOR FURTHER INFORMATION CONTACT: Todd Owen, OSHA, Directorate of Standards and Guidance, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION: OSHA published a final rule for chromium (VI) (Cr(VI)) on February 28, 2006, after determining that employees exposed to Cr(VI) are at increased risk of developing lung cancer (71 FR 10099). In addition, occupational exposure to Cr(VI) may result in asthma, and damage to the nasal passages and the skin. The final rule becomes effective on May 30, 2006. As required by the Paperwork Reduction Act of 1995, the **Federal Register** notice for the Cr(VI) final rule stated that compliance with the collection of information requirements was not required until these requirements are approved by OMB, and the Department of Labor publishes a notice in the **Federal Register** announcing that OMB approved and assigned a control number to the Cr(VI) requirements. Under 5 CFR 1320.5(b), an agency may not conduct or sponsor a collection of information unless: (1) The collection of information displays a current valid OMB control number, and (2) the agency informs members of the public who must respond to the collection of information that they are not required to respond to the collection of information unless the agency displays a currently valid OMB control number.

On February 27, 2006, OSHA submitted the Cr(VI) information collection request for the final rule to OMB for approval in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). On March 28, 2006, OMB approved the collections of information contained in the final rule and assigned this collection OMB Control Number 1218–0252 title ''Chromium (VI) Standards for General Industry (29 CFR 1910.1026), Shipyard Employment (29 CFR 1915.1026),[1] and Construction (29 CFR 1926.1126).'' The approval for the collection expires on March 31, 2009. The approved collections of information are:

• Exposure Determination—1910.1026(d), 1915.1026(d), and 1926.1126(d).

Paragraphs 1910.1026(d)(2), 1915.1026(d)(2), and 1926.1126(d)(2)—Scheduled monitoring option.

Paragraphs 1910.1026(d)(3), 1915.1026(d)(3), and 1926.1126(d)(3)—Performance-oriented option.

Paragraphs 1910.1026(d)(4), 1915.1026(d)(4), and 1926.1126(d)(4)—Employee notification of determination results.

• Regulated Areas—1910.1026(e).

Paragraphs 1910.1026(e)(2)—Demarcation.

• Respiratory Protection—1910.1026(g), 1915.1026(f), and 1926.1126(f).

Paragraphs 1910.1026(g)(2), 1915.1026(f)(2), and 1926.1126(f)(2)—Respiratory protection program (in accordance with 29 CFR 1910.134).

[1] The standard for shipyard employment also applies to marine terminals (29 CFR part 1917) and longshoring (29 CFR part 1918).

• Protective Work Clothing and Equipment—1910.1026(h), 1915.1026(g), and 1926.1126(g).

Paragraph 1910.1026(h)(2), 1915.1026(g)(2), and 1926.1126(g)(2)—Warning labels for bags or containers used to store Cr(VI)-contaminated protective clothing.

Paragraphs 1910.1026(h)(3), 1915.1026(g)(3), and 1926.1126(g)(3)—Informing laundry contractors about the potentially harmful effects of exposure of Cr(VI).

• Housekeeping—1910.1026(j).

Paragraph 1910.1026(j)(3)(ii)—Labeling bags or containers of waste, scrap, debris, and any other materials contaminated with Cr(VI).

• Medical Surveillance—1910.1026(k), 1915.1026(i), and 1926.1126(i).[2]

Paragraphs 1910.1026(k)(1), 1915.1026(i)(1), and 1926.1126(i)(1)—General.

Paragraphs 1910.1026(k)(2); 1915.1026(i)(2), and 1926.1126(i)(2)—Frequency.

Paragraphs 1910.1026(k)(3); 1915.1026(i)(3); and 1926.1126(i)(3)—Contents of examination.

Paragraphs 1910.1026(k)(4), 1915.1026(i)(4) and 1926.1126(i)(4)—Information provided to the physician or other licensed health care professional (PLHCP).

Paragraphs 1910.1026(k)(5), 1915.1026(i)(5), and 1926.1126(i)(5)—PLHCP's written medical opinion.

• Communication of Chromium (VI) Hazards to Employees—1910.1026(l), 1915.1026(j), and 1926.1126(j).

Paragraphs 1910.1026(l)(2), 1915.1026(j)(2), and 1926.1126(j)(2)—Employee information and training.

• Recordkeeping—1910.1026(m), 1915.1026(k), and 1926.1126(k).

Paragraphs 1910.1026(m)(1), 1915.1026(k)(1), and 1926.1126(k)(1)—Air monitoring data.

Paragraphs 1910.1026(m)(2), 1915.1026(k)(2), and 1926.1126(k)(2)—Historical monitoring data.

Paragraphs 1910.1026(m)(3), 1915.1026(k)(3), and 1926.1126(k)(3)—Objective data.

Paragraphs 1910.1026(m)(4), 1915.1026(k)(4), and 1926.1126(k)(4)—Medical surveillance.

Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

List of Subjects in 29 CFR Parts 1910, 1915, and 1926

Occupational safety and health, Reporting and recordkeeping requirements.

Signed at Washington, DC, on June 19, 2006.

Edwin G. Foulke, Jr.,

Assistant Secretary.

Amendments to Standards

■ For the reasons stated in the preamble to this final rule, the Occupational Safety and Health Administration amends 29 CFR parts 1910, 1915, and 1926 to read as follows:

PART 1910—[AMENDED]

Subpart A—[Amended]

■ 1. Revise the authority citation for subpart A to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), and 5–2002 (67 FR 65008), as applicable.

Sections 1910.7 and 1910.8 also issued under 29 CFR part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9 a, 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

■ 2. Amend § 1910.8 by adding to the table contained therein the entry ''1910.1026'' in the proper numerical sequence as follows:

§ 1910.8 OMB control numbers under the Paperwork Reduction Act.

* * * * *

29 CFR citation	OMB control No.
* * *	* *
1910.1026	1218–0252
* * *	* *

PART 1915—[AMENDED]

■ 3. Revise the authority citation for part 1915 to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), and 5–2002 (67 FR 65008), as applicable.

Sections 1915.120 and 1915.152 also issued under 29 CFR part 1911.

Section 1915.1001 also issued under 5 U.S.C. 553.

Subpart A—[Amended]

■ 4. Amend § 1915.8 by adding to the table contained therein the entry ''1915.1026'' in the proper numerical sequence as follows:

§ 1915.8 OMB control numbers under the Paperwork Reduction Act.

* * * * *

29 CFR citation	OMB control No.
* * *	* *
1915.1026	1218–0252
* * *	* *

PART 1926—[AMENDED]

Subpart A—[Amended]

■ 5. Revise the authority citation for subpart A to read as follows:

Authority: Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*); sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), and 5–2002 (67 FR 65008), as applicable; and 29 CFR part 1911.

■ 6. Amend § 1926.5 by adding to the table contained therein the entry ''1926.1126'' in the proper numerical sequence as follows:

§ 1926.5 OMB control numbers under the Paperwork Reduction Act.

* * * * *

[2] The Supporting Statement submitted to OMB identifies these information collections as follows:

Initial medical examination—paragraphs 1910.1026(k)(1)(i)(A), (k)(3)(i), and (k)(3)(ii); 1915.1026(i)(1)(i)(A), (i)(3)(i), and (i)(3)(ii), and 1926.1126(i)(1)(i)(A), (i)(3)(i), and (i)(3)(ii).

Annual medical examination—paragraphs 1910.1026(k)(2)(ii), (k)(3)(i), and (k)(3)(ii); 1915.1026(i)(2)(ii), (i)(3)(i), and (i)(3)(ii); and 1926.1126(i)(2)(ii), (i)(3)(i), and (i)(3)(ii).

Initial medical examination with additional tests—paragraphs 1910.1026(k)(1)(i)(B) and (k)(3)(i)–(k)(3)(iii); 1915.1026(i)(1)(i)(B) and (i)(3)(i)–(i)(3)(iii); and 1926.1126(i)(1)(i)(B) and (i)(3)(i)–(i)(3)(iii).

Annual medical examination with additional tests—paragraphs 1910.1026(k)(2)(ii) and (k)(3)(i)–(k)(3)(iii); 1915.1026(i)(2)(ii) and (i)(3)(i)–(i)(3)(iii); and 1926.1126(i)(2)(ii) and (i)(3)(i)–(i)(3)(ii).

Medical examination after initial assignment—paragraphs 1910.1026(k)(2)(i), (k)(3)((i), and (k)(3)(ii); 1915.1026(i)(2)(i), (i)(3)(i), and (i)(3)(ii); and 1926.1126(i)(2)(i), (i)(3)(i), and (i)(3)(ii).

Medical examination at termination of employment—paragraphs 1910.1026(k)(2)(vi) and (k)(3)(i)–(k)(3)(iii); 1915.1026(i)(2)(vi) and (i)(3)(i)–(i)(3)(iii); and 1926.1126(i)(2)(vi) and (i)(3)(i)–(i)(3)(iii).

29 CFR citation	OMB control No.
* * *	* *
1926.1126	1218–0252
* * *	* *

[FR Doc. 06–5955 Filed 7–3–06; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–056]

RIN 1625–AA00

Safety Zone; French Festival Fireworks, St. Lawrence River, Cape Vincent, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing portions of the navigable waters on the St. Lawrence River on July 8, 2006 for the French Festival Fireworks. 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, Cape Vincent, NY.

DATES: This rule is effective from 9.30 p.m. (local) through 10:30 p.m. (local) on July 8, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CGD09–06–056] 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 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), the Coast Guard finds that 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.

The safety zone consists of all navigable waters of the St. Lawrence River within an 500 foot radius around the fireworks launch platform located at 44°07′53″ N, 076°20′02″ 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 his designated on-scene patrol representative. The designated on-scene patrol representative will be the patrol commander. 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. 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).

This determination is based on the minimal time that vessels will be restricted from the zone, and therefore minor if any impacts to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit or anchor in the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: This safety zone is only in effect from 9:30 p.m. (local) until 10:30 p.m. (local) on the day of the event.

If you think that 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 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 U.S. Coast Guard Sector Buffalo (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 would call 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 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

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. 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 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, 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.T09–056 is added to read as follows:

§ 165.T09–056 Safety Zone; French Festival, St. Lawrence River, Cape Vincent, NY.

(a) *Location.* The following area is a temporary safety zone: All waters of the St. Lawrence River within a 500-foot radius around the fireworks launch platform located at 44°07′53″ N, 076°20′02″ W (NAD 83).

(b) *Effective time and date.* This section is effective from 9:30 p.m. (local) until 10:30 p.m. (local) on July 08, 2006.

(c) *Definitions.* As used in this section; *Designated on-scene representative* means includes 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, Buffalo, NY with enforcement of this regulation.

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

Dated: June 13, 2006.

S.J. Ferguson,

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

[FR Doc. E6–10471 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–06–067]

RIN 1625–AA00

Safety Zone; Lignelli Wedding Fireworks, Atlantic Ocean, Water Mill, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Lignelli Wedding Fireworks in the Atlantic Ocean off of 381 Dune Road, Water Mill, NY. The safety zone is necessary to protect the life and property of the maritime community from the hazards posed by the fireworks display. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port, Long Island Sound.

DATES: This rule is effective from 8 p.m. to 10:10 p.m. on July 8, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD01–06–067 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade D. Miller, Assistant Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596.

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 Coast Guard did not receive an Application for Approval of Marine Event for this event until April 8, 2006, thereby making an NPRM impracticable and contrary to the pubic interest.

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**. Any delay encountered in this regulation's effective date would be impracticable and contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of the Atlantic Ocean off of Water Mill, NY and to protect the maritime public from the hazards associated with this fireworks event.

The temporary zone should have minimal negative impact on the public and navigation because it is only effective for a 2 hour and 10 minute period and the area closed by the safety zone is minimal, allowing vessels to transit around the zone in the Atlantic Ocean off of Water Mill, NY.

Background and Purpose

The Lignelli Wedding Fireworks display will be taking place in the Atlantic Ocean off of Water Mill, NY from 8 p.m. to 10:10 p.m. on July 8, 2006. This safety zone is necessary to protect the life and property of the maritime public from the hazards posed by the fireworks display. It will protect the maritime public by prohibiting entry into or movement within this portion of the Atlantic Ocean one hour prior to, during and one hour after the stated event.

Discussion of Rule

This regulation establishes a temporary safety zone on the waters of the Atlantic Ocean, off of 381 Dune Road, Water Mill, NY within a 1200-foot radius of the fireworks barge located at approximate position 40°53′27.99″ N, 072°19′14.10″ W. The temporary safety zone will be outlined by temporary marker buoys installed by the event organizers.

This action is intended to prohibit vessel traffic in a portion of the Atlantic Ocean off of Water Mill, NY to provide for the protection of life and property of the maritime public. The safety zone will be enforced from 8 p.m. until 10:10 p.m. on July 8, 2006. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of the rest of the Atlantic Ocean except for the portion delineated by this rule.

The Captain of the Port anticipates minimal negative impact on vessel traffic due to this event due to the limited area and duration covered by this safety zone. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

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 will be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: Vessels will only be excluded from the area of the safety zone for 2 hours and ten (10) minutes; and vessels will be able to operate in other areas of the Atlantic Ocean off of Water Mill, NY during the enforcement period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in those portions of Long Island Sound covered by the safety zone. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that 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 subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant Junior Grade D. Miller, Assistant Chief, Waterways

Management Division, Sector Long Island Sound, at (203) 468–4596.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not 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 will 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 will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

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 M16475.1D 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 the categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34), of the Instruction, from further environmental documentation.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1225, 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 temporary § 165.T01–067 to read as follows:

§ 165.T01–067 Safety Zone: Lignelli Wedding Fireworks, Atlantic Ocean, Water Mill, NY.

(a) *Location.* The following area is a safety zone: All waters of the Atlantic Ocean in a 1200-foot radius of a fireworks barge site located off of 381 Dune Road, Water Mill, NY at approximate position 40°53′27.99″ N, 072°19′14.10″ W. All coordinates are North American Datum 1983.

(b) *Enforcement period.* This section will be enforced from 8 p.m. to 10:10 p.m. on Saturday, July 8, 2006.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

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

Dated: June 22, 2006.

J.J. Plunkett,

Commander, U.S. Coast Guard, Captain of the Port, Long Island Sound, Acting.

[FR Doc. E6–10472 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, 24, and 64

[ET Docket No. 04–295; RM–10865; FCC 06–56]

Communications Assistance for Law Enforcement Act and Broadband Access and Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses the assistance capabilities required, pursuant to section 103 of the Communications Assistance for Law Enforcement Act (CALEA) for facilities-based broadband Internet access providers and providers of interconnected Voice over Internet Protocol (VoIP). More generally, the *Second Report and Order and Memorandum Opinion and Order* (*Second R&O and MO&O*) specifies mechanisms to ensure that telecommunications carriers comply with CALEA. The *MO&O* denies in part and grants in part a petition for reconsideration and clarification filed by the United States Telecom Association (USTelecom) relating to the compliance date for broadband Internet access providers and providers of interconnected VoIP.

DATES: Effective August 4, 2006, except for §§ 1.20004 and 1.20005, which contain information collection requirements that have not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of these sections.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452, e-mail: *Rodney.Small@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order and Memorandum Opinion and Order*, ET Docket No. 04–295, FCC 06–56, adopted May 3, 2006, and released May 12, 2006. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300; fax (202) 488–5563; e-mail at *FCC@BCPIWEB.COM*.

Summary of the Second Report and Order and Memorandum Opinion and Order

Overview

1. Telecommunications industry standard-setting bodies, working in concert with law enforcement agencies (LEAs) and other interested parties, are developing technical requirements and solutions for facilities-based broadband Internet access providers and providers of interconnected VoIP. We conclude that, absent the filing of a deficiency petition under CALEA section 107(b), it would be premature for the FCC to intervene in the standards development process. Additionally, we permit all carriers providing facilities-based broadband Internet access and interconnected VoIP services until May 14, 2007 to come into compliance with CALEA. Further, we require that all carriers providing facilities-based broadband Internet access and interconnected VoIP service to submit interim reports to the Commission to ensure that they will be CALEA-compliant by May 14, 2007. We also require that all facilities-based broadband Internet access and interconnected VoIP providers to whom CALEA obligations were extended in the *First Report and Order* (*First R&O*) in this proceeding come into compliance with the system security requirements in our rules within 90 days of the effective date of this *Second R&O*.

2. More generally, we specify mechanisms to ensure that telecommunications carriers comply with CALEA. Specifically, under the express terms of the statute, all carriers subject to CALEA are obliged to become CALEA-compliant. We find that sections 107(c) and 109(b) of CALEA provide only limited and temporary relief from compliance requirements, and that they are complementary provisions that serve different purposes, which are, respectively: (1) Extension of the CALEA section 103 compliance deadline for equipment, facility, or service deployed before October 25, 1998; and (2) recovery of CALEA-imposed costs. We also conclude that, in addition to the enforcement remedies through the courts available to LEAs under CALEA section 108, we may take separate enforcement action against carriers that fail to comply with CALEA. Moreover, we conclude that carriers are generally responsible for CALEA development and implementation costs for post-January 1, 1995 equipment and facilities.

Background

3. In March 2004, the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), and the Drug Enforcement Administration (DEA) (collectively, Law Enforcement) filed with the Commission a petition for expedited rulemaking, requesting that we initiate a proceeding to resolve various outstanding issues associated with the implementation of CALEA. We responded in August 2004 by issuing a *Notice of Proposed Rulemaking* (*NPRM*) (69 FR 56976, September 23, 2004) and *Declaratory Ruling* in this proceeding. The *NPRM* examined issues relating to the scope of CALEA's applicability to packet-mode services, such as broadband Internet access, and implementation and enforcement issues.

4. In September 2005, the *First R&O* (70 FR 59664, October 13, 2005) concluded that CALEA applies to facilities-based broadband Internet access providers and providers of interconnected VoIP service, and the concurrent *Further Notice of Proposed Rulemaking* (70 FR 59704, October 13, 2005) sought comment on whether CALEA obligations should be extended to providers of other types of VoIP services and on whether something less than full CALEA compliance should be required of certain classes or categories of facilities-based broadband Internet access providers. The *First R&O* stated: ''In the coming months, we will release another order that will address separate questions regarding the assistance capabilities required of the providers covered by today's Order pursuant to section 103 of CALEA. This subsequent order will include other important issues under CALEA, such as compliance extensions and exemptions, cost recovery, identification of future services and entities subject to CALEA, and enforcement.'' The *Second R&O* addresses these questions and issues and specifies what telecommunications providers must do to facilitate electronic surveillance of their equipment, facilities, and services by LEAs, pursuant to court orders or other lawful authorization.

5. In this *Second R&O*, we first examine the obligations of facilities-based broadband Internet access and interconnected VoIP providers to

implement CALEA compliance solutions under section 103 of the statute, including solutions based on either CALEA ''safe harbor'' standards or the use of trusted third parties (TTPs). We next examine the scope of relief available to telecommunications carriers pursuant to CALEA sections 107(c) and 109(b), issue new guidelines to govern the filing and evaluation of petitions associated with those rule sections, and dispose of pending section 107(c) petitions. Third, we address CALEA enforcement issues, both generally and with specific regard to facilities-based broadband Internet access and interconnected VoIP providers, including the filing of reports by these providers to ensure their timely compliance with the assistance capability requirements of CALEA section 103. Fourth, we examine CALEA cost issues and specify cost recovery mechanisms for wireline, wireless, and other telecommunications carriers. Fifth, we specify a date for facilities-based broadband Internet access and interconnected VoIP providers to comply with CALEA system security requirements. Finally, we address the CALEA compliance obligations of providers of future telecommunications services and technologies.

A. Requirements and Solutions

6. In this proceeding, we have explored the complexity of the technical issues regarding packet technologies to ensure that broadband Internet access and VoIP providers can comply with CALEA and not compromise the ability of LEAs to receive the information to which they are entitled under the statute. Specifically, as discussed in detail, we probed the capabilities of broadband Internet access and VoIP providers to extract CII and provide it to LEAs under CALEA, and inquired about compliance solutions for these providers based upon either CALEA ''safe harbor'' standards or the use of TTPs. The record demonstrates that Law Enforcement and industry have made progress toward the goal of achieving successful implementation of CALEA with regard to the deployment of packet technologies by broadband Internet access and VoIP providers, but this is an ongoing process. Although section 107(b) of CALEA allows the Commission, upon petition, to establish rules, technical requirements or standards necessary for implementing section 103 if any entity believes that industry-created requirements or standards are deficient, CALEA clearly provides that LEAs and industry work together in the first instance to formulate CALEA compliance standards. Accordingly, we will continue to monitor developments in this area as Law Enforcement and industry continue working together, primarily through various standards organizations, to develop long-term solutions to these complex technical issues. We also determine that all carriers providing facilities-based broadband Internet access and interconnected VoIP services must be in compliance with section 103 of CALEA by May 14, 2007.

1. CALEA Obligations Under Section 103

7. *Background.* Section 103(a)(1) of CALEA requires telecommunications carriers to establish the capability of providing to LEAs call content information, pursuant to a court order or other lawful authorization; and section 103(a)(2) of CALEA requires telecommunications carriers to establish the capability of providing to LEAs reasonably available CII, pursuant to a court order or other lawful authorization. In the *Second R&O*, we discuss a carrier's obligations under section 103 and compliance solutions as they relate to broadband Internet access and interconnected VoIP services.

8. CALEA defines CII as ''dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber by means of any equipment, facility, or service of a telecommunications carrier,'' but CALEA does not define ''origin,'' ''direction,'' ''destination,'' or ''termination.'' The Commission has adopted definitions of the component terms (origin, direction, destination, and termination) in the statutory definition of CII in addressing petitions regarding standards for circuit switched networks in J–STD–025. However, as noted above, packet technologies are substantially different from the circuit switched technologies that were the primary focus of the Commission's earlier decisions on CALEA. Accordingly, in the *NPRM*, we sought comment on whether the Commission should clarify the statutory term ''call-identifying information'' for broadband Internet access and VoIP services. We asked commenters to provide specific suggestions for these definitional issues.

9. We also invited comment as to how the Commission should apply the term ''reasonably available'' to broadband Internet access. We observed that the Commission has previously determined that information may not be ''reasonably'' available in circuit switched networks if the information is accessible only by significantly modifying a network, and further observed that cost concerns are best addressed as part of a section 107(c) analysis. We tentatively concluded that we should apply the same ''reasonably'' available criteria to broadband Internet access and VoIP providers; *i.e.*, information may not be reasonably available to those providers if it is accessible only by significantly modifying their networks. However, we recognized that, when looking at those providers' service architectures, it is not always readily apparent where CII is available. Accordingly we sought comment on these related issues, such as instances in which CII may be reasonably available from either a broadband Internet access provider or a VoIP provider, but not from both. We stated that, if the information is reasonably available from both, we would expect that both would have a CALEA obligation with respect to that information and would work cooperatively with each other and with the LEA to provide the LEA with all required information.

10. *Discussion.* A number of parties commented generally on the Commission's authority to intervene in the development of CALEA technical standards. Cingular notes that the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) stated: ''* * * Congress gave the telecommunications industry the first crack at developing standards, authorizing the Commission to alter those standards only if it found them 'deficient.' '' Cingular and many other parties conclude that the Commission must defer to the efforts of industry standards bodies to formulate standards, absent the filing of a petition under section 107(b) with the Commission.

11. With regard to the availability of CII in broadband access and VoIP networks, commenters generally agree that different information is available to different service providers, and that different parts of that information are ''reasonably available'' to different service providers. However, several parties identify situations in which, they contend, a broadband Internet access provider would not reasonably be able to extract CII used by non-affiliated VoIP providers. With regard to the Commission's tentative conclusion that CII may be reasonably available to a broadband access or VoIP provider as long as that provider's network does not have to be significantly modified, some parties argue that this standard is inappropriate for Internet applications. DOJ expresses particular concern about the Commission using cost considerations to decide what is

''reasonably available'' because, DOJ asserts, the Commission could mistakenly excuse an entire class of carriers from delivering a capability, even though only one or two carriers qualify for such relief based on non-technical considerations. However, industry commenters strongly disagree with DOJ regarding the exclusion of cost considerations from a ''reasonably available'' inquiry.

12. We note the D.C. Circuit's opinion referenced by Cingular, as well as the comments of both DOJ and the telecommunications industry that express concern about Commission intervention in the continuing work by Law Enforcement and industry to develop CALEA technical standards for broadband Internet access and VoIP services. Addressing analogous circumstances, the Court explained that such intervention ''would weaken the major role Congress obviously expected industry to play in formulating CALEA standards.'' In the course of developing standards for CALEA compliance by broadband Internet access and VoIP providers, we expect that industry standard-setting bodies, working in concert with Law Enforcement and other interested parties, will develop an appropriate definition of ''call-identifying information'' in the context of broadband Internet access and VoIP networks as well as an appropriate definition of what constitutes either ''reasonable availability'' of CII in such networks or a ''significant modification'' of such networks. If this process proves unsatisfactory, any interested party may submit to the Commission a deficiency petition under CALEA section 107(b). We thus take no action on these issues at this time.

13. The *First R&O* in this proceeding established a CALEA compliance date of May 14, 2007 for newly covered entities and providers of newly covered services. USTelecom asked that this date be extended until 18 months from the effective date of this *Second R&O*, and also asked the Commission to identify specifically all broadband Internet access services subject to the compliance date. To eliminate any possible confusion, we conclude that the public interest will be best served by applying the May 14, 2007 compliance date to all facilities-based broadband Internet access and interconnected VoIP services. We agree with USTelecom that applying the compliance date uniformly to these services is consistent with the policy objectives identified in the *First R&O*. We find that applying the same compliance dates to all providers of facilities-based broadband Internet access and interconnected VoIP services will avoid any skewing effect on competition and will prevent migration of criminal activity onto networks with delayed compliance dates.

14. One firm date establishes a clear goal for all carriers, equipment manufacturers, and law enforcement that must cooperate in the process of identifying, implementing and deploying solutions. One firm date also should encourage all interested parties to move quickly to develop solutions which, in turn, will benefit smaller carriers who face greater challenges in complying with CALEA in the absence of standards and the availability of compliant equipment in the marketplace. Thus, we reject suggestions for different compliance deadlines for VoIP and broadband Internet access services, or linking compliance deadlines to certain events or criteria, such as the development of standards, a Commission decision that a service provider is subject to CALEA, or carrier size.

15. We also find that May 14, 2007 is a reasonable time period for compliance with the section 103 requirements. We note, at the outset, that VoIP standards for CALEA are nearing or are at completion for various technologies. Thus, manufacturers and carriers are in a good position to implement and deploy solutions for VoIP by that date, even though we recognize that VoIP providers who plan a nationwide deployment will need to incorporate a CALEA solution into numerous routers or servers or negotiate arrangements with numerous interconnecting carriers. We similarly conclude that providers of broadband Internet access services should be able to comply with section 103 by May 14, 2007. Although standards for newer broadband Internet access technologies are yet to be developed, especially regarding the delivery of CII, we note that full content surveillance has already been addressed by standards groups for certain older technologies and some carriers may be able to rely on ''passive'' techniques (*e.g.*, using probes at certain points throughout their network) to implement surveillance. Other factors should facilitate carrier compliance by that date. For example, some solutions will be software based, and thus carriers will not necessarily have the burden of deploying new equipment to come into compliance. Further, facilities-based broadband Internet access and VoIP services interconnect with the public Internet and public switched telephone network (PSTN), respectively. Thus, broadband access architectures and protocols are compatible with standards used for the Internet and VoIP architectures and protocols are compatible with standards used for the PSTN, providing a foundation upon which CALEA solutions for broadband access and VoIP services can be developed.

2. Compliance Solutions Based on CALEA ''Safe Harbor'' Standards

16. *Background*. In the *NPRM*, the Commission invited comment on a variety of industry standards for packet-mode technologies to determine whether any of these standards are deficient and thus preclude carriers, manufacturers, and others from relying on them as ''safe harbors'' in complying with section 103 of CALEA. We noted that, over the past several years, various organizations have been developing standards for various types of packet technologies that support a variety of applications used in both wireline and wireless networks. We stated that these standards could serve, pursuant to section 107(a) of CALEA, as safe harbors for section 103 compliance by telecommunications carriers. Section 107(a) is titled ''Safe Harbor'' and subsection 107(a)(2) provides: ''A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 103, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 106, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, or by the Commission under subsection (b), to meet the requirements of section 103.'' We noted that the standards process is ongoing in several different venues, with some standards already having undergone modification and new ones under development, and that compliance with a safe harbor standard is not required by CALEA.

17. In the *NPRM*, we also noted Law Enforcement's assessment that packet-mode standards that have been published are deficient. We stated our belief that underlying this assessment are Law Enforcement's assumptions that the definition of CII can be clearly applied to packet networks, that information so identified is ''reasonably available'' to the carrier, and that the provision of the information to LEAs by the carrier is ''reasonably achievable.'' We further noted that the Telecommunication Industry Association disagrees with Law Enforcement's assessment. We asked

parties to comment on industry standards for packet-mode technologies in an attempt to determine whether any of these standards are deficient and thus preclude carriers, manufacturers, and others from relying on them as safe harbors in complying with section 103. We made clear, however, that we did not intend to inhibit the ongoing work by standards organizations, carriers, and manufacturers to develop and deploy CALEA-compliant facilities and services. We recognized that CALEA provides that carriers and others may rely on publicly available technical requirements or standards adopted by an industry association or standard-setting organization to meet the requirements of section 103, unless the Commission takes specific action in response to a petition.

18. In the *NPRM*, therefore, we invited comment as to whether there is any need to define what constitutes publicly available technical requirements or standards adopted by an industry association or standard-setting organization, and sought comment regarding the appropriateness of available standards and specifications to be used as safe harbors for packet-mode technologies for purposes of CALEA. We observed that it appears that any group or organization could publish a set of technical requirements or standards and claim it to be a safe harbor, and we requested comment on whether we should define what constitutes publicly available technical requirements or standards adopted by an industry association or standard setting organization. We also sought comment on the appropriate format to be used for the transmission of CII data to LEAs. We noted that, when broadband telephony (including VoIP) CII is provided to LEAs, they may have concerns with the format of the electronic interface used to provide the CII. We requested comment on whether the CII should be converted into a format preferred by LEAs.

19. *Discussion.* No specific deficiencies in any packet-mode standard were cited by any commenter. Rather, there was a consensus to allow the standards process to proceed and to resolve issues with deficiency petitions. In fact, both industry commenters and DOJ note the appropriateness of this process. Further, industry commenters observe that Law Enforcement has not filed a deficiency petition with respect to any packet-mode standard. Similarly, with regard to whether the Commission should seek to determine the industry bodies that are appropriate to generate safe harbor standards, there is broad consensus in the record that we should not. Finally, with regard to the issue of the format of CII to be provided to LEAs, there was a difference of opinion among commenters as to whether a single format is appropriate, but no one recommended that the Commission determine this issue in advance of industry.

20. We found that it would be premature for the Commission to pre-empt the ongoing industry process to develop additional standards for packet-mode technologies. We believe that industry organizations, whose meetings are generally open to all interested parties—including LEAs—can best develop those standards, just as they previously developed circuit switched standards. Further, given the diversity of technologies supporting communications services and the breadth of organizations involved both domestically and internationally in developing packet-mode standards, we find it both infeasible and inappropriate to specify the organizations qualified to develop standards that may be used as ''safe harbors.'' Finally, we find no reason to become involved at this time in the technically complex issue of determining the appropriate format to be used for the transmission of broadband CII data to LEAs. Rather, for all of these technical issues, we find that the industry standards process remains the preferred forum. We note again, however, to the extent that any party perceives a problem with an industry developed packet-mode standard, it may file with the Commission a deficiency petition under section 107(b) of CALEA.

3. Compliance Solutions Based on a Trusted Third Party

21. *Background.* In the *NPRM*, we sought comment on the feasibility of using a TTP approach to extract CII and content from packets. Under this approach, a TTP would operate a service bureau with a system that has access to a carrier's network equipment and remotely manage the intercept process for the carrier. We noted that the TTP could either rely on a mediation device to collect *separated* call content and CII from various points in the carrier's network and deliver the appropriate information to a LEA, or could rely on an external system to collect *combined* call content and CII and deliver appropriate information to the LEA. In the *NPRM*, we focused on the external system approach which, we noted, could analyze the combined information and provide the LEA only that information to which it is entitled. We sought comment on whether an external system would be an efficient method to extract information from packets. We stated that external systems might provide economies of scale for small carriers, and asked about the approximate relative costs of internal versus external systems for packet extraction.

22. The record indicates that TTPs are available to provide a variety of services for CALEA compliance to carriers, including processing requests for intercepts, conducting electronic surveillance, and delivering relevant information to LEAs. Given the effectively unanimous view of commenters that the use of TTPs should be permitted but not required, we conclude that TTPs may provide a reasonable means for carriers to comply with CALEA, especially broadband access and VoIP providers and smaller carriers. We emphasize, however, that if a carrier chooses to use a TTP, that carrier remains responsible for ensuring the timely delivery of CII and call content information to a LEA and for protecting subscriber privacy, as required by CALEA. Thus, a carrier must be satisfied that the TTP's processes allow the carrier to meet its obligations without compromising the integrity of the intercept. Carriers will not be relieved of their CALEA obligations by asserting that a TTP's processes prevented them from complying with CALEA. We note DOJ's concern about carriers attempting to use TTPs to shift costs to LEAs, but we make no decision here that would allow carriers who choose to use a TTP to shift the financial responsibility for CALEA compliance to the Attorney General under section 109 (*see* discussion on cost recovery, in the *Second Report and Order*). We will evaluate whether the availability of a TTP makes call-identifying information ''reasonably'' available to a carrier within the context of section 103 in acting on a section 109 petition that a carrier may file (*see* discussion on section 109 petitions, in the *Second Report and Order*). As noted by several commenters, telecommunications carriers and manufacturers have legally-mandated privacy obligations, and we take no action herein to modify those obligations based on potential broadband access and VoIP provider use of TTPs. Finally, in accord with the consensus of comments, we will defer to standards organizations and industry associations and allow them to determine the degree to which the ability of a TTP external system to extract and isolate CII makes that information reasonably available for purposes of defining CALEA standards and safe harbors.

B. Sections 107(c) and 109(b) Petitions

23. In the *Second Report and Order*, we address the scope of relief available to telecommunications carriers pursuant to CALEA sections 107(c)(2) and 109(b); clarify guidelines to govern the filing and evaluation of petitions filed under these two sections; and dispose of pending section 107(c)(2) petitions. Under the express terms of the statute, all telecommunications carriers subject to CALEA must comply with its mandate. Sections 107(c) and 109(b) provide only limited and temporary relief from CALEA compliance requirements; they are ''complementary provisions that serve different purposes.''

24. Due to the time limitations set forth in the CALEA statute, telecommunications carriers may not use section 107(c)(1) to obtain extensions of the compliance deadline in connection with most packet services. We find that it would be inconsistent with the express time limitations of section 107(c) for the Commission to grant 107(c) extension relief to equipment, facilities or services deployed after the effective date of CALEA pursuant to other CALEA provisions, section 229 of the Communications Act, or section 706 of the Telecommunications Act of 1996. We also find that, to obtain section 109(b)(1) relief, in connection with a given assistance capability requirement under section 103, a telecommunications carrier must demonstrate that it undertook active and sustained efforts to come into compliance with that requirement, and that compliance could not reasonably be achieved without ''significant difficulty or expense.'' As a result, telecommunications carriers filing section 109(b) petitions face a high burden to obtain relief.

25. In the case of packet-mode compliance requirements addressed in this *Second R&O*, we expect that telecommunications carriers will work diligently until the end of the 18-month compliance period, established in the *First R&O*, to implement an appropriate packet-mode CALEA solution. Once the compliance period expires, telecommunications carriers seeking relief pursuant to section 109(b) will be expected to document the efforts they undertook throughout the 18-month compliance period to achieve CALEA compliance and to demonstrate how the solution for which they wish to receive cost recovery relief constitutes a ''significant difficulty or expense.'' Because section 109(b) is not a compliance extension device, however, the filing of a section 109(b) petition will not, by itself, toll the compliance date.

26. Specifically, in this section, we find that:

- Section 107(c)(1) may not be used by telecommunications carriers seeking extensions for equipment, facilities, and services (hereinafter ''facilities'') *deployed on or after* October 25, 1998 (the effective date of the CALEA section 103 and 105 requirements).
- Section 109(b)(1) does not itself authorize the Commission to grant a telecommunications carrier an extension of the CALEA compliance deadlines.
- Section 109(b)(1) imposes a high burden of proof for telecommunications carriers to demonstrate that they made reasonable efforts to develop CALEA solutions and that none of them are reasonably achievable. In the absence of CALEA compliance standards or industry solutions, a petitioner must demonstrate that it exercised a high degree of due diligence in order to develop its own solution, but was unable to implement this solution because of a ''significant difficulty or expense.''
- Office of Management and Budget (OMB) approval of the paperwork collection requirements of this *Second Report and Order* is required. Once approval is received, we will issue a public notice setting forth a deadline that will require all telecommunications carriers who have pending section 107(c)(1) petitions currently on file with the Commission to inform the Commission whether, pursuant to our actions taken here, such petitions concern ''equipment, facilities, or services'' deployed prior to October 25, 1998.
- Once OMB approval is received, we will issue a public notice setting forth a deadline that will require all telecommunications carriers providing facilities-based broadband Internet access or interconnected VoIP services to file monitoring reports with the Commission that briefly describe steps that they are taking to come into compliance with CALEA section 103. We also will issue a public notice to notify carriers of OMB approval of paperwork collection requirements for filing petitions under sections 107(c) and 109(b).

1. Section 107(c)(1) Relief

a. Section 107(c)(1) Does Not Apply to Any Equipment, Facility, or Service Deployed On or After October 25, 1998

27. We adopt our tentative conclusion that section 107(c)(1)'s unambiguous language expressly limits extensions to cases where the petitioning telecommunications carrier proposes to install or deploy, or has installed or deployed, its '' 'equipment, facility, or service *prior to the effective date of section 103 * * *,' i.e.,* prior to October 25, 1998.'' Given this limitation, a section 107(c) extension is not available to cover equipment, facilities, or services installed or deployed on or after October 25, 1998. Commenters failed to present any other reasonable way to read this section, and we reject arguments by commenters that the Commission should nonetheless ignore Congress's limited grant of authority to entertain CALEA extension petitions and look to other statutes for authority to grant extensions for facilities deployed after Congress's cut-off date.

28. We reject commenters' argument that the Commission could entertain extension petitions pursuant to statutes other than section 107(c), including CALEA section 109(b)(1) and section 706 of the Telecommunications Act of 1996. While we agree that section 107(c)(1) does not appear to prohibit the Commission from exercising authority under another statute, we find it unlikely that Congress intended the Commission to do so. The language of section 107(c)(1) is very specific as to what equipment, facilities, and services are covered. Congress determined that, effective October 25, 1998, telecommunications carriers should incorporate a CALEA compliance plan into the design of any new facilities deployments in so far as they are not exempt from CALEA. To the extent that, in hindsight, after exercising due diligence, a specific CALEA compliance plan was not reasonably achievable due to a ''significant expense'' or ''significant harm,'' telecommunications carriers could then seek relief pursuant to section 109(b)(1). Therefore, in designing sections 107(c)(1) and 109(b)(1), Congress appears to have balanced carefully what it found to be a reasonable compliance period against a firm deadline for CALEA compliance. If Congress had intended for the Commission to continue granting extension petitions after October 25, 1998, we find it unlikely that Congress would have placed the time limitations in section 107(c)(1).

29. To interpret other statutes to grant the Commission CALEA extension authority would undermine Congress's intent that, after a reasonable compliance period, all telecommunications carriers would comply with their lawful CALEA obligations. Thus, we reject commenters' arguments that CALEA

section 109(b)(1), section 706 of the Telecommunications Act of 1996, and section 229(a) of the Communications Act provide the Commission with authority to grant extension petitions for facilities *deployed on or after* October 25, 1998. First, although we believe that the Commission has broad discretion under CALEA section 109(b)(1)(K) to impose conditions on relief granted by that section, we disagree with Global Crossing that the Commission should use that section to grant extension relief given the express limitation in section 107(c)(1). Second, we disagree with OPASTCO that the Commission should employ section 706 as overriding statutory authority, because we find that section 706's directive that the Commission encourage the deployment of ''advanced telecommunications capability'' is consistent with a criterion that the Commission must examine in a section 109(b)(1) petition. Because section 109(b)(1) directs the Commission to balance this one policy objective against 10 other factors, we decline to rely solely on one factor to the exclusion of all others. Third, we disagree with commenters who argue that the Commission has broad authority to entertain extension petitions under section 229(a) of the Communications Act, which is the provision that grants the Commission authority to implement CALEA. We believe that, where Congress has specifically limited Commission extension authority in the CALEA statute itself, it would be inappropriate to employ section 229(a) to nevertheless find this authority.

b. Contents of Section 107(c)(1) Petitions

30. We note that participation in the FBI's Flexible Deployment Program has permitted even small and rural telecommunications carriers to work with LEAs to develop circuit-mode CALEA compliance solutions. Packet-mode telecommunications carriers, however, are still in a much earlier stage of CALEA deployment. Our finding today that section 107(c)(1) is not available for facilities deployed on or after October 25, 1998 will compel most of these telecommunications carriers to implement CALEA compliant solutions. To the extent that telecommunications carriers deployed packet-mode facilities prior to this date, we expect those telecommunications carriers to follow the guidelines set forth below for section 107(c)(1) petitions.

31. *Telecommunications carriers that deployed circuit-mode facilities prior to October 25, 1998.* For this class of telecommunications carriers, we adopt the *NPRM's* proposal that petitions contain (1) an explanation for why an extension is necessary, (2) a compliance plan setting forth specific dates for compliance no later than two years after the petition's filing date, (3) a description of petitioner's ''due diligence'' attempts to become CALEA compliant since June 30, 2002, and (4) information satisfying the information requests attached in Attachment F of the *Second Report and Order.* Such information will enable us to better evaluate whether a telecommunications carrier merits an extension. We decline to adopt our tentative proposal that a circuit-mode telecommunications carrier that participates in the FBI's Flexible Deployment Program should be deemed *de jure* to meet the section 107(c)(1) standard. Upon consideration of its comments, we agree with DOJ that section 107(c) requires more than enrollment in Flex Deployment. We will consider enrollment plus the other items included in our instructions in determining whether section 107(c) relief is appropriate. As in the past, upon the filing of a section 107(c)(1) petition, we will continue to grant a provisional extension for a period of two years unless or until we issue an order that states otherwise.

32. We reject assertions that our section 107(c)(1) approach is overly burdensome. We interpret section 107(c)(1) so that telecommunications carriers may minimize the statutory burden themselves if they proactively seek CALEA solutions. Commenters argue that telecommunications carriers, especially small ones, face particular challenges, including, for example, lack of clout to negotiate with manufacturers and lack of resources. We find that section 107(c) allows us to take into account the particular situation of a telecommunications carrier, including its bargaining power and financial resources, when analyzing whether CALEA compliance is ''not reasonably achievable through application of technology available within the compliance period.''

33. *Telecommunications carriers that deployed packet-mode facilities prior to October 25, 1998.* We adopt the *NPRM*'s proposal that, to obtain an extension of time, a packet mode telecommunications carrier must provide documentation setting forth (1) an explanation why an extension of time is necessary, (2) a compliance plan including specific dates for compliance no later than two years after the petition's filing date, (3) a description of petitioner's ''due diligence'' attempts to become CALEA compliant since November 19, 2001, *i.e.*, the date mandated for packet-mode CALEA compliance by the Commission's September 28, 2001 Public Notice, and (4) information satisfying the information requests in Attachment F of the *Second Report and Order.* Other than arguments of burden, commenters failed to provide convincing evidence or arguments to show why the Commission should depart from its proposal in the *NPRM.*

2. Section 109(b)(1) Relief

34. We affirm the *NPRM*'s tentative conclusions that ''Congress anticipated that section 109(b)(1) would be used in extraordinary cases by telecommunications carriers facing particularly high CALEA-related costs and difficulties.'' We first describe the scope of relief granted under section 109(b)(1) and its relationship to other CALEA provisions. Second, we find that a petitioner must meet a high burden of proof to satisfy section 109(b)(1) and may not use the absence of available solutions as the sole basis for section 109(b)(1) relief. Third, we find that a petitioner must exercise due diligence to present a specific solution or a pathway designed to reach a specific solution. Finally, we explain how we will weigh section 109(b)(1)'s eleven factors in evaluating a petition.

a. Scope of Section 109(b)(1) Relief and Its Relationship to Other CALEA Sections

35. *Section 109(b)(1) relief shifts the burden of paying for a specific CALEA solution to DOJ.* Section 109(b)(1) is a mechanism for a telecommunications carrier to recover CALEA compliance costs from DOJ if the telecommunications carrier can demonstrate that compliance with CALEA capability requirements is not ''reasonably achievable.'' Section 109(b)(1) defines ''reasonably achievable'' to mean that compliance would impose a ''significant difficulty or expense'' on the telecommunications carrier. If the Commission grants a section 109(b)(1) petition, the only relief that a telecommunications carrier receives is the following: the telecommunications carrier may, pursuant to section 109(b)(2)(A), request DOJ to pay for the additional reasonable costs for making CALEA compliance reasonably achievable. DOJ may then agree to pay for these costs. If DOJ declines to pay for these costs, then the telecommunications carrier ''shall be deemed to be in compliance'' with the capability requirements for the equipment, facilities, and/or services that were the subject of the section 109(b)(1) petition.

36. Section 109(b)(1) neither compels a telecommunications carrier to adopt a specific CALEA solution nor requires DOJ to pay for the telecommunications carrier's preferred solution. As discussed above, under section 103, a telecommunications carrier is entitled to implement whatever solution it believes best suits its network needs. However, to recover costs from DOJ, a telecommunications carrier must satisfy the obligations set forth in section 109(b)(1). This means that the telecommunications carrier must demonstrate that compliance would impose a significant difficulty or expense. If there is a reasonable means of compliance available, even if it is not the telecommunications carrier's preferred solution, then the Commission may find that a less expensive, alternative solution would not impose a significant difficulty or expense and deny the petition. Section 109(b)(1) makes no reference to the solution preferences of a telecommunications carrier—rather it focuses on whether compliance with section 103 would impose a ''significant difficulty or expense.'' A telecommunications carrier that fails to make this showing may not request payment from DOJ. If, on the other hand, the Commission finds that compliance is not reasonably achievable within the meaning of section 109(b), DOJ has the option to pay the appropriate costs of whatever compliance solutions DOJ deems appropriate.

37. *Section 109(b)(1) relief terminates when the equipment, facilities or services undergo a substantial replacement, modification or upgrade.* A section 109(b)(1) petition must explain with specificity the equipment, facility, or service for which the petitioner seeks relief. The Commission's order granting section 109(b)(1) relief will specify what equipment, facility, and/or service is covered by the order. Once that equipment, facility, or service is replaced, significantly upgraded or otherwise undergoes major modification, the carrier is no longer relieved of its CALEA obligations and the replacement must comply with section 103. To obtain section 109(b)(1) relief for the modified equipment, the telecommunications carrier would have to file a new section 109(b)(1) petition.

38. *Section 109(b)(1) relief does not include extensions of time.* Section 109(b)(1) is a cost recovery vehicle. Section 107(c)(1) is the CALEA provision that addresses extensions of time. Congress determined that telecommunications carriers cannot seek extension relief for facilities deployed on or after October 25, 1998.

b. The Section 109(b)(1) Burden of Proof

39. We affirm the *NPRM*'s tentative conclusion that a telecommunications carrier faces a high burden of proof in order to be relieved of its obligations to pay for CALEA compliance. Specifically, section 109(b)(1) requires a petitioner to demonstrate, with respect to each section 103 assistance capability requirement for which it seeks relief, that it has examined all possible solutions and that all of these solutions would impose a significant difficulty or expense on the petitioner. This means that if the Commission is aware of a CALEA solution that the telecommunications carrier has not explored and covered in its petition, the Commission will likely dismiss the section 109(b)(1) petition as *prima facie* insufficient. In its petition, the telecommunications carrier must explain with specificity the possible CALEA solution and the significant difficulty or expense that that solution would impose on the telecommunications carrier so that the Commission and later DOJ may render their respective determinations, under sections 109(b)(1) and 109(b)(2)(A). We adopt the tentative conclusion in the *NPRM* that telecommunications carriers may not rely solely on the absence of industry standards and solutions under section 109(b)(1)(K) as a basis for section 109(b)(1) relief.

40. We further adopt our tentative conclusion that a section 109(b)(1) petition must seek relief for ''precisely identified 'equipment facilities, or services.' '' In this regard, a petitioner must describe with specificity how, in its due diligence, the telecommunications carrier made reasonable efforts to identify a specific solution or a pathway to a specific solution. Without this showing, the Commission will have no factual basis to evaluate whether a telecommunications carrier has satisfied the requirements of section 109(b).

41. In addition, to the extent that multiple solutions to a particular CALEA capability requirement exist, the petitioner must demonstrate that it would suffer significant difficulty or expense if it were to implement any of them. We believe that the statute requires this showing for at least two reasons. First, the inquiry under section 109(b)(1) is whether CALEA compliance imposes a specific harm, not whether a telecommunications carrier is unable to institute its solution of choice. If alternative, less expensive solutions exist that are reasonably achievable, then the telecommunications carrier is not entitled to a section 109(b)(1) determination that CALEA compliance would impose a significant difficulty or expense. Second, it would be unreasonable to read the statute to require DOJ to pay the costs for a more expensive solution if a less expensive solution exists. If multiple solutions exist, DOJ should have the option to pay for the least expensive one available.

c. Petitioner Due Diligence Requirement

42. In the *NPRM,* the Commission tentatively concluded that section 109(b)(1) petitioners will be expected to demonstrate active and sustained efforts at developing and implementing CALEA solutions for their operations, *i.e.*, regardless of whether CALEA solutions for packet-mode are generally available. We explained this ''due diligence'' showing as requiring petitioners to submit detailed information about discussions and negotiations with switch manufacturers, other equipment manufacturers, and TTPs, both before and after the FBI announced the termination of the Flexible Deployment Program in connection with packet-mode technology. We tentatively concluded that unless we are persuaded that petitioners have engaged in sustained and systematic negotiations with manufacturers and third-party providers to design, develop, and implement CALEA solutions, we should reject submitted petitions.

43. Many commenters disagreed with our analysis and conclusions, but none persuasively demonstrated that section 109(b)(1) excludes consideration of due diligence and none persuaded us that consideration of due diligence is unnecessary for a proper interpretation and application of section 109(b)(1). Basically, the due diligence requirement is necessary to ensure that telecommunications carriers demonstrate the showing required by section 109(b)(1). Section 109(b)(1) requires the Commission to determine, upon petition, whether compliance with section 103 is reasonably achievable for ''any equipment, facility, or service installed or deployed after January 1, 1995.'' Unless the evidence demonstrates that the petitioner has comprehensively considered how to become compliant with CALEA section 103, it would be difficult for the Commission to conclude that section 103 compliance is not reasonably achievable. Simply put, the evidence must demonstrate that alternative solutions were not reasonably achievable.

44. To meet this requirement, the petitioner may need to compare, for

example, the cost of making annual payments to a TTP for a CALEA service for a number of years to the cost of purchasing equipment and/or systems up front that enable the petitioner to meet CALEA capability requirements themselves. Some solutions may include both elements: leasing capabilities and buying equipment. In addition, the petitioner may also seek to include recurring CALEA-specific operations costs in the cost calculation. Thus, it is necessary to capture the impact of delayed vs. immediate expenditures in calculating the total cost of any solution, and to express the cost of alternative solutions in comparable dollars. A calculation of the (net) present value or present worth of expenditures of the solution is a recognized way to accomplish this dual purpose.

45. Our analysis and conclusions here do not compel telecommunications carriers to adopt any particular ''equipment, facility, service, or feature'' or ''any specific design of equipment, facilities, services, features, or system configurations.'' Service providers are free to configure and build their systems any way they choose. But a service provider that seeks cost recovery relief pursuant to section 109(b)(1) must demonstrate that CALEA compliance *per se* is not reasonably achievable. A petition must include persuasive evidence that the petitioner cannot afford to achieve compliance through network upgrades or equipment retrofits. It must include a demonstration that the petitioner's preferred CALEA solution is not reasonably achievable and that no alternative CALEA solution is reasonably achievable, including alternative manufacturer-provided service packages, services provided by TTPs, and sharing arrangements with other service providers.

46. A due diligence showing is particularly necessary to enable us to consider whether section 109(b)(1) relief is appropriate in cases where CALEA standards have not been developed and/or CALEA solutions are not generally available. We reject the idea that we may grant section 109(b)(1) relief merely because standards have not been developed or solutions are not generally available. We therefore adopt our tentative conclusion that the requirements of section 109(b)(1) would not be met by a petitioning telecommunications carrier that merely asserted that CALEA standards had not been developed, or that solutions were not readily available from manufacturers.

47. Nevertheless, we emphasize that section 109(b)(1)'s due diligence analysis is fact-specific and will take into account, for example, the resources of the petitioner. We recognize that some telecommunications carriers, particularly small telecommunications carriers, may conclude that they cannot afford the efforts required to develop their own solutions. Thus, for example, a small rural telecommunications carrier might provide evidence that the lack of industry standards and solutions, coupled with its lack of financial resources, would justify a finding that the small telecommunications carrier had met its due diligence requirements by proffering only one solution, so long as it is a *bona fide* solution.

48. We expect that significant progress in developing CALEA standards and solutions for broadband Internet access and interconnected VoIP services will be achieved during the 18-month compliance period. We expect that few if any petitioners could successfully demonstrate the due diligence necessary to support a section 109(b)(1) petition until the close of the transition. We in fact expect broadband Internet access and interconnected VoIP providers to utilize that transition period as an opportunity to promote the development of CALEA standards and solutions. Failure to utilize this opportunity, or to document steps taken to promote CALEA compliance throughout the transition period, will seriously damage a petitioner's chances of obtaining section 109(b)(1) relief.

d. Section 109(b)(1)'s Eleven Criteria

49. In determining whether a telecommunications carrier has successfully demonstrated that compliance with a CALEA section 103 assistance capability requirement is not reasonably achievable pursuant to section 109(b)(1), the Commission must examine the 11 statutory criteria set out in section 109(b)(1). We affirm the Commission's tentative conclusion in the *NPRM* that the Commission need not weigh equally all 11 criteria, and its tentative conclusion that we should assign greater weight to national security and public safety-related concerns. We also conclude that we should require petitioners to include in their showing precisely identified CALEA section 103 capability requirements and ''equipment, facilities, or services'' for which relief is sought. We affirm our finding in the *NPRM* that under the requirements of section 109(b)(1)(B) and 109(b)(1)(D), petitioners must include a thorough analysis of precisely identified costs to satisfy CALEA obligations, as well as their effects on local service ratepayers, where relevant; general allegations that projected costs were ''too high'' or unreasonably burdensome will not suffice. We direct parties' attention to the cost discussion in the previous CALEA *Second Report and Order* in CC Docket No. 97–213 and we reaffirm our determination there that costs not directly related to CALEA compliance may not be included in section 109(b) petitions.

50. To provide further guidance as to how the Commission will apply consideration of the eleven section 109(b)(1) evaluative criteria in particular cases, we provide the discussion set out below. We nevertheless caution interested persons that these guidelines are intended to provide general guidance only. The Commission will examine each section 109(b) petition based on the facts contained therein and in the context of a specific analysis of national security factors and other factors that exist at that time. Section 109(b(1) directs the Commission to examine the following criteria:

(A) ''*The effect on public safety and national security.*'' Because the purpose of the CALEA statute is to ensure public safety and national security, this criterion is critically important. In a particular case, the Commission will consider all relevant evidence submitted by LEAs per this criterion, as well as recommendations about how this criterion should be applied to submitted evidence and what weight should be assigned to such evidence in our particular deliberations. We will also consider all relevant evidence submitted by a petitioner, including evidence about the number of electronic surveillance requests it has received from LEAs for the five (5) year period prior to submission of its section 109(b) petition. We will consider this latter evidence in connection with evaluating application of the instant criterion as well as evaluating other, cost-related criteria set out in section 109(b)(1)(A) through (K).

(B) ''*The effect on rates for basic residential telephone service.*'' Application of this factor affects only evaluation of section 109(b) petitions submitted by residential telephone service providers subject to the Commission's Part 36 regulation. Its relevance will be decisively affected by how the Commission decides to implement jurisdictional separations policy pursuant to the directive set out in 47 U.S.C. 229(e)(3).

(C) ''*The need to protect the privacy and security of communications not authorized to be intercepted.*'' A petitioner must submit persuasive evidence why solution(s) described in its petition could not protect the privacy and security of customer communications. In instances where the petition presents evidence about TTP services, the petitioner must present persuasive evidence that the TTP(s) cannot or will not provide privacy and security protection.

(D) ''*The need to achieve the capability assistance requirements of section 103 by cost-effective methods.*'' A petitioner must submit persuasive evidence showing that all identified solutions, including those provided by equipment vendors and other manufacturers, TTPs, or solutions that the petitioner proposes to develop for itself, would impose a significant ''difficulty or expense'' within the meaning of the statute. In the event that there is no industry standard or available market solution at the time that a telecommunications carrier files its petition, the telecommunications carrier would need to demonstrate that implementation of its own proposed solution would impose a significant expense.

(E) ''*The effect on the nature and cost of the equipment, facility, or service at issue.*'' In addition to the cost showing described in paragraph (D), the petitioner must submit persuasive evidence demonstrating some adverse effect on its facilities.

(F) ''*The effect on the operation of the equipment, facility, or service at issue.*'' In addition to the cost showing in paragraph (D), the petitioner would need to demonstrate a specific adverse effect on its operations.

(G) ''*The policy of the United States to encourage the provision of new technologies and services to the public.*'' The petitioner must submit persuasive evidence demonstrating that CALEA requirements were preventing it from deploying a specifically identified new technology or service, and/or persuasive evidence that imposing CALEA requirements would require it to take a technology or service off the market.

(H) ''*The financial resources of the telecommunications carrier.*'' A showing under this factor would be similar to the showing under factor (D). The petitioner must present financial resource documentation, including current balance sheets and a complete analysis of debt and equity financing resources that are available. If the particular petitioner is a small and rural telecommunications carrier, this must include a description and analysis of all funding and loan guarantee sources available from state and federal assistance programs. Where relevant, all telecommunications carriers must provide evidence showing how state and local regulation affects the availability or use of its financial resources. For example, telecommunications carriers regulated by state Public Utility Commissions should describe in detail how Commission-approved depreciation schedules can be modified to provide for capital equipment acquisition on terms more favorable than currently negotiated and approved terms, or provide evidence that such schedules cannot be modified. Per this criterion, the petitioner must submit persuasive evidence that demonstrates that its current financial resources and financial resources generally available to it are not or would not be sufficient to prevent the imposition of ''significant difficulty or expense'' as defined by CALEA section 109(b)(1).

(I) ''*The effect on competition in the provision of telecommunications services.*'' Under this factor, the petitioner would need to submit persuasive evidence that demonstrate a specific and quantifiable harm.

(J) ''*The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995.*'' This factor is self-explanatory. In most if not all cases, it will not apply to facilities-based broadband Internet access and interconnected VoIP.

(K) ''*Such other factors as the Commission determines are appropriate.*'' This provision enables the Commission to evaluate factors that may arise on a case by case basis, that were difficult for Congress to predict when enacting the statute, and are difficult for the Commission to predict during a rulemaking.

51. Attachment E of the *Second Report and Order* sets forth filing instructions explaining the specific information telecommunications carriers should include in their section 109(b) petitions. Attachment E of the *Second Report and Order* reflects the proposal in the *NPRM,* consideration of the record in this proceeding, and our further analysis herein of the statute's requirements.

52. Some small telecommunications carriers have urged us to allow telecommunications carriers filing section 109(b)(1) petitions to pool their applications under one general application petition and, as a result, more efficiently present common arguments and save the costs of submitting individual petitions, each of which would be assessed the $5200 filing fee. We conclude that this is inappropriate given the requirements imposed by section 109(b)(1). Section 109(b)(1) requires a detailed presentation of evidence that section 103 compliance is not reasonably achievable. Petitioners are required to submit evidence that demonstrates this in connection with precisely identified services, equipment, and facilities. These will differ from carrier to carrier. Additionally, petitioners are required to identify cost and financial resources information that is detailed and highly telecommunications carrier-specific. Even if we were to accept jointly pooled section 109(b)(1) petitions, we would, by operation of the statute, need to separate each separate telecommunications carrier petition for individual assessment. This individual assessment will impose predictable costs.

3. Confidential Treatment of Section 107(c)(1) and Section 109(b)(1) Petitions

53. In addition to highly sensitive cost and financial resources information, section 107(c)(1) and section 109(b)(1) petitions are likely to contain specific information regarding the inability of telecommunications equipment, facilities, and services to comply with CALEA standards. The facts underlying discrete section 107(c) and section 109(b) adjudicatory proceedings could also involve highly sensitive information about LEA activities. We therefore believe that section 107(c) and section 109(b) filings would be entitled to confidential treatment under the Freedom of Information Act (FOIA) and the Commission's rules. Accordingly, we direct petitioners to file their petitions under a general claim of confidential or proprietary protection, subject only to scrutiny by the Commission and the Attorney General who is consulted in section 107(c) adjudications and is a party to all section 109(b) adjudications. Petitioning telecommunications carriers are not required to request separately confidential treatment for the information submitted in their petitions. However, petitioners must mark the top of each page of their petitions: ''Confidential—Not for Public Inspection.'' We further conclude that, pursuant to section 0.457(g) of the Commission's rules, the information provided by telecommunications carriers in these CALEA proceedings will not be made routinely available for public inspection. No commenter disagrees with this approach.

4. Monitoring Reports

54. In its Petition, Law Enforcement requested that the Commission impose a new compliance regime consisting of standardized CALEA compliance

benchmarks for packet technologies. Under this proposal, limited compliance extensions generally would be granted only if providers of services that use packet technologies agreed to meet the proposed benchmarks. Most LEAs supported this proposal; nearly everyone else opposed it as exceeding or contravening the explicit terms of the statute. We decline at this time to adopt the Law Enforcement benchmark proposal. As we stated in the *NPRM,* we conclude that the interpretation of CALEA that we adopt in this *Second R&O,* particularly of CALEA sections 107(c) and 109(b), will better promote law enforcement's stated objective that all telecommunications carriers should become compliant with CALEA requirements as soon as possible.

55. Nevertheless, we share Law Enforcement's general concern that telecommunications carriers timely comply with CALEA for packet technologies. In the past, telecommunications carriers' progress in complying with CALEA for packet technologies was effectively monitored in two ways: by the FBI when it administered a Flexible Deployment program for packet technology, and by the Commission in administering section 107(c) extension petitions. The FBI's Flexible Deployment program no longer applies to packet technology and, as a consequence of our decision here, few telecommunications carriers will be able to seek extensions under section 107(c). With information from these programs no longer available, the Commission will have difficulty identifying, with sufficient forewarning, impediments to timely compliance and will have little opportunity to assist the industry, as appropriate, in achieving timely compliance. We thus conclude that all telecommunications carriers providing facilities-based broadband Internet access or interconnected VoIP services shall file a monitoring report with the Commission which will help the Commission ensure that providers of services that use packet technologies become CALEA compliant expeditiously. Specifically, with respect to facilities-based broadband Internet access providers and interconnected VoIP providers, we believe that a monitoring report will better ensure that they are able to meet the May 14, 2007 CALEA compliance deadline. A sample monitoring report (Form XXX) is provided in Attachment G of the *Second Report and Order.* These monitoring reports are separate and distinct from any section 107(c) or section 109 filings that a telecommunications carrier may choose to make, and will not be considered substitutes for seeking relief under those provisions.

56. Accordingly, we specify the following procedure for these monitoring reports. Once OMB approves the new paperwork collection requirements of this *Second R&O,* we will issue a public notice setting forth a deadline that will require that providers of all such services to submit to the Commission a completed Form XXX, briefly describing the status of its compliance for each service based on packet technology, *e.g.*, whether the service already complies, whether the telecommunications carrier will comply with an identified industry standard or develop an ad hoc solution, the steps the telecommunications carrier is undertaking to achieve CALEA compliance, any problems with manufacturer support or network installation, and the date compliance is anticipated. Completed Forms XXX will not be made available to the public. We will, however, share completed Forms XXX with DOJ/FBI so that they may evaluate the progress each provider of a service that uses packet technology is making to achieve CALEA compliance. Where necessary, we may request additional information from a provider regarding its efforts to become CALEA compliant by the May 14, 2007 deadline.

57. We find that the above procedure will promote expeditious CALEA compliance by providers of services that use packet technologies, but whose services are not yet CALEA compliant. We recognize that this procedure will impose an increased administrative burden on such providers, but anticipate that this burden will be minimal. To minimize the burden, we have developed a relatively short reporting form.

5. Disposition of Pending Section 107(c)(1) Petitions

58. We conclude that section 107(c) extension relief is not available for applications that include equipment, facilities and services installed or deployed on or after October 25, 1998. Accordingly, once OMB approves the new paperwork collection requirements of this *Second R&O,* we will issue a public notice setting forth a deadline by which any telecommunications carrier that has a section 107(c) petition on file with us shall file a letter that attests that its pending petition exclusively concerns equipment, facilities and services installed or deployed before October 25, 1998. The Commission will thereafter dismiss all non-conforming petitions and petitions for which clarifying letters have not been received.

C. Enforcement of CALEA

59. In the *NPRM,* we considered whether, in addition to the enforcement remedies through the courts available to LEAs under section 108 of CALEA, we may take separate enforcement action against telecommunications carriers, manufacturers and providers of telecommunications support services that fail to comply with CALEA. We stated that we appear to have broad authority under section 229(a) of the Communications Act to promulgate and enforce CALEA rules against both common carriers and non-common carriers, and sought comment on this analysis. We also sought comment on whether sections 108 and/or 201 of CALEA impose any limitations on the nature of the remedy that we may impose (e.g. injunctive relief) and whether section 106 of CALEA imposes any limitations on our enforcement authority over manufacturers and support service providers.

60. Additionally, we sought comment in the *NPRM* on how we would enforce the assistance capability requirements under section 103 of CALEA. To facilitate enforcement, we tentatively concluded that, at a minimum, we should adopt the requirements of section 103 as Commission rules. We asked whether, given this tentative conclusion, the lack of Commission-established technical requirements or standards under CALEA section 107(b) for a particular technology would affect our authority to enforce section 103. Further, we asked whether there are other provisions of CALEA, such as section 107(a)'s safe harbor provisions, that the Commission should adopt as rules in order to effectively enforce the statute. Moreover, we stated in the *NPRM* that we believed it to be in the public interest for covered carriers to become CALEA compliant as expeditiously as possible and recognized the importance of effective enforcement of our rules affecting such compliance. We sought comment on whether our general enforcement procedures are sufficient for purposes of CALEA enforcement or whether we should implement some special procedures for purposes of CALEA enforcement. We also sought comment on any other measures we should take into consideration in deciding how best to enforce CALEA requirements.

61. *Discussion.* DOJ strongly supports the Commission enforcing the CALEA rules under section 229(a) of the Communications Act. DOJ contends that the telecommunications industry has in many instances failed to cooperate with LEAs and has delayed establishing

CALEA standards and implementing new wiretapping technologies. However, industry commenters contend that CALEA enforcement authority lies exclusively with the courts under CALEA section 108.

62. We find that we have the authority under section 229(a) to enforce CALEA, as that section gives us authority to ''prescribe such rules as are necessary to implement the requirements of the Communications Assistance for Law Enforcement Act.'' As we observed in the *NPRM*, section 229(a) provides broad authority for the Commission to adopt rules to implement CALEA and, unlike section 229(b) does not limit our rulemaking authority to common carriers. While the ''penalties'' provision of section 229(d) refers to CALEA violations ''by the carrier,'' section 229(d) does not limit the Commission's general enforcement authority under the Communications Act. We thus conclude that the Commission has general authority under the Communications Act to promulgate and enforce CALEA rules against carriers as well as non-common carriers. We also conclude that section 106 of CALEA does not limit our authority to promulgate and enforce CALEA rules against manufacturers and support service providers. Accordingly, we find that, contrary to commenters who argued that authority to enforce CALEA lies exclusively with the courts under CALEA section 108, we have the authority to prescribe CALEA rules and investigate the compliance of those carriers and providers subject to such rules. Additionally, under the Communications Act, the Commission has broad authority to enforce its rules. It can, for example, issue monetary forfeitures and cease and desist orders against common carriers and non-common carriers alike for violations of Commission rules.

63. We also conclude that sections 108 and 201 of CALEA do not limit the nature of the remedy that the Commission may impose. Whereas court actions under sections 108 and 201 would typically follow a failed attempt by a carrier to comply with an electronic surveillance order, the Commission may pursue enforcement actions against any carrier for failure to ensure that its equipment, facilities or services are capable of providing the assistance capability requirements prior to receiving an electronic surveillance request. Thus, the Commission's enforcement authority is complementary to, not duplicative of, the authority granted LEAs under sections 108 and 201.

64. We observe that the Commission's rules already include various CALEA requirements that we may enforce, including system security and records management requirements for all carriers subject to CALEA and assistance capability requirements for wireline, cellular and PCS carriers. Our existing rules for wireline, cellular and PCS carriers already state that these carriers are to comply with the assistance capability requirements in section 103; however, we have not previously codified this requirement for other carriers subject to CALEA. We thus adopt our tentative conclusion to codify this statutory requirement and thereby clarify that all carriers subject to CALEA are to comply, at a minimum, with the assistance capability requirements of section 103. This action will facilitate the Commission's enforcement of CALEA. We recognize that, in the absence of Commission action to specify more precise requirements in response to a section 107 (b) deficiency petition, as we did previously regarding J–STD–025, our rule sets forth a minimum requirement that carriers, manufacturers and support service providers may satisfy in various ways (*e.g.*, implementing an industry standard, ad hoc or interim solution). Nonetheless, this does not diminish our resolve to consider carefully a *bona fide* complaint that a carrier, manufacturers or support service provider has not provided the necessary assistance capabilities and to take appropriate enforcement action.

D. Cost Recovery Issues

65. In the *NPRM*, the Commission sought comment on a number of issues related to the recovery of CALEA compliance costs, including the nature of such costs and from which parties the costs could be recovered. The Commission also inquired into CALEA cost recovery pursuant to intercept statutes. The Commission further sought comment on whether specific cost recovery rules should be adopted to help ensure that small and rural carriers can become CALEA-compliant. Acting pursuant to section 229(e)(3) of the Communications Act, the Commission also referred to the Federal-State Joint Board on Jurisdictional Separations (Joint Board) the following question: whether CALEA compliance costs should be separated between intrastate and interstate jurisdictions, and, if so, how the associated costs and revenues should be allocated. Because of the importance of the issues, the Commission asked the Joint Board to issue recommendations within a year of the release of the *NPRM*, by August 9, 2005. The Joint Board, however, has not yet issued its recommendation.

66. In the *NPRM*, the Commission tentatively concluded that carriers bear responsibility for CALEA development and implementation costs for post-January 1, 1995 equipment and facilities. We affirm this tentative conclusion. Cost recovery from the federal government under CALEA section 109 turns on whether equipment and facilities were deployed before or after January 1, 1995. CALEA section 109 placed financial responsibility on the federal government for CALEA implementation costs related to equipment deployed on or before January 1, 1995. If the federal government refused to pay for such modifications, a carrier's pre-1995 deployed equipment and facilities are considered CALEA compliant until such equipment or facility ''is replaced or significantly upgraded or otherwise undergoes major modification'' for purposes of normal business operations. On the other hand, for CALEA implementation costs associated with equipment deployed *after* January 1, 1995, CALEA section 109 places financial responsibility on the telecommunications carriers unless the Commission determines compliance is not ''reasonably achievable.'' Only in that event may the Attorney General agree to pay carriers the ''additional reasonable costs of making compliance * * * reasonably achievable.'' Based on CALEA's clear delineation of responsibility for compliance costs, we conclude that carriers bear responsibility for CALEA development and implementation costs for post-January 1, 1995 equipment and facilities, absent a finding that compliance is not reasonably achievable pursuant to CALEA section 109(b).

67. In the *NPRM*, the Commission acknowledged its prior statement regarding the ability of carriers to recover a portion of their CALEA capital costs through electronic surveillance order charges imposed on LEAs, and that this statement was made without the benefit of a complete and full record on the issue. The Commission made this observation as one of several aspects that mitigated the cost burden on carriers of implementing four CALEA punch list items. However, because we now conclude that CALEA section 109 provides the exclusive mechanism by which carriers may recover from law enforcement capital costs associated with meeting the capability requirements of CALEA section 103, the Commission's prior statement was incorrect to the extent it suggested that carriers may recover CALEA capital

costs through intercept charges. As discussed, CALEA specifically addresses the allocation of responsibility for compliance costs. CALEA section 109 makes the federal government responsible for compliance costs for the period on or before January 1, 1995, and places the responsibility for compliance costs after January 1, 1995 on carriers, absent a finding that compliance is not reasonably achievable pursuant to CALEA section 109(b). Allowing carriers to recover CALEA compliance costs from the government through other means, such as through intercept charges, would be inconsistent with the cost recovery methodology set forth in CALEA section 109 because it would disrupt the cost burden balance between law enforcement and carriers carefully crafted by Congress in enacting CALEA. In short, as DOJ notes, it ''would essentially allow carriers to do an 'end-run' around the provisions of section 109(b) and Congressional intent.'' We therefore conclude that, while carriers possess the authority to recover through intercept charges the costs associated with carrying out an intercept that is accomplished using a CALEA-based intercept solution, they are prohibited by CALEA from recovering through intercept charges the costs of making modifications to equipment, facilities, or services pursuant to the assistance capability requirements of CALEA section 103 and the costs of developing, installing, and deploying CALEA-based intercept solutions that comply with the assistance capability requirements of CALEA section 103.

68. To the extent carriers do not meet the necessary criteria for obtaining cost recovery pursuant to section 109(b) of CALEA, carriers may absorb the costs of CALEA compliance as a necessary cost of doing business, or, where appropriate, recover some portion of their CALEA section 103 implementation costs from their subscribers. The specific provision allowing carriers to recover some portion of their CALEA capital costs from their subscribers also reinforces our conclusion that carriers may not recover such costs from law enforcement through intercept charges. To the extent that carriers are not able to recover their CALEA capital costs from the federal government through section 109, Congress provided only one other avenue for carriers to recover such costs, and that is from subscribers, not law enforcement. Such recovery from consumers, of course, will vary among telecommunications carriers subject to CALEA depending on certain factors. Rate-regulated carriers (*e.g.*, incumbent local exchange carriers) cannot raise rates without first obtaining authorization to do so. Other carriers (*e.g.*, Commercial Mobile Radio Services (CMRS) providers) can recover their costs from subscribers on a competitive market basis. Given this backdrop, in the *NPRM*, we invited comment on whether a national surcharge scheme is feasible for carriers in their efforts to meet CALEA requirements. We also sought comment on whether the Commission would need to undertake a specific forbearance analysis under section 10 of the Communications Act, and whether states may expressly provide for or preclude the recovery of CALEA compliance costs.

69. We decline to adopt a national surcharge to recover CALEA costs. We find that it would not serve the public interest to use a national surcharge scheme or to implement some form of cost pooling system, as some commenters suggest, because such a scheme would increase the administrative burden placed upon the carriers and provide little incentive for carriers to minimize their costs. We therefore decline to mandate a surcharge or other specific method of CALEA cost recovery. We find that carriers that are not subject to rate regulation may choose to recover their CALEA-related costs from their subscribers through any lawful manner consistent with their obligations under the Communications Act. Section 229(e) of the Communications Act allows rate-regulated common carriers to seek to recover their federally-allocated CALEA section 103 costs from subscribers. As noted, the Joint Board has not yet provided its recommendation as to the allocation of CALEA costs between the federal and state jurisdictions. After the Joint Board issues its recommendation, and to the extent that CALEA costs ultimately are allocated to the federal jurisdiction, rate-regulated carriers subject to the Commission's price cap rules have the ability to seek exogenous treatment of the federally-allocated CALEA costs. Carriers subject to the Commission's rate-of-return rules have the ability to propose rate changes that would seek recovery of any federally-allocated CALEA costs not already recovered in rates.

70. Commenters to the *NPRM* also argue that carriers with smaller subscriber bases are less able to bear the costs of CALEA implementation. To the extent CALEA costs prohibit these carriers from reasonably achieving CALEA compliance, CALEA section 109(b) provides a remedy. The carriers can seek a determination from the Commission that CALEA compliance is not reasonably achievable, and, upon such a determination, the Attorney General may agree to pay the costs of compliance for these carriers, or the carriers will be deemed to be in compliance.

E. System Security Requirements

71. In the *First R&O*, we concluded that providers of facilities-based broadband Internet access service and interconnected VoIP service newly identified as subject to CALEA under the Substantial Replacement Provision are to comply with the assistance capability requirements in section 103 of CALEA within 18 months of the effective date of the *First R&O*. In the *Second R&O*, we determine that these newly identified carriers must comply with the system security requirements in section 105 of CALEA and section 229(b) of the Communications Act, as codified in the Commission's rules, within 90 days of the effective date of this *Second R&O*.

72. We find that, based on the record, 90 days is a reasonable time period to expect providers of facilities-based broadband Internet access service and interconnected VoIP service to comply with sections 105 and 229(b) system security requirements, as codified in the Commission's rules. Thus, we require these carriers to file with the Commission within 90 days of the effective date of this *Second R&O* the policies and procedures they use to comply with the system security requirements as codified in our rules. Ninety days is the same amount of time provided by the Commission when it initially adopted these requirements. Timely compliance with these requirements will assist LEAs and the Commission in identifying those entities now subject to CALEA, provide important contact information for Commission follow-up on CALEA compliance, and, more importantly for LEAs, ensure that providers of facilities-based broadband Internet access service and interconnected VoIP service are adequately prepared for assisting LEAs in conducting lawful electronic surveillance.

F. Future Services and Technologies

73. In the *NPRM*, the Commission tentatively concluded that it is unnecessary to adopt Law Enforcement's proposal regarding the Commission identifying future services and entities subject to CALEA. We recognized Law Enforcement's need for more certainty regarding the applicability of CALEA to new services and technologies, but expressed

concerned that Law Enforcement's proposed approach could be inconsistent with CALEA's statutory intent and could create an obstacle to innovation. We noted that the requirements of the statute and its legislative history seem to support opponents' arguments that Congress did not intend that manufacturers or service providers would be required to obtain advance clearance from the government before deploying a technology or service that is not subject to CALEA. We also expressed concern that, as a practical matter, providers will be reluctant to develop and deploy innovative services and technologies if they must build in CALEA capabilities to equipment that ultimately may not be subject to CALEA or wait for a ruling on the statute's application to the new service or technology.

74. *Discussion.* In its comments to the *NPRM*, DOJ argues that the Commission should adopt procedures to determine whether future services and entities are subject to CALEA. DOJ contends that it would be helpful for industry and LEAs to be able to seek rulings from the Commission regarding CALEA's applicability to a new service in advance of that service's introduction into the marketplace. DOJ concludes that the Commission should require or strongly encourage all providers of interstate wire or electronic communications services that have any question about whether they are subject to CALEA to seek Commission guidance at the earliest possible date, well before deployment of the service in question.

75. Other commenters support the tentative conclusion set forth in the *NPRM*, contending that the public interest in innovation is not served by government design mandates imposed upon manufacturers and telecommunications carriers. Verizon states that, while it supports the availability of an optional expedited declaratory ruling procedure for carriers that are unsure of their CALEA obligations, DOJ's proposed procedures and related requirements would effectively force carriers to obtain pre-authorization of new services and would contradict Congress's intent expressed in CALEA's legislative history, which makes clear that CALEA should be implemented in a way that does not impede the introduction of new technologies, features, and services.

76. We agree with Verizon and other commenters that it would be inconsistent with the legislative history of CALEA and inappropriate as a matter of policy for the Commission to identify future services and entities that may be subject to CALEA. While we are sympathetic to DOJ's goal of establishing greater certainty regarding the applicability of CALEA to new services and technologies, we find that implementing DOJ's proposal would have a chilling effect on innovation. We believe that we can best determine the future services and entities that are subject to CALEA on a case-by-case basis. However, we concur with Verizon that an optional expedited declaratory ruling procedure for entities that are unsure of their CALEA obligations with regard to new services would be useful. Accordingly, telecommunications carriers and manufacturers, as well as LEAs, may petition the Commission for a declaratory ruling as to CALEA obligations with regard to new equipment, facilities and services.

G. Consolidation of CALEA Rules

77. We are taking this opportunity to consolidate our CALEA rules into part 1. Currently, those rules are contained in three different Parts of the Commission's rules: part 22, titled ''Public Mobile Services;'' part 24, titled ''Personal Communications Services;'' and part 64, titled ''Miscellaneous Rules Related to Common Carriers.'' CALEA rules for parts 22 and 24 are each contained in a subpart J, titled ''Required New Capabilities Pursuant to the Communications Assistance for Law Enforcement Act (CALEA).'' Each respective subpart sets forth the CALEA capabilities that must be provided by cellular and Personal Communications Services (PCS) telecommunications carriers. CALEA rules for part 64 are contained both in subpart V, titled ''Telecommunication Carrier System Security and Integrity Pursuant to the Communications Assistance for Law Enforcement Act (CALEA);'' and in subpart W, titled ''Required New Capabilities Pursuant to the Communications Assistance for Law Enforcement Act (CALEA).'' subpart V of part 64 sets forth the CALEA systems security and integrity rules for all telecommunications carriers, while subpart W of part 64 sets forth the CALEA capabilities that must be provided by wireline telecommunications carriers.

78. Our current CALEA rules structure is somewhat confusing because capability requirements are contained in three different parts, while systems security and integrity requirements are contained in only one part. Further, the capability requirements for cellular, PCS, and wireline telecommunications carriers specified in different parts are identical, with the only differences in language being the specific references to the three different types of carriers. Moreover, as discussed, we are herein codifying the statutory requirement that all carriers subject to CALEA must comply with the assistance capability requirements of section 103. While we could codify this requirement in part 64, that part pertains to ''telecommunications carriers'' under the Communications Act, rather than the broader application of that term under CALEA. We therefore find it more logical to codify this requirement and consolidate our existing CALEA rules in part 1, which is titled ''Practice and Procedure,'' and contains rules that apply more broadly to various services within the Commission's jurisdiction. Accordingly, we are establishing new subpart Z of part 1, titling it ''Communications Assistance for Law Enforcement Act,'' and are deleting part 22, subpart J; part 24, subpart J; part 64, subpart V; and part 64, subpart W. Part 1, subpart Z specifies that all carriers subject to CALEA must comply with both the assistance capability requirements of CALEA section 103 and the systems security and integrity requirements of CALEA section 105, and also lists the specific capability requirements pertaining to cellular, PCS, and wireline carriers that are currently set forth in parts 22, 24, and 64. These rule changes are specified in the rules section.

H. Miscellaneous

79. We recognize that certain questions raised by the outstanding *Further Notice of Proposed Rulemaking* in this docket remain unresolved. We intend to address these matters expeditiously in a future order. In addition, we recognize that parties may also seek clarification of our rules and regulations. Our rules and precedent provide us with authority to issue such clarifications, amendments, suspensions, or waivers both in response to petitions or on our own motion.

Final Regulatory Flexibility Analysis

80. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM* in this proceeding. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. The comments received are discussed below, except to the extent that they were previously addressed in the Final Regulatory Flexibility Analysis (FRFA) attached to the *First R&O* in this proceeding. The current FRFA, which conforms to the RFA, pertains only to the *Second R&O* in this proceeding. The

companion *MO&O* does not adopt rules, but rather, *inter alia*, denies a petition to change a Commission rule.

A. Need for, and Objectives of, the Rules

81. Advances in technology, most notably the introduction of digital transmission and processing techniques, and the proliferation of Internet services such as broadband access and VoIP, have challenged the ability of LEAs to conduct lawful electronic surveillance. In light of these difficulties and other outstanding issues associated with the implementation of the CALEA, DOJ, FBI, and DEA filed a joint petition for expedited rulemaking in March 2004, asking the Commission to address and resolve these issues. The *First R&O* concluded that CALEA applies to facilities-based broadband Internet access providers and providers of interconnected VoIP service, and established a compliance deadline of May 14, 2007 for these providers.

82. In the *Second R&O*, we require that facilities-based broadband Internet access providers and providers of interconnected VoIP submit monitoring reports to ensure their CALEA compliance by the May 14, 2007 deadline established by the *First R&O*. More generally, we require that telecommunications carriers comply with CALEA by finding that sections 107(c) and 109(b) of CALEA provide only limited and temporary relief from compliance requirements, and by finding that extension of the compliance deadline for capabilities required by CALEA section 103 is available only for facilities and services deployed prior to October 25, 1998 under the express terms of the statute. We also conclude that, in addition to the enforcement remedies through the courts available to LEAs under CALEA section 108, we may take separate enforcement action under section 229(a) of the Communications Act against carriers that fail to comply with CALEA. Moreover, we conclude that carriers must generally pay for CALEA development and implementation costs incurred after January 1, 1995 (unless their costs are reimbursed in response to a CALEA section 109(b) petition), but we acknowledge that they may recover costs from other sources, such as from their subscribers.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

83. In this section, we respond to commenters who filed directly in response to the IRFA. To the extent we received comments raising general small business concerns during this proceeding, those comments are discussed throughout the *Second R&O*.

84. The National Telecommunications Cooperative Association (NTCA) and the Office of Advocacy, U.S. Small Business Administration (Advocacy) filed comments directly in response to the IRFA. NTCA and Advocacy both generally contend that the RFA requires that the Commission consider less burdensome alternatives appropriate to the size of the covered entities. These comments were partially addressed in our previous *First R&O* in this proceeding; therefore, in this FRFA, we respond only to those arguments that are relevant to the *Second R&O*. In particular, we respond to NTCA's argument that we failed to include the availability of CALEA section 107(c) extension petitions as part of the IRFA and to Advocacy's arguments that the IRFA did not discuss all the alternatives available to small entities, including petitions for extensions under CALEA sections 107(c) and 109(b) and use of TTPs.

85. We reject NTCA's and Advocacy's arguments that the Commission failed to adequately consider these issues. While we recognize that we did not specifically list them in the IRFA, the IRFA combined with the *NPRM* appropriately identified the ways in which the Commission could lessen the regulatory burdens on small businesses in compliance with our RFA obligations. First, we generally discussed in the *NPRM* the possibility of an exemption from CALEA compliance for small businesses that provide wireless broadband Internet access to rural areas. Second, with regard to CALEA sections 107(c) and 109(b) compliance extension petitions, we devoted an entire section of the *NPRM*, spanning 24 paragraphs, to these issues. Although we proposed to restrict the availability of compliance extensions under section 107(c) and noted that there is a significant burden on section 109(b) petitioners, we thoroughly considered the potential impact of those proposals on small businesses, but concluded that it would be inconsistent with the CALEA statute to make exceptions for small businesses with respect to section 107(c) and section 109(b) petitions. Third, with respect to TTPs, we devoted a subsection of the *NPRM*, spanning eight paragraphs, to that issue. We noted therein that there may be some tension between relying on a TTP model and ''safe harbor'' standards, but that TTPs had the potential to simplify or ease the burden on carriers and manufacturers in providing packet content and call-identifying information to LEAs. Further, we noted that external TTP systems ''might provide economies of scale for small carriers.'' Therefore, we believe that a revised IRFA is not necessary on any of these issues.

C. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

86. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

1. Telecommunications Service Entities

a. Wireline Carriers and Service Providers

87. *Small Incumbent Local Exchange Carriers (LECs).* We have included small incumbent LECs present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

88. *Incumbent Local Exchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer

employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action. In addition, limited preliminary census data for 2002 indicate that the total number of wired communications carriers increased approximately 34 percent from 1997 to 2002.

89. *Competitive Local Exchange Carriers, Competitive Access Providers (CAPs), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.''* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees and 93 have more than 1,500 employees. In addition, 12 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 12 are estimated to have 1,500 or fewer employees. In addition, 39 carriers have reported that they are ''Other Local Service Providers.'' Of the 39, an estimated 38 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities that may be affected by our action. In addition, limited preliminary census data for 2002 indicate that the total number of wired communications carriers increased approximately 34 percent from 1997 to 2002.

90. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 654 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 652 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by our action. In addition, limited preliminary census data for 2002 indicate that the total number of wired communications carriers increased approximately 34 percent from 1997 to 2002.

91. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 316 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 292 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our action. In addition, limited preliminary census data for 2002 indicate that the total number of wired communications carriers increased approximately 34 percent from 1997 to 2002.

92. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 20 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our action. In addition, limited preliminary census data for 2002 indicate that the total number of wired communications carriers increased approximately 34 percent from 1997 to 2002.

93. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 89 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, 88 are estimated to have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that all or the majority of prepaid calling card providers are small entities that may be affected by our action.

b. Wireless Telecommunications Service Providers

94. For those services subject to auctions, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

95. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small. In addition, limited preliminary census data for 2002 indicate that the total number of paging providers decreased approximately 51 percent from 1997 to 2002. In addition, limited preliminary census data for 2002 indicate that the total number of cellular and other wireless telecommunications carriers increased approximately 321 percent from 1997 to 2002.

96. *Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category ''Cellular and Other Wireless

Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category Cellular and Other Wireless Telecommunications firms, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the great majority of firms can be considered small. Also, according to Commission data, 437 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. We have estimated that 260 of these are small, under the SBA small business size standard.

97. *Common Carrier Paging*. The SBA has developed a small business size standard for wireless firms within the broad economic census category, ''Cellular and Other Wireless Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

98. In the Paging *Third Report and Order*, we developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. Also, according to Commission data, 375 carriers reported that they were engaged in the provision of paging and messaging services. Of those, we estimate that 370 are small, under the SBA-approved small business size standard.

99. *Wireless Communications Services*. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity.

100. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 437 carriers reported that they were engaged in the provision of wireless telephony. We have estimated that 260 of these are small under the SBA small business size standard.

101. *Broadband Personal Communications Service*. The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.'' These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

c. Satellite Telecommunications Service Providers

102. Satellite telecommunications service providers include satellite operators and earth station operators. The Commission has not developed a definition of small entities applicable to such operators. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Satellite Telecommunications. This definition provides that a small entity is expressed as one with $13.5 million or less in annual receipts. 1997 Census Bureau data indicate that, for 1997, 273 satellite communication firms had annual receipts of under $10 million. In addition, 24 firms had receipts for that year of $10 million to $24,999,990.

2. Cable and OVS Operators

103. *Cable and Other Program Distribution*. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged as third-party distribution systems for broadcast programming. The establishments of this industry deliver visual, aural, or textual programming received from cable networks, local television stations, or radio networks to consumers via cable or direct-to-home satellite systems on a subscription or fee basis. These establishments do not generally originate programming material.'' The SBA has developed a small business size standard for Cable and Other Program Distribution, which is: all such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million. Thus, under this size standard, the majority of firms can be considered small.

104. *Cable Companies and Systems*. The Commission has also developed its

own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small.

105. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under the size standard contained in the Communications Act of 1934.

106. *Open Video Services.* Open Video Service (OVS) systems provide subscription services. The SBA has created a small business size standard for Cable and Other Program Distribution. This standard provides that a small entity is one with $12.5 million or less in annual receipts. The Commission has certified a large number of OVS operators, and some of these are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, D.C., and other areas. RCN has sufficient revenues to assure that it does not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS. Given this fact, the Commission concludes that those entities might qualify as small businesses, and therefore may be affected by the rules and policies adopted herein.

3. Internet and Other Information Service Providers

107. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs ''provide clients access to the Internet and generally provide related services such as web hosting, web page designing, and hardware or software consulting related to Internet connectivity.'' Under the SBA size standard, such a business is small if it has average annual receipts of $23 million or less. According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year. Of these, 2,437 firms had annual receipts of under $10 million, and 47 firms had receipts of $10 million or more but less then $25 million. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

108. *All Other Information Services.* ''This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives).'' Our action pertains to VoIP services, which could be provided by entities that provide other services such as e-mail, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is $6.5 million or less in average annual receipts. According to Census Bureau data for 1997, there were 195 firms in this category that operated for the entire year. Of these, 172 had annual receipts of under $5 million, and an additional nine firms had receipts of between $5 million and $9,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

109. The *Second R&O* requires that facilities-based broadband Internet access providers and providers of interconnected VoIP submit monitoring reports to the Commission to ensure their CALEA compliance by the May 14, 2007 deadline established by the *First R&O.* The *Second R&O* also requires that, within 90 days of its effective date, facilities-based broadband Internet access providers and providers of interconnected VoIP who were newly-identified in the *First R&O* as subject to CALEA submit system security statements to the Commission. Additionally, the Second R&O requires that each carrier that has a CALEA section 107(c) petition on file with the Commission submit to us a letter documenting that the carrier's equipment, facility, or service qualifies for section 107(c) relief under the October 25, 1998 cutoff for such relief. The *Second R&O* contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. They will be submitted to OMB for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

110. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

111. The need for the regulations adopted herein is mandated by Federal legislation. In the *Second R&O,* we find that, under the express terms of the CALEA statute, all carriers subject to CALEA are obliged to become CALEA-compliant without exception. However, in the previously-issued *Further Notice of Proposed Rulemaking* in this proceeding (a companion document to the *First R&O),* we are considering two alternatives: (1) Exempting from CALEA certain classes or categories of facilities-based broadband Internet access providers—notably small and rural providers and providers of broadband networks for educational and research institutions, and (2) requiring something less than full CALEA compliance for certain classes or categories of providers, including smaller providers.

112. In the *Second R&O,* we find that, within 90 days of the effective date of the *Second R&O,* facilities-based

broadband Internet access providers and providers of interconnected VoIP who were newly-identified in the *First R&O* as subject to CALEA must submit system security statements to the Commission. Ensuring that any interception of a carrier's communications or access to call-identifying information can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an employee of the carrier acting in accordance with regulations prescribed by the Commission is required by section 105 of CALEA and section 229(b) of the Communications Act. Further, system security compliance within 90 days is specified for telecommunications carriers in section 64.2105 of the Commission's rules. While we considered the alternative of modifying this 90-day compliance period for facilities-based broadband Internet access providers and providers of interconnected VoIP who were newly-identified in the *First R&O* as subject to CALEA, we concluded that would result in disparate treatment of these newly-identified providers.

113. In the *Second R&O,* we also find that sections 107(c) and 109(b) of CALEA provide only limited and temporary relief from compliance requirements, and that they are complementary provisions that serve different purposes, which are, respectively: (1) Extension of the CALEA section 103 compliance deadline; and, (2) recovery of CALEA-imposed costs. We considered the alternative of a less stringent interpretation of these two sections, but concluded that, in designing them, Congress carefully balanced a reasonable compliance period against a firm deadline. Accordingly, we conclude that the statutory language does not permit us to adopt a less stringent interpretation. However, we note that section 109(b) lists 11 criteria for determining whether CALEA compliance is ''reasonably achievable'' by a particular telecommunications carrier, and one of these criteria is ''[t]he financial resources of the telecommunications carrier.'' Accordingly, small carriers may petition for relief under this CALEA section, thus possibly mitigating, in some cases, the economic burden of compliance with rules adopted herein.

114. In the *Second R&O,* we also find that, in addition to the enforcement remedies through the courts available to LEAs under CALEA section 108, we may take separate enforcement action under section 229(a) of the Communications Act against carriers that fail to comply with the CALEA statute. We considered an alternative, recommended by some commenters, that authority to enforce CALEA lies exclusively with the courts, but we conclude that we have the authority to prescribe CALEA rules and investigate the compliance of those carriers and providers subject to such rules. We also conclude that there should be no disparate treatment of small entities with regard to CALEA enforcement because this would be inconsistent with the statute.

115. Finally, in the *Second R&O,* we find that carriers must generally pay for CALEA development and implementation costs incurred after January 1, 1995, but we acknowledge that they may recover costs from other sources, such as from their subscribers. Some commenters argue that carriers with small subscriber bases are less able to bear the costs of CALEA implementation; however, to the extent CALEA costs prohibit these carriers from reasonably achieving CALEA compliance, we again note that CALEA section 109(b) provides a remedy. The carriers can seek a determination from the Commission that CALEA compliance is not reasonably achievable, and, upon such a determination, the Attorney General may agree to pay the costs of compliance for these carriers, or the carriers will be deemed to be in compliance. We believe our approach represents a reasonable accommodation for small carriers.

F. Report to Congress

116. The Commission will send a copy of the *Second R&O and MO&O,* including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Second R&O and MO&O* and FRFA to the Chief Counsel for Advocacy of the SBA.

Ordering Clauses

117. Pursuant to sections 1, 4(i), 7(a), 229, 301, 303, 332, and 410 of the Communications Act of 1934, as amended, and section 102 of the Communications Assistance for Law Enforcement Act, 18 U.S.C. 1001, the *Second Report and Order and Memorandum Opinion and Order* in ET Docket No. 04–295 is adopted.

118. Parts 1, 22, 24, and 64 of the Commission's rules, 47 CFR parts 1, 22, 24, and 64, are amended as set forth below. The requirements of the *Second Report and Order* shall become effective August 4, 2006. The *Second Report and Order* contains information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, that are not effective until approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of those rules.

119. The ''Petition for Reconsideration and for Clarification of the *CALEA Applicability Order*'' filed by the United States Telecom Association is granted to the extent indicated herein and is denied in all other respects.

120. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the *Second Report and Order and Memorandum Opinion and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 22

Communications common carriers.

47 CFR Part 24

Communications common carriers, Personal communications services, Telecommunications.

47 CFR Part 64

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 22, 24, and 64 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, and 303(r).

■ 2. Subpart Z is added to read as follows:

Subpart Z—Communications Assistance for Law Enforcement Act

Sec.
1.20000 Purpose.

Subpart Z—Communications Assistance for Law Enforcement Act

§ 1.20000 Purpose.

Pursuant to the Communications Assistance for Law Enforcement Act (CALEA), Public Law 103–414, 108 Stat. 4279 (1994) (codified as amended in sections of 18 U.S.C. and 47 U.S.C.), this subpart contains rules that require a telecommunications carrier to:

(a) Ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with appropriate legal authorization, appropriate carrier authorization, and with the affirmative intervention of an individual officer or employee of the carrier acting in accordance with regulations prescribed by the Commission; and

(b) Implement the assistance capability requirements of CALEA section 103, 47 U.S.C. 1002, to ensure law enforcement access to authorized wire and electronic communications or call-identifying information.

§ 1.20001 Scope.

The definitions included in 47 CFR 1.20002 shall be used solely for the purpose of implementing CALEA requirements.

§ 1.20002 Definitions.

For purposes of this subpart:

(a) *Appropriate legal authorization.* The term *appropriate legal authorization* means:

(1) A court order signed by a judge or magistrate authorizing or approving interception of wire or electronic communications; or

(2) Other authorization, pursuant to 18 U.S.C. 2518(7), or any other relevant federal or state statute.

(b) *Appropriate carrier authorization.* The term *appropriate carrier authorization* means the policies and procedures adopted by telecommunications carriers to supervise and control officers and employees authorized to assist law enforcement in conducting any interception of communications or access to call-identifying information.

(c) *Appropriate authorization.* The term *appropriate authorization* means both appropriate legal authorization and appropriate carrier authorization.

(d) *LEA.* The term *LEA* means law enforcement agency; *e.g.*, the Federal Bureau of Investigation or a local police department.

(e) *Telecommunications carrier.* The term *telecommunications carrier* includes:

(1) A person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire;

(2) A person or entity engaged in providing commercial mobile service (as defined in sec. 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))); or

(3) A person or entity that the Commission has found is engaged in providing wire or electronic communication switching or transmission service such that the service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of CALEA.

§ 1.20003 Policies and procedures for employee supervision and control.

A telecommunications carrier shall:

(a) Appoint a senior officer or employee responsible for ensuring that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier.

(b) Establish policies and procedures to implement paragraph (a) of this section, to include:

(1) A statement that carrier personnel must receive appropriate legal authorization and appropriate carrier authorization before enabling law enforcement officials and carrier personnel to implement the interception of communications or access to call-identifying information;

(2) An interpretation of the phrase ''appropriate authorization'' that encompasses the definitions of appropriate legal authorization and appropriate carrier authorization, as used in paragraph (b)(1) of this section;

(3) A detailed description of how long it will maintain its records of each interception of communications or access to call-identifying information pursuant to § 1.20004;

(4) In a separate appendix to the policies and procedures document:

(i) The name and a description of the job function of the senior officer or employee appointed pursuant to paragraph (a) of this section; and

(ii) Information necessary for law enforcement agencies to contact the senior officer or employee appointed pursuant to paragraph (a) of this section or other CALEA points of contact on a seven days a week, 24 hours a day basis.

(c) Report to the affected law enforcement agencies, within a reasonable time upon discovery:

(1) Any act of compromise of a lawful interception of communications or access to call-identifying information to unauthorized persons or entities; and

(2) Any act of unlawful electronic surveillance that occurred on its premises.

§ 1.20004 Maintaining secure and accurate records.

(a) A telecommunications carrier shall maintain a secure and accurate record of each interception of communications or access to call-identifying information, made with or without appropriate authorization, in the form of single certification.

(1) This certification must include, at a minimum, the following information:

(i) The telephone number(s) and/or circuit identification numbers involved;

(ii) The start date and time that the carrier enables the interception of communications or access to call identifying information;

(iii) The identity of the law enforcement officer presenting the authorization;

(iv) The name of the person signing the appropriate legal authorization;

(v) The type of interception of communications or access to call-identifying information (e.g., pen register, trap and trace, Title III, FISA); and

(vi) The name of the telecommunications carriers' personnel who is responsible for overseeing the interception of communication or access to call-identifying information and who is acting in accordance with the carriers' policies established under § 1.20003.

(2) This certification must be signed by the individual who is responsible for overseeing the interception of communications or access to call-identifying information and who is acting in accordance with the telecommunications carrier's policies established under § 1.20003. This individual will, by his/her signature, certify that the record is complete and accurate.

(3) This certification must be compiled either contemporaneously with, or within a reasonable period of

time after the initiation of the interception of the communications or access to call-identifying information.

(4) A telecommunications carrier may satisfy the obligations of paragraph (a) of this section by requiring the individual who is responsible for overseeing the interception of communication or access to call-identifying information and who is acting in accordance with the carriers' policies established under § 1.20003 to sign the certification and append the appropriate legal authorization and any extensions that have been granted. This form of certification must at a minimum include all of the information listed in paragraph (a) of this section.

(b) A telecommunications carrier shall maintain the secure and accurate records set forth in paragraph (a) of this section for a reasonable period of time as determined by the carrier.

(c) It is the telecommunications carrier's responsibility to ensure its records are complete and accurate.

(d) Violation of this rule is subject to the penalties of § 1.20008.

§ 1.20005 Submission of policies and procedures and Commission review.

(a) Each telecommunications carrier shall file with the Commission the policies and procedures it uses to comply with the requirements of this subchapter. These policies and procedures shall be filed with the Federal Communications Commission within 90 days of the effective date of these rules, and thereafter, within 90 days of a carrier's merger or divestiture or a carrier's amendment of its existing policies and procedures.

(b) The Commission shall review each telecommunications carrier's policies and procedures to determine whether they comply with the requirements of §§ 1.20003 and 1.20004.

(1) If, upon review, the Commission determines that a telecommunications carrier's policies and procedures do not comply with the requirements established under §§ 1.20003 and 1.20004, the telecommunications carrier shall modify its policies and procedures in accordance with an order released by the Commission.

(2) The Commission shall review and order modification of a telecommunications carrier's policies and procedures as may be necessary to insure compliance by telecommunications carriers with the requirements of the regulations prescribed under §§ 1.20003 and 1.20004.

§ 1.20006 Assistance capability requirements.

(a) Telecommunications carriers shall provide to a Law Enforcement Agency the assistance capability requirements of CALEA regarding wire and electronic communications and call-identifying information, see 47 U.S.C. 1002. A carrier may satisfy these requirements by complying with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, such as J–STD–025 (current version), or by the Commission.

(b) Telecommunications carriers shall consult, as necessary, in a timely fashion with manufacturers of its telecommunications transmission and switching equipment and its providers of telecommunications support services for the purpose of ensuring that current and planned equipment, facilities, and services comply with the assistance capability requirements of 47 U.S.C. 1002.

(c) A manufacturer of telecommunications transmission or switching equipment and a provider of telecommunications support service shall, on a reasonably timely basis and at a reasonable charge, make available to the telecommunications carriers using its equipment, facilities, or services such features or modifications as are necessary to permit such carriers to comply with the assistance capability requirements of 47 U.S.C. 1002.

§ 1.20007 Additional assistance capability requirements for wireline, cellular, and PCS telecommunications carriers.

(a) *Definition*—(1) *Call-identifying information.* Call identifying information means dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber by means of any equipment, facility, or service of a telecommunications carrier. Call-identifying information is ''reasonably available'' to a carrier if it is present at an intercept access point and can be made available without the carrier being unduly burdened with network modifications.

(2) *Collection function.* The location where lawfully authorized intercepted communications and call-identifying information is collected by a law enforcement agency (LEA).

(3) *Content of subject-initiated conference calls.* Capability that permits a LEA to monitor the content of conversations by all parties connected via a conference call when the facilities under surveillance maintain a circuit connection to the call.

(4) *Destination.* A party or place to which a call is being made (e.g., the called party).

(5) *Dialed digit extraction.* Capability that permits a LEA to receive on the call data channel a digits dialed by a subject after a call is connected to another carrier's service for processing and routing.

(6) *Direction.* A party or place to which a call is re-directed or the party or place from which it came, either incoming or outgoing (e.g., a redirected-to party or redirected-from party).

(7) *IAP.* Intercept access point is a point within a carrier's system where some of the communications or call-identifying information of an intercept subject's equipment, facilities, and services are accessed.

(8) *In-band and out-of-band signaling.* Capability that permits a LEA to be informed when a network message that provides call identifying information (e.g., ringing, busy, call waiting signal, message light) is generated or sent by the IAP switch to a subject using the facilities under surveillance. Excludes signals generated by customer premises equipment when no network signal is generated.

(9) *J–STD–025.* The standard, including the latest version, developed by the Telecommunications Industry Association (TIA) and the Alliance for Telecommunications Industry Solutions (ATIS) for wireline, cellular, and broadband PCS carriers. This standard defines services and features to support lawfully authorized electronic surveillance, and specifies interfaces necessary to deliver intercepted communications and call-identifying information to a LEA. Subsequently, TIA and ATIS published J–STD–025–A and J–STD–025–B.

(10) *Origin.* A party initiating a call (e.g., a calling party), or a place from which a call is initiated.

(11) *Party hold, join, drop on conference calls.* Capability that permits a LEA to identify the parties to a conference call conversation at all times.

(12) *Subject-initiated dialing and signaling information.* Capability that permits a LEA to be informed when a subject using the facilities under surveillance uses services that provide call identifying information, such as call forwarding, call waiting, call hold, and three-way calling. Excludes signals generated by customer premises equipment when no network signal is generated.

(13) *Termination.* A party or place at the end of a communication path (e.g. the called or call-receiving party, or the switch of a party that has placed another party on hold).

(14) *Timing information.* Capability that permits a LEA to associate call-

identifying information with the content of a call. A call-identifying message must be sent from the carrier's IAP to the LEA's Collection Function within eight seconds of receipt of that message by the IAP at least 95% of the time, and with the call event time-stamped to an accuracy of at least 200 milliseconds.

(b) In addition to the requirements in § 1.20006, wireline, cellular, and PCS telecommunications carriers shall provide to a LEA the assistance capability requirements regarding wire and electronic communications and call identifying information covered by J–STD–025 (current version), and, subject to the definitions in this section, may satisfy these requirements by complying with J–STD–025 (current version), or by another means of their own choosing. These carriers also shall provide to a LEA the following capabilities:

(1) Content of subject-initiated conference calls;

(2) Party hold, join, drop on conference calls;

(3) Subject-initiated dialing and signaling information;

(4) In-band and out-of-band signaling;

(5) Timing information;

(6) Dialed digit extraction, with a toggle feature that can activate/deactivate this capability.

§ 1.20008 Penalties.

In the event of a telecommunications carrier's violation of this subchapter, the Commission shall enforce the penalties articulated in 47 U.S.C. 503(b) of the Communications Act of 1934 and 47 CFR 1.80.

PART 22—PUBLIC MOBILE SERVICES

■ 3. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309, and 332.

Subpart J—[Removed]

■ 4. Remove subpart J, consisting of §§ 22.1100 through 22.1103.

PART 24—PERSONAL COMMUNICATIONS SERVICES

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

Authority: 47 U.S.C. 154, 301, 302, 303, 309, and 332.

Subpart J—[Removed]

■ 6. Remove subpart J, consisting of §§ 24.900 through 24.903.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 7. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

Subpart V—[Removed and Reserved]

■ 8. Remove and reserve subpart V, consisting of §§ 64.2100 through 64.2106.

Subpart W—[Removed and Reserved]

■ 9. Remove and reserve subpart W, consisting of §§ 64.2200 through 64.2203.

[FR Doc. 06–5954 Filed 7–3–06; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 60109004–6164–02; I.D. 010406E]

RIN 0648-AT76

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement the annual harvest guideline for Pacific sardine in the U.S. exclusive economic zone off the Pacific coast for the fishing season of January 1, 2006, through December 31, 2006. This harvest guideline has been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

DATES: Effective August 4, 2006.

ADDRESSES: Copies of the report *Assessment of Pacific Sardine Stock for U.S. Management in 2006* and the Environmental Assessment/Regulatory Impact Review may be obtained from Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Joshua B. Lindsay, Southwest Region, NMFS, 562–980–4034, e-mail: *joshua.lindsay@noaa.gov*.

SUPPLEMENTARY INFORMATION: The CPS FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) CPS Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews the reports from the Team, Subpanel, and SSC, provides time for public comment, and then makes its recommendation to NMFS. The annual harvest guideline and season structure are published by NMFS in the Federal Register as soon as practicable before the beginning of the appropriate fishing season. The Pacific sardine season begins on January 1 and ends on December 31 of each year.

Public meetings of the Team and Subpanel were held at NMFS Southwest Fisheries Science Center in La Jolla, CA on October 5 and 6, 2005 (70 FR 55335, September 21, 2005). The Council reviewed the report at its November meeting in San Diego, CA, and listened to comments from its advisory bodies and the public. The Council then adopted the 2006 harvest guideline for Pacific sardine. Based on a biomass estimate of 1,061,391 metric tons (mt), the harvest guideline for Pacific sardine for January 1, 2006, through December 31, 2006, is 118,937 mt.

The size of the sardine population was estimated using an integrated stock assessment model called Age-structured Assessment Program (ASAP). ASAP is a flexible forward-simulation that allows for the efficient and reliable estimation of a large number of parameters. ASAP uses fishery dependent and fishery independent data to obtain annual estimates of sardine abundance, year-class strength, and age-specific fishing mortality. The ASAP model allows one to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast and for the incorporation of data from the Mexican sardine fishery. Information on the fishery and the stock assessment are found in the report *Assessment of Pacific Sardine Stock for U.S. Management in 2006* (see **ADDRESSES**).

The formula in the FMP uses the following factors to determine the harvest guideline:

1. *The biomass of sardines age one and above.* For 2006, this estimate is 1,061,391 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.

3. *The portion of the sardine biomass that is in U.S. waters.* For 2006, this estimate is 87 percent. It is based on the average larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of aerial fish-spotters.

4. *The harvest fraction.* This is the percentage of the biomass above 150,000 mt that may be harvested. The fraction varies from 5 to 15 percent, depending on current ocean temperatures. The higher fraction is used for warmer ocean temperatures, which favor production of Pacific sardine, and the lower fraction is used for cooler temperatures. Based on the last three seasons of sea surface temperatures at Scripps Pier, California, a fraction of 15 percent was used for 2006.

Based on the estimated biomass of 1,061,391 mt and the formula in the FMP, a harvest guideline of 118,937 mt was determined for the fishery beginning January 1, 2006.

The recently established Amendment 11 to the CPS FMP changed the framework for the annual apportionment of the Pacific sardine harvest guideline along the U.S. Pacific coast and set up a new long-term allocation scheme. Based on this new long-term allocation scheme, 35 percent of the harvest guideline is released coastwide on January 1; 40 percent of the harvest guideline, plus any portion not harvested from the initial 35 percent is released coastwide on July 1; and on September 15 the remaining 25 percent, plus any portion not harvested from the earlier releases is then available for harvest.

If the total harvest guideline or these apportionment levels for Pacific sardine are reached at any time, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme or the beginning of the next fishing season. The Regional Administrator shall announce in the Federal Register the date of the closure of the directed fishery for Pacific sardine.

Normally, an incidental landing allowance of sardine in landings of other CPS is set at the beginning of the fishing season. The incidental allowance would become effective if the harvest guideline is reached and the fishery closed. A landing allowance of sardine up to 45 percent by weight of any landing of CPS is authorized by the FMP. An incidental allowance prevents fishermen from being cited for a violation when sardine occur in schools of other CPS, and it minimizes bycatch of sardine if sardine are inadvertently caught while fishing for other CPS. Sardine landed with other species also requires sorting at the processing plant, which adds to processing costs. Mixed species in the same load may damage smaller fish.

Classification

These specifications are issued under the authority of, and NMFS has preliminarily determined that it is in accordance with, the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and the regulations implementing the FMP.

This final rule is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: June 28, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. E6–10465 Filed 7–3–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 060420106–6163–02; I.D. 041706B]

RIN 0648–AU44

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources; Crab Economic Data Reports

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement revision of the annual economic data reports (EDRs) submission deadline from May 1 to June 28. This action is necessary to provide adequate time for crab harvesters and processors participating in the Bering Sea and Aleutian Islands Crab Rationalization Program (CR Program) to submit accurate and complete data on an EDR for the previous fishing year. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective on July 5, 2006.

ADDRESSES: Copies of the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this action are available from: NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Walsh, Records Officer, and on the Alaska Region, NMFS, website at *http://www.fakr.noaa.gov* or by calling the Alaska Region, NMFS, at 907–586–7228.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, Alaska Region at the above address, and by email to *David__Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008 or e-mail at *patsy.bearden@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The CR Program includes a comprehensive economic data collection requirement to help the North Pacific Fishery Management Council and NMFS assess the success of the CR Program and develop amendments to the CR Program. An EDR contains cost, revenue, ownership, and employment data. These data are collected annually from the crab harvesting and processing sectors, including owners and lessees of catcher vessels, catcher/processors, and owners and operators of shoreside and floating processors. The data are used to study the economic impacts of the CR Program on harvesters, processors, and communities. Data submission is mandatory.

An individual EDR is required for both historical data and annual data and for each of four categories of participants in the CR Program fisheries: catcher vessel, catcher/processor, stationary floating crab processor, and shoreside crab processor. This rule applies only to the annual EDR due date.

Need for Action

Originally, May 1 was chosen as the EDR submission deadline because NMFS estimated that data records would be readily available after the April 15 income tax filing deadline. However, several individuals have reported that a May 1 deadline for annual EDRs does not allow enough time for preparers to match EDR data to comprehensive and accurate financial documentation, such as financial statements and tax returns. When preparers request tax extensions, tax returns and statements are seldom complete by May 1. Even if taxes were submitted by April 15, EDR preparers have only 2 weeks to gather tax forms from preparers, complete the EDRs, and file them by May 1. This short period leaves little time to complete EDR data entry fields and could adversely affect the quality of data reported on EDRs.

The EDR data are used to study the economic impacts of the CR Program on harvesters, processors, and communities. Extending the EDR submittal deadline will result in improved data quality (improved utility, objectivity, and integrity of the data); improved usefulness of the data to its intended users; help to ensure that accurate, reliable, and unbiased information is provided; and ease the submitters' burden to timely compile and submit the information.

Timely submission of a completed annual EDR is a condition to receiving any annual CR Program crab permit from the NMFS Restricted Access Management (RAM) Program office. Providing additional time to file EDRs should not delay issuance of annual CR Program individual fishing and processing permits, Registered Crab Receiver permits, Federal Crab Vessel permits, and cooperative permits. RAM will issue all annual CR Program crab permits approximately one month after the June 28 deadline.

Response to Comments on the Proposed Rule (71 FR 25808, May 2, 2006)

NMFS received 2 letters of comment on the proposed rule. The following summarizes and responds to these comments.

Comment 1: A commenter contended that industry members provide NMFS with inaccurate and biased information. The commenter also stated that NMFS must do more to ensure accuracy.

Response: Industry members have significant incentives to submit accurate and complete information. The economic data collection program requires submitters' participation in audits. Anyone who submits fraudulent or inaccurate data risks civil and criminal enforcement penalties.

Comment 2: A commenter stated support for the reporting deadline change, observing that it is the only way to avoid having most of the industry out of compliance.

Response: NMFS agrees.

NMFS has considered the comments, but determined they do not provide any reason to reconsider or change the proposed rule.

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this final rule is necessary for the conservation and management of the BSAI crab fisheries. The Regional Administrator also has determined that this final rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a final regulatory flexibility analysis (FRFA) as required by section 603 of the Regulatory Flexibility Act. The FRFA describes the economic impact this rule would have on small entities. A description and objective of the action and the legal basis for this action are contained at the beginning of the preamble and in the **SUMMARY** section of this document. A copy of the FRFA is available from NMFS (see **ADDRESSES**). The following summarizes the FRFA.

The FRFA evaluates the annual EDR submittal deadline revision impacts on small entities. In addition, the FRFA addresses the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 612). The FRFA specifically addresses the section 604(a) requirements.

The EDRs require data from small entity fishing operations as identified by the Small Business Administration. This action applies to 311 entities, consisting of 275 catcher vessels, 12 catcher/processors, 20 shoreside processors, and 4 stationary floating crab processors. This action also applies to 6 Western Alaska Community Development Quota (CDQ) groups, which are considered small entities. Each of these CDQ groups is organized as a not-for-profit entity, and none is dominant in its field. Approximately 238 small entities own crab harvesting vessels or crab catcher/processors. Eight processors qualify as small entities.

Compared with the current fishery, the number of small entities required to submit EDRs is anticipated to decrease dramatically over time. This decrease could result from BSAI crab operations consolidation, BSAI crab buyback program fleet reduction, and cooperatives formation. Most of the EDR historical data were collected during this first year of the CR Program as a one-time submission. After the submission of historical data, small entities continuing to participate in the crab fisheries are required to submit an annual EDR. The number of crab harvesting small entities is anticipated to shrink from pre-quota fishery numbers.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by the Office of Management and Budget (OMB) under Control Number 0648 0518. Public reporting burden per individual response is estimated to average 7.5 hours for annual catcher vessel EDRs; 12.5 hours for annual catcher/processor EDRs; 10 hours for annual stationary floating crab processor EDRs; and 10 hours for annual shoreside processor EDRs.

Response time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This rule does not duplicate, overlap, or conflict with other Federal regulations.

This action does not have any adverse impacts on regulated small entities.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive the 30-day delay in effective date under 5 U.S.C. 553(d)(3). The delay normally provides affected persons time to prepare for compliance with the requirements of the rule. The AA has determined that it is in the public interest that the date change take effect immediately. This final rule does not change existing regulatory requirements specifying EDR content, so affected persons will not require time to prepare for compliance with new substantive requirements regarding EDR content. This final rule extends the filing deadline, and affected persons do not need additional time to prepare for compliance with the new deadline.

Small Entity Compliance Guide

NMFS will post a small entity compliance guide on the Internet at *http://www.fakr.noaa.gov* to satisfy the Small Business Regulatory Enforcement Fairness Act of 1996 which requires a plain language guide to assist small entities in complying with this rule. Contact NMFS to request a hard copy of the guide (see **ADDRESSES**).

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 28, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 680 as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 680 continues to read as follows:

Authority: 16 U.S.C. 1862.

§ 680.6 [Amended]

■ 2. In the following table, for each of the paragraphs shown in the ''Location'' column, remove the phrase indicated in the ''Remove'' column and replace it with the phrase indicated in the ''Add'' column for the number of times indicated in the ''Frequency per paragraph'' column.

Location	Remove	Add	Frequency per paragraph
paragraphs (b)(1), (d)(1), (f)(1), and (h)(1)	May 1	June 28	2

[FR Doc. 06–5981 Filed 6–29–06; 12:46 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 71, No. 128

Wednesday, July 5, 2006

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV06–916/917–2 PR]

Nectarines and Peaches Grown in California; Increased Assessment Rates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rates established for the Nectarine Administrative Committee and the Peach Commodity Committee (committees) for the 2006–07 and subsequent fiscal periods from $0.20 to $0.21 per 25-pound container or container equivalent of nectarines and peaches handled. The committees locally administer the marketing orders that regulate the handling of nectarines and peaches grown in California. Authorization to assess nectarine and peach handlers enables the committees to incur expenses that are reasonable and necessary to administer the programs. The fiscal period runs from March 1 through the last day of February. The assessment rates would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by July 17, 2006.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Laurel May, Marketing Specialist, or Kurt Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement Nos. 85 and 124 and Order Nos. 916 and 917, both as amended (7 CFR parts 916 and 917), regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing orders now in effect, California nectarine and peach handlers are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates as proposed herein would be applicable to all assessable nectarines and peaches beginning on March 1, 2006, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC) for the 2006–07 and subsequent fiscal periods from $0.20 to $0.21 per 25-pound container or container equivalent of nectarines and peaches handled.

The nectarine and peach marketing orders provide authority for the committees, with the approval of USDA, to formulate annual budgets of expenses and collect assessments from handlers to administer the programs. The members of NAC and PCC are producers of California nectarines and peaches, respectively. They are familiar with the committees' needs, and with the costs for goods and services in their local area and are, therefore, in a position to formulate appropriate budgets and assessment rates. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

NAC Assessment and Expenses

The NAC recommended, for the 2005–06 fiscal period, and USDA approved, an assessment rate of $0.20 that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The NAC met on April 27, 2006, and discussed and unanimously recommended 2006–07 expenditures and an assessment rate of $0.21 per 25-pound container or container equivalent of nectarines. At the same meeting, NAC unanimously recommended 2006–07 expenditures of $4,473,764. In comparison, the budgeted expenditures for 2005–06 were $4,919,048. The proposed assessment rate of $0.21 is $0.01 higher than the rate currently in effect.

The rate increase was recommended to ensure that, despite lower than normal crop production estimates for the 2006 crop season, which began on March 1, 2006, NAC could meet its 2006–07 anticipated expenses and carry over a financial reserve that would provide adequate funds for promotional and other activities at the beginning of the 2007 season before assessment collections begin. Increasing the assessment rate from $0.20 to $0.21 per 25-pound container or container equivalent is expected to provide about $178,240 in additional assessment revenue, and would allow NAC to start the 2007 season with adequate funds.

Expenditures recommended by the NAC for the 2006–07 fiscal period include $567,856 for administration, $1,070,832 for inspection, $201,702 for research, and $2,633,374 for domestic and international promotion. Budgeted expenses for these items in 2005–06 were $899,288 for administration, $1,167,381 for inspection, $203,230 for research, and $2,649,149 for domestic and international promotion.

The NAC 2006–07 fiscal period assessment rate was derived after considering anticipated fiscal year expenses; the estimated assessable nectarines of 17,824,000 25-pound containers or container equivalents; the estimated income from other sources, such as interest; and the need for an adequate financial reserve to carry the NAC into the 2007 season. Therefore, the NAC recommended an assessment rate of $0.21 per 25-pound container or container equivalent. According to the committee, that assessment rate would result in an adequate financial reserve, yet one well within the maximum of approximately one year's expenses permitted by the order (§ 916.42).

PCC Assessment and Expenses

The PCC recommended, for the 2005–06 fiscal period, and USDA approved, an assessment rate of $0.20 that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The PCC met on April 27, 2006, and discussed and recommended 2006–07 expenditures and an assessment rate of $0.21 per 25-pound container or container equivalent of peaches. At the same meeting, PCC recommended 2006–07 expenditures of $4,988,914. In comparison, last year's budgeted expenditures were $5,095,709. The proposed assessment rate of $0.21 is $0.01 higher than the rate currently in effect.

The rate increase was recommended to ensure that PCC could meet its 2006–07 anticipated expenses and carry over a financial reserve that would provide adequate funds for promotional and other activities at the beginning of the 2007 season before assessment collections begin. Increasing the assessment rate from $0.20 to $0.21 per 25-pound container or container equivalent is expected to provide about $202,420 in additional assessment revenue, and would allow PCC to start the 2007 season with adequate funds.

Expenditures recommended by the PCC for the 2006–07 fiscal period include $629,024 for administration, $1,299,211 for inspection, $210,718 for research, and $2,849,961 for domestic and international promotion. Budgeted expenses for these items in 2005–06 were $918,736 for administration, $1,260,160 for inspection, $204,833 for research, and $2,711,980 for domestic and international promotion.

The PCC 2006–07 fiscal period assessment rate was derived after considering anticipated PCC expenses; the estimated assessable peaches of 20,242,000 25-pound containers or container equivalents; the estimated income from other sources, such as interest; and the need for an adequate reserve to carry the PCC into the 2006 season. Therefore, the PCC recommended an assessment rate of $0.21 per 25-pound container or container equivalent. According to the committee, that assessment rate would result in an adequate financial reserve, yet one well within the maximum of approximately one year's expenses permitted by the order (§ 917.38)

Continuance of Assessment Rates

The proposed assessment rates would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committees or other available information.

Although these assessment rates would be in effect for an indefinite period, the committees would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rates. The dates and times of committee meetings are available from the committees' website at *www.eatcaliforniafruit.com* or USDA.

Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate the committees' recommendations and other available information to determine whether modification of the assessment rate for each committee is needed. Further rulemaking would be undertaken as necessary. The committees' 2006–07 fiscal period budgets and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 150 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 800 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration [13 CFR 121.201] as those whose annual receipts are less than $6,500,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are fewer than 25 handlers in the industry who could be defined as other than small entities. For the 2005 season, the committees' staff estimated that the average handler price received was $10.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 650,000 containers to have annual receipts of $6,500,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2005 season, the committees' staff estimates that small handlers represent approximately 83 percent of all the handlers within the industry.

The committees' staff has also estimated that fewer than 10 percent of the producers in the industry could be defined as other than small entities. For the 2005 season, the committees' staff estimated the average producer price received was $5.25 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 142,858 containers of nectarines and peaches to have annual receipts of $750,000. Given data maintained by the committees' staff and the average producer price received during the 2005 season, the committees' staff estimates that small producers represent more than 90 percent of the producers within the industry.

With an average producer price of $5.25 per container or container equivalent, and a combined packout of nectarines and peaches of 38,691,622 containers, the value of the 2005 packout is estimated to be $203,131,016. Dividing this total estimated grower revenue figure by the estimated number of producers (800) yields an estimate of average revenue per producer of about $253,914 from the sales of peaches and nectarines.

This rule would increase the assessment rates established for NAC and PCC for the 2006–07 and subsequent fiscal periods from $0.20 to $0.21 per 25-pound container or container equivalent of nectarines or peaches.

The NAC recommended 2006–07 fiscal period expenditures of $4,473,764 for nectarines and an assessment rate of $0.21 per 25-pound container or container equivalent of nectarines. The proposed assessment rate of $0.21 is $0.01 higher than the current rate. The PCC recommended 2006–07 fiscal period expenditures of $4,988,914 for peaches and an assessments rate of $0.21 per 25-pound container or container equivalent of peaches. The proposed assessment rate of $0.21 is $0.01 higher than the current rate.

Analysis of NAC Budget

The quantity of assessable nectarines for the 2006–07 fiscal period is estimated at 17,824,000 25-pound containers or container equivalents. Thus, the $0.21 rate should provide $3,743,040 in assessment income. Income derived from handler assessments, along with interest income and research grants, would be adequate to cover budgeted expenses and maintain their desired reserve.

The major expenditures recommended by the NAC for the 2006–07 year include $567,856 for administration, $1,070,832 for inspection, $201,702 for research, and $2,633,374 for domestic and international promotion. Budgeted expenses for these items in 2005–06 were $899,288, $1,167,381, $203,230, and $2,649,149, respectively.

The NAC recommended an increase in the assessment rate to meet anticipated 2006–07 expenses and maintain an acceptable financial reserve, which is needed to fund expenses for the following year until assessments for that year are received. The NAC reviewed and recommended 2006–07 expenditures of $4,473,764 and the increased assessment rate.

Analysis of PCC Budget

The quantity of assessable peaches for the 2006–07 fiscal year is estimated at 20,242,000 25-pound containers or container equivalents. Thus, the $0.21 rate should provide $4,250,820 in assessment income. Income derived from handler assessments, along with interest income and research grants, would be adequate to cover budgeted expenses and maintain their desired reserve.

The major expenditures recommended by PCC for the 2006–07 year include $629,024 for administration, $1,299,211 for inspection, $210,718 for research, and $2,849,961 for domestic and international promotion. Budgeted expenses for these items in 2005–06 were $918,736, $1,260,160, $204,833, and $2,711,980, respectively.

The PCC recommended an increase in the assessment rate to meet anticipated 2006–07 expenses and maintain an acceptable financial reserve, which is needed to fund expenses for the following year until assessments for that year are received. The PCC reviewed and recommended 2006–07 expenditures of $4,988,914 and the increased assessment rate.

Considerations in Determining Expenses and Assessment Rates

Prior to arriving at these budgets, the committees considered information and recommendations from various sources, including, but not limited to: The Executive Committee, the Research Subcommittee, the International Programs Subcommittee, the Domestic Promotion Subcommittee, and the Nectarine and Peach Estimating Committees. Because 2006 crop estimates are lower than those for previous years, assessment revenues would decrease if the current rates were maintained through the 2006 season. The committees considered decreasing their promotional program expenditures in order to avoid raising the assessment rates. However, they believe that their current promotional programs are crucial to the success of the industry. Therefore, they recommended increasing the assessment rates in order to continue funding those activities at the current level. Both NAC and PCC decided that an assessment rate of $0.21 per 25-pound container or container equivalent would allow them to meet their 2006–07 fiscal period expenses and carry over necessary operating reserves to finance operations before 2007–08 assessments are collected. The committees then recommended these rates to USDA.

A review of historical and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for nectarines and peaches for the 2006–07 season could range between $4.00 and $6.00 per 25-pound container or container equivalent. Therefore, the estimated assessment revenue for the 2006–07 fiscal period as a percentage of total grower revenue could range between 3.5 and 5.25 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation of the marketing orders. In addition, the committees' meetings were widely publicized throughout the California nectarine and peach industries and all interested persons were invited to attend the meetings and participate in the committees' deliberations on all issues. Like all committee meetings, the April 27, 2006 meetings were public meetings and all entities of all sizes were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 10-day comment period is provided to allow interested persons to respond to this proposal. Ten days is deemed appropriate because: (1) The 2006–07 fiscal period began on March 1, 2006, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable nectarines and peaches handled during such fiscal period; (2) the committees need to have sufficient funds to pay their expenses, which are incurred on a continuous basis; and (3) handlers are aware of this action, which was discussed by the committees at public meetings and recommended at their meetings on April 27, 2006, and is similar to other assessment rate actions issued in past years.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are proposed to be amended as follows:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

2. Section 916.234 is revised to read as follows:

§ 916.234 Assessment rate.

On and after March 1, 2006, an assessment rate of $0.21 per 25-pound container or container equivalent of nectarines is established for California nectarines.

PART 917—PEACHES GROWN IN CALIFORNIA

3. Section 917.258 is revised to read as follows:

§ 917.258 Assessment rate.

On and after March 1, 2006, an assessment rate of $0.21 per 25-pound container or container equivalent of peaches is established for California peaches.

Dated: June 28, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–10425 Filed 7–3–06;8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2006–25250; Notice No. 06–08]

RIN 2120–AI63

Special Awareness Training for the Washington, DC Metropolitan Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would require special awareness training for any person who flies under visual flight rules (VFR) within 100 nautical miles of the Washington, DC VHF omni-directional range/distance measuring equipment (DCA VOR/DME). This training program is provided by the FAA on its Web site and focuses primarily on training pilots on the procedures for flying in and around the Washington, DC Metropolitan Area Defense Identification Zone (ADIZ) and the Washington, DC Metropolitan Area Flight Restricted Zone (FRZ). The intended effect of this proposed rule is to reduce the number of unauthorized flights into the airspace of the Washington, DC Metropolitan Area ADIZ and FRZ through education of the pilot community.

DATES: Comments must be received on or before September 5, 2006. See the note in the ‘‘Comments Invited’’ section under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may send comments identified by docket number using any of the following methods:

• *DOT Docket Web site:* Go to *http://dms.dot.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 20590–0001.

• *Fax:* 1–202–493–2251.

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

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to 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.

FOR FURTHER INFORMATION CONTACT: John D. Lynch, Certification and General Aviation Operations Branch, AFS–810, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3844 or (202) 267–8212; e-mail address: *john.d.lynch@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Note: On August 4, 2005, the FAA proposed to codify current flight restrictions for certain aircraft operations in the Washington, DC, metropolitan area (70 FR 45250; Aug. 4, 2005). The comment period for that proposed rule closed on February 6, 2006. Today's NPRM is a separate action that would require special awareness training for any person who flies under visual flight rules (VFR) within 100 nautical miles of the Washington, DC VHF omni-directional range/distance measuring equipment (DCA VOR/DME). If the FAA receives comments on the August 4, 2005, proposal in response to this special awareness training NPRM, those comments will be treated as outside the scope of this rulemaking.

The FAA invites interested persons to participate in this proposed rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or Federalism impacts that might result from adopting as final the requirements in this interim rule. The most helpful comments reference a specific portion of the rule, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this interim rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** of April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposed rule in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposed rule, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies; or*

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Authority for This Rulemaking

The Department of Transportation (DOT) has the responsibility, under the laws of the United States, to develop transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation (49 U.S.C. 101). The FAA is an agency of DOT. The Administrator of the FAA has broad authority to regulate the safe and efficient use of the navigable airspace (49 U.S.C. 40103). The Administrator also is authorized to issue air traffic rules and regulations to govern the flight of aircraft, the navigation, protection and identification of aircraft for the protection of persons and property on the ground, and for the efficient use of navigable airspace. Additionally, pursuant to 49 U.S.C. 40103(b)(3) the Administrator has the authority, in consultation with the Secretary of Defense, to ''establish security provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security.''

Background

In February 2003, the FAA, in consultation with the Department of Homeland Security and other Federal agencies, implemented a system of airspace control measures to protect against a potential threat to the Washington, DC Metropolitan Area. The dimensions of this protected airspace were determined after considering such factors as the speed of likely suspect aircraft, minimum launch time and the speed of intercept aircraft. After extensive coordination among Federal agencies, two airspace areas were implemented. The outer area, which closely mimics the current Washington Tri-area Class B airspace, is called an Air Defense Identification Zone (ADIZ) and requires identification of all flight operations within the airspace in order to ensure the security of protected ground assets. The inner and critical security area, called a Flight Restricted Zone (FRZ) is an approximate 15-nautical mile radius around the Washington VHF omni-directional range/distance measuring equipment (DCA VOR/DME) (38–51–07.512N/077–02–15.763W) where more stringent access procedures apply. The Washington, DC Metropolitan Area FRZ is part of the Washington, DC Metropolitan Area ADIZ.

Since its creation, there have been over 1,000 unauthorized flights (i.e., incursions) within the Washington, DC Metropolitan Area ADIZ. A few of these flights came so close to the Capitol and the White House that evacuation of these buildings and other Federal office buildings was required. Although all of the incursions were eventually determined to be inadvertent in nature, each incursion places an unnecessary burden on Federal, State, and local law enforcement resources. For instance, when an unauthorized aircraft penetrates restricted airspace, the FAA's air traffic controllers must divert necessary resources to monitor the aircraft's flight, alert security operations, and communicate information about the aircraft to appropriate military and law enforcement agencies. Several branches of the Federal Government, military and local law enforcement are forced to respond to the situation and needlessly expend effort in a situation that ultimately is determined not to have been a threat to our national security. The FAA is very concerned about these incursions. Recently, there have been several incidents where civilian aircraft have been intercepted by U.S. Customs Service helicopters and U.S. Air Force fighter airplanes for inadvertent flights within Washington, DC Metropolitan Area ADIZ.

In addition to the Washington, DC Metropolitan Area ADIZ, other Temporary Flight Restriction (TFR) areas have been established and continue to be established over certain cities and sensitive sites throughout the country. And, like the DC Metropolitan Area ADIZ, there have been inadvertent incursions into TFR airspace. The training required under this rulemaking will include information on not only the restricted airspace in the Washington, DC Metropolitan Area, but also restricted airspace throughout the country. In future FAA initiatives, we intend to increase all U.S. registered airmen's awareness and knowledge in flight operations and procedures in and around restricted airspace through modifying the content of our practical test standards, flight reviews, pilot proficiency checks, flight instructor renewals, and instrument proficiency checks.

Discussion of This Proposed Rule

The FAA is proposing to amend 14 CFR part 91 by adding a new § 91.161. Under the proposed rule, prior to flying Visual Flight Rules (VFR) within a radius of 100 nautical miles of the DCA VOR/DME, a pilot must have completed the Special Awareness Training for the Washington, DC Metropolitan Area. The FAA would require compliance 180 days from publication of the final rule. The training, which is currently available online through the FAA Safety website, focuses on how to avoid or operate safely within the Washington, DC Metropolitan Area ADIZ, Washington, DC Metropolitan Area FRZ, and special use/restricted airspace.

We believe that through training, the number of inadvertent incursions into the Washington, DC Metropolitan Area ADIZ could be reduced. According to the United States Government Accountability Office's (GAO) testimony before the U.S. House of Representatives' Committee on Government Reform (''Agency Resources Address Violations of Restricted Airspace, but Management Improvements are Needed''), ''general aviation aircraft pilots accounted for about 88% of all violations of restricted U.S. airspace between September 12, 2001 and December 31, 2004.'' In addition, GAO noted, ''pilot error is the biggest contributor to restricted airspace violations.'' Thus, to reduce the number of violations, we are proposing mandatory training to make pilots more aware of the location of restricted airspace and the procedures that must be followed to either avoid or operate in those areas.

Who Would Be Required to Receive This Training?

Any person who flies an aircraft under VFR within a radius of 100 nautical miles of the DCA VOR/DME would be required to receive the special awareness training required under § 91.161. Thus, this proposed rule would apply to any person operating an aircraft under VFR within a 100-nautical mile radius of the DCA VOR/DME, including all operations conducted under 14 CFR part 91, those for which an air carrier or an operating certificate may be issued under 14 CFR part 119 (for operations conducted under 14 CFR part 121 or 135), and those which may be conducted under part 125, 129, 133 or 137. Further, regardless of the type of pilot certificate held (*e.g.*, sport, recreational, student, private, commercial or foreign) or where the flight originated (*e.g.*, Virginia, California or even Canada), a person would be subject to the training requirement as a pre-condition to flying under VFR within 100 nautical miles of the DCA VOR/DME. Note this special awareness training would not be required for pilots who operate under instrument flight rules (IFR) within a 100-nautical mile radius of the DCA VOR/DME.

As previously noted, there have been over 1,000 unauthorized flights into the Washington, DC Metropolitan Area ADIZ since February 2003. To date, no criminal charges have been filed against any pilot. Of all the cases investigated, only one incursion was deemed deliberate. This led to the revocation of the pilot's certificate. We believe that the other incursions are a direct result of general aviation pilots under VFR flying off-course and not recognizing that they had entered restricted airspace without following proper procedure. Pilots, on the other hand, who fly under IFR are under the control of the FAA's Air Traffic Control system and, therefore, are under a controlled flight plan and routing that either allows them to enter the restricted airspace or avoid the airspace. Thus, at this time, we do not believe that requiring pilots who would fly under IFR within or near Washington, DC Metropolitan Area restricted airspace will address our immediate concern of reducing the number of inadvertent incursions into the Washington, DC Metropolitan Area ADIZ. The proposed rule consequently only would apply to persons flying aircraft under VFR within a 100-nautical mile radius of the DCA VOR/DME.

Would There Be Any Operations Excluded From the Requirements Under § 91.161?

Yes. We recognize there are certain operations that must be handled differently because of their importance to national security and safety and for the public interest. Historically, we have provided special consideration for operations by the U.S. Department of Defense/U.S. military and law enforcement and for approved aeromedical flights. The flight restrictions for the Washington, DC Metropolitan Area ADIZ and FRZ specifically exempt these types of operations from certain requirements otherwise applicable to aircraft entering the ADIZ and FRZ (see NOTAM FDC 3/2126). Furthermore, to our knowledge, none of the inadvertent incursions into the Washington, DC Metropolitan Area ADIZ has involved pilots conducting such operations. Consequently, under § 91.161(e), the FAA would exempt a person flying an aircraft in a U.S. Department of Defense/U.S. military or law enforcement operation, or for approved aeromedical assistance from the training requirements. This exclusion, however, only would apply if the person is flying on an official U.S. Department of Defense/U.S. military, law enforcement, or approved aeromedical operation. If the military pilot, law enforcement pilot, or aeromedical pilot exercised private pilot privileges under VFR within 100 nautical miles of the DCA VOR/DME, this special awareness training (under § 91.161) would be required.

Why Was the Distance of a ''100 Nautical Miles Radius'' of the DCA VOR/DME Selected?

After reviewing extensive data, we believe that only pilots flying within a 100-nautical mile radius of the DCA VOR/DME under VFR should be subject to the training requirement. Based on the statistics compiled, we determined that the majority of pilots who inadvertently entered the Washington, DC Metropolitan Area ADIZ had either originated their flight within this 100-nautical mile radius or their last point of departure was within this 100-nautical mile radius. Several alternatives were considered for who should complete the training, including subjecting only—(1) pilots residing in Virginia, Maryland, Pennsylvania, North Carolina, West Virginia and the District of Columbia; (2) pilots flying VFR over Virginia, Maryland, Pennsylvania, North Carolina, West Virginia and the District of Columbia; or (3) pilots that fly VFR within a 250 nautical mile radius of the Washington, DC Metropolitan Area ADIZ. We, however, believe that each of these alternatives is either overly broad or unduly complex.

The airspace 100 nautical miles from the DCA VOR/DME would not appear on the Washington, DC sectional aeronautical chart. Pilots, however, could easily plot the ''training zone'' on the appropriate sectional map(s) on their own. See Diagram 1. Further, we would provide a map that you could print through the FAA Safety Web site (*http://www.faasafety.gov*) for this course.

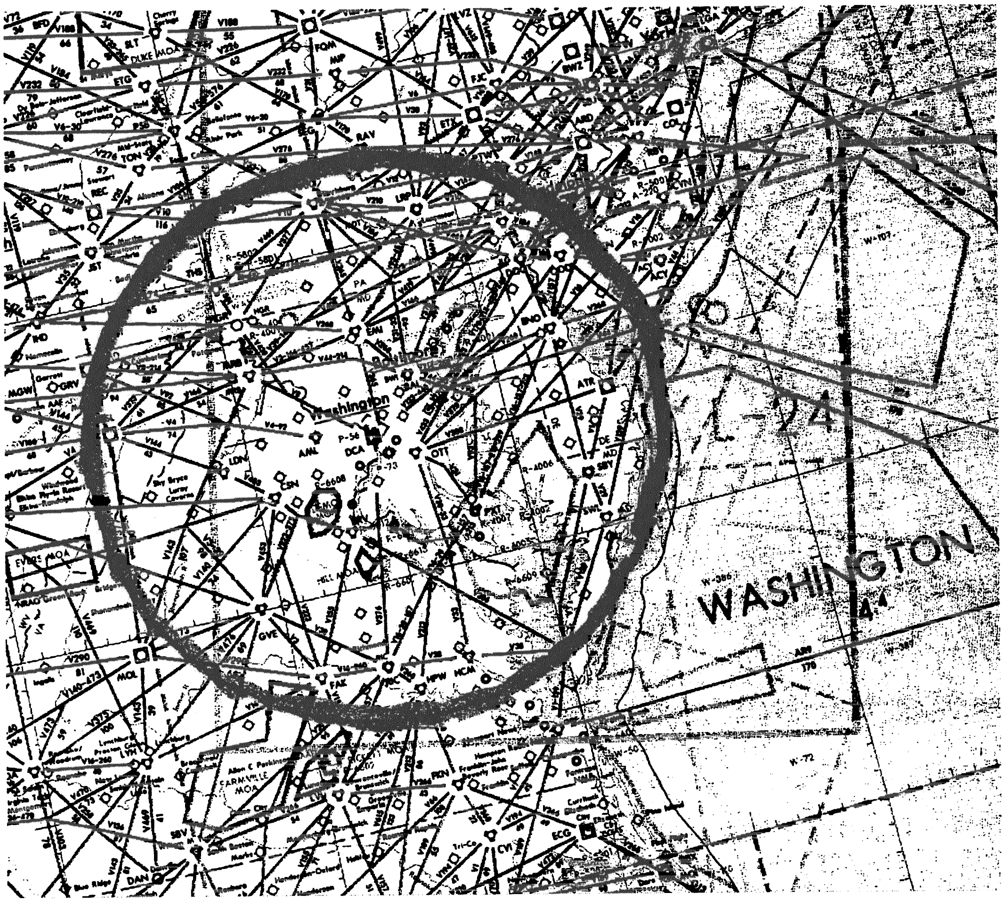

DIAGRAM 1

Would This Training Apply to Me if I Intended To Fly IFR but Cancelled My IFR Clearance and Proceeded VFR?

We recognize there may be instances when a pilot operating under IFR must cancel an IFR clearance and continue the flight under VFR. For example, a pilot may be flying under IFR within the 100-nautical mile radius of the DCA VOR/DME, but due to radio or instrument equipment problems, must cancel IFR clearance and proceed under VFR. Under that scenario, the failure to complete the special awareness-training program required under proposed § 91.161would not be a violation of the federal regulations. Additionally, in an in-flight emergency situation, the pilot in command could deviate from any rule under part 91 to the extent necessary to meet that emergency. See 14 CFR 91.3(b). The FAA, however, may investigate the situation and request that the pilot provide a written explanation for the deviation.

In contrast, if a pilot of his or her own volition cancelled the IFR clearance while operating within the 100-nautical mile radius of the DCA VOR/DME and proceeded VFR, then the requirements under § 91.161 would apply.

When Would I Have To Comply?

After a compliance date 180 days from effective date of the final rule, any person that flew within 100 nautical miles of the DCA VOR/DME under VFR would have to comply with the requirements of 14 CFR 91.161. We believe 180 days would be sufficient time for affected persons to complete the Washington, DC Metropolitan Area special awareness training program.

How Often Would This Training Be Required?

The proposed Washington, DC Metropolitan Area special awareness training would be a ''one-time'' obligation. Specifically, if this rule applied to you, you would only have to accomplish the special training course one time. However, we would encourage you to repeat the training when you feel you need to refresh your knowledge. In future initiatives we intend to ensure that all pilots receive recurrent training on flight procedures for operating in prohibited and restricted airspace, including the Washington, DC Metropolitan Area ADIZ and FRZ. We expect to accomplish this future training through additional training and testing during practical tests, flight reviews, pilot proficiency checks, flight instructor renewals, and instrument proficiency checks.

How and Where Would I Receive This Training?

Currently, the FAA is offering the ''Washington, DC Metropolitan Airspace Training'' on a voluntary basis via its online Web site. The online training is offered at the following FAA Safety Web site through ''Online Courses'': *http://www.faasafety.gov*. If this proposed rule is adopted, this training will become mandatory.

Persons wishing to take the voluntary training via this FAA Safety Web site should enter *http://www.faasafety.gov* and follow these steps:

1. Enroll in the ''Washington, DC Metropolitan Airspace Training'' at *http://www.faasafety.gov*. (If you have

already registered with *http://www.faasafety.gov*, sign in using your e-mail address and password and go to step 9 below.) When entering this FAA Safety Web site for the first time, you will need to register. To register, you must follow the following step-by-step procedure: Click on ''Get Registered Here.''

2. You will next be requested to provide your e-mail address and to answer the question ''Are you an airman with a current certificate?'' (''You are NOT required to have a current certificate to register'') by checking the answer ''yes'' or ''no.'' (The following steps will assume that you are a certificated airman.) Next you should click the command ''Continue.''

3. After clicking the command ''Continue,'' the screen will request you to input your last name (as it appears on your certificate) in the box ''Your last name'' and input your pilot certificate number in the box ''Current Certificate Number.'' Next you should click the command ''Continue.''

4. After clicking the command ''Continue,'' the next screen will have the following announcement on it: ''Your initial registration steps have been completed! Your account has been created with the faasafety.gov system and you have been assigned a temporary password to log into our system. Please check your e-mail for your password. You can then log in and begin setting up your notification preferences. *Be sure to check any spam-blocking software to make sure that e-mail will be allowed to you from http://www.faasafety.gov.* Thank you for participating in the FAA Safety Program.''

5. Once you check your e-mail for the password that was issued to you, you will log back onto the FAA Safety Web site at *http://www.faasafety.gov* to begin the ''Washington, DC Metropolitan Airspace Training.''

6. To begin the ''Washington, DC Metropolitan Airspace Training,'' log on to the FAA Safety Web site at *http://www.faasafety.gov* by entering your e-mail address and newly issued password.

7. Upon entering your e-mail address and password and after clicking ''Logon Now,'' you will enter a screen that requests you to ''Establish your Profile.'' In establishing your profile, you will be asked to review and answer the boxes ''Full Name/Company Name,'' ''Email Preference Type,'' ''New Desired Password,'' and ''Confirm New Password: and then click on the command ''Continue.''

8. You will now be asked to set your personal preferences. This is done through a series of screens where you can select what kind of e-mail safety notifications and information you might like to receive, what ratings you might like safety information for, and the ability to change your password or e-mail information. Click ''save'' when finished at which time you will be taken to a verification page letting you know that your preferences have been saved.

9. On the left navigation bar, click ''Aviation Learning Center.''

10. Click on ''Online Courses.''

11. Click on ''View the Course Catalog.''

12. Click on ''Washington, DC Metropolitan Airspace Training'' to begin the online training.

13. Click on ''Register Now'' which will register for the course and then take you to ''My Courses'' page where you can start the course or withdraw from the courses at anytime. This page also allows you to resume the course should you find a need to come back at a later time to finish, once you have started.

14. Throughout the training, test questions will appear at completion of each training module. The test questions must be answered correctly before the program will allow you to continue onto the next module of the training program. When you complete the last module and test questions of the training program, the program will announce on the screen, ''Congratulations, you have successfully completed the FAA's Washington, DC Metropolitan Airspace Training.''

15. You should then print the Certificate of Training Completion and keep it for your records. If you are ever required to show evidence of having completed that special awareness training, the Certificate of Training Completion will satisfy this requirement. The Certificate of Training Completion will identify you by name; provide your pilot certificate number; and specify the date the training was completed. If you lose your Certificate of Training Completion, you can have one reissued to you by either accessing the *http://www.faasafety.gov* Web site, or (after providing appropriate identification) requesting a duplicate Certificate of Training Completion from your local Flight Standards District Office (FSDO). You will not have to repeat the training program.

If you should experience any problems with the FAA Safety Web site, you may contact the FAA's Region Safety Team Manager, (FAASTeam) at your jurisdictional FSDO for assistance. You can find locations of the FSDOs on the following Web site: *http://www.faa.gov/about/office_org/field_offices/fsdo/*.

Would My Name Be Kept on a National Registry of Persons Who Completed the Washington, DC Metropolitan Area Training?

The FAA would maintain a national registry of persons who completed our Washington, DC Metropolitan Area training. The registry would identify you by name and pilot certificate number.

How Much Would This Training Cost Me?

We would provide this training free of charge. Any person who has access to a personal computer and the Internet could receive this training. A person who does not own a personal computer should have access to a computer and the Internet through a local community library. However, if you do not have access to a computer, then you could complete the training free of charge by attending an FAA Safety Program Seminar presented by your local FSDO.

What Kind of Software Must I Have on My Computer To Take the Training Online?

Web Browser

Although most PC & MAC based browsers will be able to access the site, we recommend using Microsoft Internet Explorer 5.5 or above. IE 6.0 and above is preferred. The IE browser can be downloaded for free at: *http://www.microsoft.com/windows/ie/downloads/critical/ie6sp1/default.asp*.

You need to have JavaScript enabled and be able to accept cookies. These features are enabled by default. These settings can be modified by going to the advanced features under the Internet options tab. The *http://www.faasafety.gov* Web site uses browser ''cookies'' to record data needed to facilitate your online session and tracking of course completion.

You should also disable any popup blocking software that you might have running. Many such utilities allow you to specify which sites are allowed to use popup windows. Simply adding faasafety.gov to the allowed list of your utility should meet the needs for most functions that require popup windows.

Internet Connection

You need to have an Internet connection and have any firewall configured to allow access to the *http://www.faasafety.gov* Web site.

Screen Resolution

The site is best viewed at 1024×768 screen resolution and above; although 800×600 will meet the minimum requirements.

What Would Be the Subject Areas of the Training?

The training curriculum focuses on procedures for flying in and around the Washington, DC Metropolitan Area ADIZ and FRZ. The course consists of approximately 1 hour of aeronautical knowledge training. The training also includes an aeronautical knowledge test. The curriculum covers—

• Airspace Restrictions:

○ Washington, DC Metropolitan Area ADIZ (14 CFR part 99 subpart B).

○ Washington, DC Metropolitan Area FRZ.

○ Emergency air traffic rules (§ 91.139).

○ Temporary Flight Restrictions in the—

□ Proximity of the Presidential and other parties (§ 91.141).

□ Vicinity of disaster/hazard areas (§ 91.137).

□ National disaster areas in the State of Hawaii (§ 91.138).

□ Proximity of space flight operations (§ 91.143).

□ Aerial demonstrations and major sporting events (§ 91.145).

□ Special Security Instructions (§ 99.7).

• Obtaining Information About Airspace Restrictions

• Accessing the NOTAM System—Identification of the distribution mechanisms to alerting pilots about NOTAMs, including how to obtain information from the Direct User Access System (DUATS), FAA website, AOPA TFR sites

□ Review of the NOTAMs Addressing the Washington, DC Metropolitan Area ADIZ and FRZ airspace:

○ Transpose NOTAM information to a sectional or terminal chart about the Washington, DC Metropolitan Area ADIZ and FRZ airspace.

○ Resources for interpreting NOTAM information into plain English and graphical representation about the Washington, DC Metropolitan Area ADIZ and FRZ airspace.

• Operating procedures in the Washington, DC Metropolitan Area ADIZ and FRZ airspace:

○ Flight plan requirements (for opening & closing flight plans) for flying in the Washington, DC Metropolitan Area ADIZ and FRZ airspace.

○ Flight plan filing procedures (e.g., no DUATS filing for Air Defense Identification Zone) for flying in the Washington, DC Metropolitan Area ADIZ and FRZ airspace.

○ Equipment requirements for flying in the Washington, DC Metropolitan Area ADIZ and FRZ airspace.

○ Communications requirements & procedures for flying in the Washington, DC Metropolitan Area ADIZ and FRZ airspace:

□ Whom to contact;

□ What to request from ATC;

□ What to expect from ATC (phraseology, level of service).

○ Visual warning system and intercept procedures for the Washington, DC Metropolitan Area ADIZ and FRZ airspace.

○ Procedures for lost communications, electrical failure, transponder malfunction when flying in the Washington, DC Metropolitan Area ADIZ and FRZ airspace.

• Review of Transportation Security Administration (TSA) regulations that restrict access to the Washington, DC Metropolitan Area ADIZ and FRZ to those operators that have met the security requirements under TSA's DCA Access Standard Security Program (DASSP)

• Enforcement

• Common errors that may cause pilots to make inadvertent incursions into the Washington, DC Metropolitan Area ADIZ and FRZ airspaces:

○ Use of global positioning system (GPS) to avoid the Washington, DC Metropolitan Area ADIZ and FRZ airspace.

○ Belief that an authorization to fly in an Air Defense Identification Zone is a Class B clearance.

○ "Early rollover" to transponder code 1200 / VFR.

○ Unfamiliarity with filing an IFR flight plan en route to obtain an ATC clearance through the Washington, DC Metropolitan Area ADIZ and FRZ when having to avoid adverse weather conditions.

• The operational requirements set forth under § 91.161

When Would I Be Required To Show That I Have Completed This Special Awareness Training Program?

Upon request from a representative of the Administrator, an authorized representative of the National Transportation Safety Board, any Federal, State, or local law enforcement officer, or an authorized representative of the Transportation Security Administration, you would be required to provide documentation that showed that you completed the special awareness training course. A copy of your Certificate of Training Completion, which can be downloaded from the *http://www.faasafety.gov* Web site, will suffice. You would not need to carry the document with you, but you would be required to provide it to the requesting official in a reasonable time period.

Economic Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, to be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, FAA has determined this proposed rule: (1) Has benefits that justify its costs, is a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is "significant" as defined in DOT's Regulatory Policies and Procedures; (2) would not have a significant economic impact on a substantial number of small entities; (3) would not reduce barriers to international trade; and does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Total Costs and Benefits of This Rulemaking

The FAA has determined that, from 2006 to 2015, the total cost of the proposed rule would be approximately $2.4 million ($2.3 million in present value terms). This total cost is composed of the value of time to persons who would be subject to the rule's training requirements and the costs to the government of implementing the rule. Over the 10-year period, the value of pilots' time would be approximately $2.1 million ($2.0 million in present value terms) and the cost to the government would be approximately $320,000 ($304,000 in present value terms).

There have been on average 331 inadvertent incursions per year into the

Washington, DC Metropolitan Area ADIZ. According to the FAA's data on these inadvertent incursions, 5 percent resulted in aircraft interceptions, and there have been three evacuations of Federal office buildings in the last 5 years. Based on this history, the FAA performed a Monte Carlo simulation to assess the total costs of building evacuations, aircraft interceptions, and government coordination that could be mitigated by the proposed rule. In the most probable range of outcomes, the FAA could expect between 2 and 10 evacuations during the next 10 years. This range of outcomes is estimated to cost between $4.4 million and $18.3 million. The mean of avoiding these costs, or the expected benefits of the proposed rule, would be approximately $11.0 million. Because there is no way to predict the effectiveness of the proposed rule, we need a 25% success rate in reducing the number of incursions, resulting in benefits of approximately $2.8 million, for this proposed rule to be cost-beneficial. As discussed below, over a 10-year period, the FAA has calculated the cost of this proposed rule to be $2.4 million ($2.3 million discounted), which is less than the aforementioned $2.8 million.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the Act. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The proposed rule would not have a significant impact on a substantial number of small entities. The FAA believes that the proposal's greatest impact would be on individuals (who are not considered as entities under RFA) flying VFR within 100 nm of the DCA VOR/DME. The proposed rule could have an impact on small entities that operate aircraft for business purposes. The FAA, however, expects such an impact to be minimal because the rule would apply only to pilots operating under VFR. In addition, most of those pilots also fly for personal reasons and therefore would need to complete the training for their own non-business-related flying. Consequently, the Administrator of the FAA certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA invites comments and requests that all comments be accompanied with clear and detailed supporting data.

International Trade Impact Assessment

The Trade Agreements Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this proposed rule and has determined that it primarily would have an impact on domestic operations, although it could affect some international pilots. For example, there could be some Canadian pilots affected when they fly between Canada and the Southern United States. However, this rulemaking would have no impact on foreign firms that provide goods or services in the United States.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

Paperwork Reduction Act

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule would contain information collections that would be subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted a copy of these sections to the Office of Management and Budget for its review.

Individuals and organizations may submit comments on the information collection requirement by September 5, 2006, and should direct them to the address listed in the **ADDRESSES** section of this document.

A description of the annual burden is shown below.

Description of Respondents: The FAA estimates that approximately 60,000 persons that fly under VFR within 100 nautical miles of the DCA VOR/DME would be affected by the proposed rule, and that the population of affected persons would grow by approximately 1.32 percent per year.

Estimated Burden: We assume that each person would spend 20 minutes taking the test, at a cost of time of $30.88 per hour. We estimate that the first-year cost would be $617,600 (60,000 persons × $30.88 per hour), and time spent during the first year would be 20,000 hours (60,000 persons × ⅓ hour). We estimate that in subsequent years, the per-year costs would be $8,574 (833 persons × $30.88 per hour), and time spent during subsequent years would be 277.67 hours (833 persons × ⅓ hour).

The total cost over 10 years is expected to be $694,766.00 ($617,600 + 9 × $8,574), with an average cost per year of $69,477 ($617,600 + 9 × $8,574)/10).

The total number of hours over 10 years is expected to be 22,499 hours (20,000 + 9 × 277.67), with an average cost per year of 2,250 hours (20,000 + 9 × 278)/10).

International Compatibility

In keeping with U.S. obligations under the Convention on International

Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Environmental Analysis

FAA Order 1050.1E defines FAA actions that are categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined that this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f of FAA Order 1050.1E and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The FAA has determined that this is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation Safety, Noise control, Reporting and recordkeeping requirements.

The Proposed Rule

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14 Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

2. Add § 91.161 to read as follows:

§ 91.161 Additional requirements for persons flying under visual flight rules within 100 nautical miles of the DCA VOR/DME.

(a) Except as provided under paragraph (d) of this section, no person may operate an aircraft within 100 nautical miles of the Washington, DC VHF omni-directional range/distance measuring equipment (DCA VOR/DME) under visual flight rules (VFR) without having completed the FAA's special awareness training course on flying in and around the Washington, DC Metropolitan Area.

(b) A person who is required by this section to have completed the special awareness training course on flying in and around the Washington, DC Metropolitan Area must present documentation that shows completion of the training course when requested to do so by:

(1) A representative of the Administrator;

(2) An authorized representative of the National Transportation Safety Board;

(3) Any Federal, State, or local law enforcement officer; or

(4) An authorized representative of the Transportation Security Administration.

(c) The failure to complete the special awareness training course on flying in and around the Washington, DC Metropolitan Area is not a violation of this section if an emergency is declared by the pilot, as described under § 91.3(b) of this part, or there was a failure of two-way radio communications when operating under IFR as described under § 91.185 of this part.

(d) If a person is conducting an aeromedical operation or an official flight for the U.S. Armed Forces or a law enforcement agency within the airspace of 100 nautical miles from the Washington, DC VHF omni-directional range/distance measuring equipment (DCA VOR/DME), the requirements of this section do not apply.

Issued in Washington, DC, on June 27, 2006.

John M. Allen,

Deputy Director, Flight Standards Service.

[FR Doc. 06–5997 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0174 and EPA–HQ–OPP–2003–0373; FRL–8075–6]

Sulfuryl Fluoride; Request for Stay of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Availability of request for stay of the effectiveness of tolerances; request for comments.

SUMMARY: This document announces the availability of a document requesting a stay of the effectiveness of various pesticide tolerances under the Federal Food, Drug, and Cosmetic Act for sulfuryl fluoride and fluoride, and opens a public comment period on this document. This request for a stay was filed in conjunction with objections and requests for hearings that were submitted in response to promulgation of these tolerances. The stay request relies primarily on the recent report of the National Research Council on fluoride.

DATES: Comments must be received on or before August 4, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number(s) EPA–HQ–OPP–2005–0174 and/or EPA–HQ–OPP–2003–0373, by one of the following methods:

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

Instructions: Direct your comments to docket ID number(s) EPA–HQ–OPP–2005–0174 and/or EPA–HQ–OPP–2003–0373. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Meredith Laws, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–7038; fax number: (703) 308–0029; e-mail address: *laws.meredith@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket (ID) number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action Is the Agency Taking?

EPA has received a motion requesting that EPA stay the effectiveness of pesticide tolerances for sulfuryl fluoride and fluoride promulgated on January 23, 2004 (69 FR 3240) (FRL–7342–1), and July 15, 2005 (70 FR 40899) (FRL–7723–7). There are currently objections and requests for hearing pending with regard to these tolerances. The objections and requests for hearing were filed by the Environmental Working Group, the Fluoride Action Network, and Beyond Pesticides/National Coalition (''the objectors''). The motion is dated June 1, 2006, but it was not received by EPA counsel handling this matter until June 13, 2006. As the basis for a stay, the objectors rely heavily on the National Research Council's report titled *Fluoride in Drinking Water: A Scientific Review of EPA's Standards*. This report was released on March 22, 2006.

Given that the tolerances as to which the stay is being sought have been in effect for an extended period and that the request for a stay raises complex science issues of great public interest, EPA is publishing this notice of availability of the motion for a stay and requesting comment on the motion. The motion for a stay is available in the OPP Regulatory Public Docket under the dockets for the tolerance rules in question: EPA–HQ– OPP–2005–0174 and EPA–HQ–OPP–2003–0373. The OPP Regulatory Public Docket is physically located at the address included in the **ADDRESSES** section above. The dockets for these rulemakings are also available online in the Federal Government's electronic docket at *www.regulations.gov*.

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

Section 408(g)(1) of the FFDCA, 21 U.S.C. 346a(g)(1), authorizes EPA to stay the effectiveness of a regulation if objections are filed to such regulation. Section 408(g)(2) of the FFDCA, 21 U.S.C. 346a(g)(2), permits any person to file objections to a tolerance regulation and authorizes EPA to rule on such objections.

List of Subjects in 40 CFR Part 180

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

Dated: June 26, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–10454 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–S

Notices

Federal Register

Vol. 71, No. 128

Wednesday, July 5, 2006

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forest Land Recovery Program; Determination of Primary Purpose of Certain Payments for Federal Tax Purposes

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that cost-share payments made to individuals under the Forest Land Recovery Program (FLRP) are made primarily for the purpose of conserving soil and water resources, restoring the environment, restoring and improving forests, or restoring and providing a habitat for wildlife. This determination permits recipients to exclude certain payments under the FLRP from gross income for Federal income tax purposes to the extent allowed by the Internal Revenue Service.

DATES: The Secretary's determination was signed on June 21, 2006.

ADDRESSES: Questions may be addressed to Karl R. Dalla Rosa, Cooperative Forestry Staff, Forest Service, USDA, 1400 Independence Avenue, SW., Mail Stop 1123, Washington, DC 20250–1123. A copy of the determination is available upon request.

FOR FURTHER INFORMATION CONTACT: Karl R. Dalla Rosa, Cooperative Forestry Staff, USDA Forest Service, 202–205–6206.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code (26 U.S.C. 126, as amended) provides that all or part of payments made to persons under certain cost-sharing programs in 26 U.S.C. (a)(1) through (10) may be excluded from the recipient's gross income for Federal income tax purposes under two conditions: (1) If the Secretary of Agriculture determines that the payments are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife (the criteria for making such a determination are set forth in 7 CFR part 14, Determining the Primary Purpose of Certain Payments for Federal Tax Purposes), and (2) If the payments are determined by the Secretary of the Treasury as not increasing substantially the annual income derived from the property.

To make such a determination, the Secretary of Agriculture evaluates a cost-share conservation program based on the criteria set out in 7 CFR part 14. Following a primary purpose determination by the Secretary of Agriculture, the Secretary of the Treasury must determine that payments made under the cost-share conservation program do not substantially increase the annual income derived from the property benefited by the payments.

Therefore, having carefully examined the authorizing legislation for the Forest Land Recovery Program (FLRP) (Section 110 of the The Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act of 2005; Pub. L. 108–324) and the planned operating procedures, the Secretary of Agriculture has determined, according to the criteria set forth in 7 CFR part 14, that the cost-share payments for implementing approved practices under the FLRP are made primarily for the purpose of conserving soil and water resources, improving forests, protecting and restoring the environment, and providing a habitat for wildlife.

Subject to further determination by the Secretary of the Treasury that payments made under the FLRP do not substantially increase the annual income derived from the property benefited by these payments, this determination by the Secretary of Agriculture permits payment recipients to exclude from gross income for Federal income tax purposes, all or part of the cost-share payments made under this program to the extent allowed by the Internal Revenue Service.

Dated: June 21, 2006.

Mike Johanns,

Secretary.

[FR Doc. E6–10420 Filed 7–3–06; 8:45 am]

BILLING CODE 4310–11–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request Worksheet for Food Stamp Program Quality Control Reviews

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection of the FNS–380, Worksheet for Food Stamp Program Quality Control Reviews. This proposed collection is a revision of a collection currently approved under OMB No. 0584–0074.

DATES: Written comments must be submitted on or before September 5, 2006.

ADDRESSES: 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 has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send comments and requests for copies of this information collection to Daniel Wilusz, Chief, Quality Control Branch, Program Accountability Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 822, Alexandria, VA 22302. You may fax comments on this notice to (703) 305–0928. You may also download an electronic version of this notice at *http://www.fns.usda.gov/fsp/rules/Regulations/default.htm* and comment via e-mail at *Daniel.Wilusz@fns.usda.gov.*

All responses to this notice will be included in the request for OMB's approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instruction should be directed to Daniel Wilusz at (703) 305–2460.

SUPPLEMENTARY INFORMATION:

Title: Worksheet for Food Stamp Program Quality Control Reviews.

OMB Number: 0584–0074.

Form Number: FNS–380.

Expiration Date: November 30, 2006.

Type of Request: Revision of a currently approved collection.

Abstract: The Form FNS–380 is a worksheet used in the Food Stamp Program to determine eligibility and benefits for households selected for review in the quality control (QC) sample of active cases. We estimate the reporting burden for this collection of information averages 8.9764 hours per each State agency's response. This includes the time for analyzing the household case record; planning and carrying out the field investigation; gathering, comparing, analyzing and evaluating the review data and forwarding selected cases to the Food and Nutrition Service for Federal validation. In addition to the State agency's burden, we also estimate the average burden on each household to be 0.50 hours for each of the estimated 57,146 households being interviewed. This includes a face-to-face interview with the QC reviewer to verify the identity and existence of the household and to explore the household circumstances affecting the eligibility and benefit level. This is an increase of 2,443 State and household responses from the estimate made to substantiate the currently approved collection. The increase in responses is a result of an augmented participation rate that resulted in an increase in the number of cases being sampled. We estimate that the total reporting burden associated with this information collection for both State agencies and households is 541,432 hours. This is a 23,044 increase in hours from the currently approved burden of 518,388. The recordkeeping burden for the State agency is 0.0236 hours per record. There was a corresponding increase in the recordkeeping burden from 1,291 hours to 1,349 hours based on the increase in sample size. The aggregate of the reporting (541,432 hours) and recordkeeping (1,349 hours) resulted in a total annual burden of 542,781 hours.

Affected Public: Individuals or households; State or local governments.

Estimated Number of Responses Per Respondent: 1.00.

Estimated Number of Respondents: 57,199.

Estimated Total Annual Responses: 57,199 Responses.

Estimated Hours Per Response: 9.47 Hours.

Total Annual Reporting Burden: 541,432 Hours.

Estimated Number of Recordkeepers: 53.

Estimated Hours Per Recordkeeper: .0236 Hours.

Total Annual Recordkeeping Burden: 1,349 Hours.

Total Annual Reporting and Recordkeeping Burden: 542,781 Hours.

Dated: June 22, 2006.

Roberto Salazar,

Administrator.

[FR Doc. E6–10405 Filed 7–3–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request Generic Clearance To Conduct Formative Research

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other interested parties to comment on a proposed information collection. This information collection will conduct research in support of FNS' goal of delivering science-based nutrition education to targeted audiences. From development through testing of materials and tools with the target audience, FNS plans to conduct data collections that involve formative research including focus groups, interviews (dyad, triad, telephone, etc.), surveys and web-based collection tools.

DATES: Written comments must be received on or before September 5, 2006.

ADDRESSES: 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 has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Judy F. Wilson, Director, Nutrition Services Staff, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1012, Alexandria, VA 22302. Comments may also be faxed to the attention of Judy F. Wilson at (703) 305–2576.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 1012.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Judy F. Wilson or Anita Singh at (703) 305–2585.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance to Conduct Formative Research for Development of Nutrition Education Materials and Related Tools for FNS Population Groups.

OMB Number: 0584–0524.

Expiration Date: December 31, 2006.

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

Abstract: This information collection is based on the Child Nutrition Act of 1966, as amended, the National School Lunch Act of 1966, as amended, the Food Stamp Act of 1977, as amended, the Agriculture and Consumer Protection Act of 1973, as amended, and the Emergency Food Assistance Act of 1983, as amended. This request for approval of information collection is necessary to obtain input into the development of nutrition education interventions for population groups served by the U.S. Department of Agriculture—Food and Nutrition Service (USDA–FNS).

Diet has a significant impact on the health of citizens and is linked to four leading causes of disease, which can reduce the quality of life and cause premature death. While these diet-related problems affect all Americans, they have a greater impact on the disadvantaged populations served by many FNS programs. One of FNS' goals includes improving the nutrition of children and low-income families by providing access to program benefits and nutrition education. The FNS programs include Child Nutrition, Food Distribution, Food Stamp and Supplemental Foods Programs.

The basis of our approach rests on the philosophies that all health communications and social marketing activities must be science-based, theoretically grounded, audience-driven, and results-oriented. Secondly, consumer-based health communications require a focus on specific target audiences, encouraging positive behaviors in culturally relevant ways, unique benefits and supports for adopting the new behavior, insights into the most appropriate time and place to deliver messages, and striking the right tone to enhance attention and action to the message. Interventions need to be designed so that they can be delivered through different types of media and in a variety of formats for diverse audiences.

FNS initiated a nutrition education and promotion campaign, entitled Eat Smart. Play Hard.™ (the Campaign) in FY 2000. The Campaign is designed to convey science-based, behavior-focused nutrition messages about healthy eating and physical activity to children eligible to participate in FNS nutrition assistance programs and their caregivers. The messages are based on the *2005 Dietary Guidelines for Americans (DGAs)* and *MyPyramid.* Future projects will support Eat Smart. Play Hard.™ and other nutrition education initiatives for all FNS nutrition assistance programs. This includes development of nutrition education materials, messages and interventions for all FNS nutrition assistance programs and participants.

Fundamental to FNS' success in delivering science-based nutrition messages and reaching diverse segments of the population is obtaining qualitative feedback from key components of the target audience or individuals providing service to the target audience on the communication strategies and interventions that will be developed. This formative research is essential to advancing Eat Smart. Play Hard.™ as well as other FNS nutrition education efforts. Formative input and testing activities described will help in the development of effective tools and communication strategies. Collection of this information will increase FNS' ability to formulate nutrition education interventions that resonate with the intended target population, in particular low-income families.

Formative research methods and information collection will include focus groups, interviews (dyad, triad, telephone, etc.), surveys and web-based data collection. The data obtained will provide input regarding the potential use of materials and products during both the developmental and testing stages. In order to determine future nutrition education needs, tools and dissemination strategies, key informant interviews will be conducted. This task involves collecting a diverse array of information from a variety of groups including: People familiar with the target audiences; individuals delivering nutrition education interventions and projects; program providers at State and local levels; program participants and other relevant informants associated with FNS programs.

Findings from all data collection will be included in summary reports submitted to USDA–FNS. The reports will describe the data collection methods, findings, conclusions, implications, and recommendations for the development and effective dissemination of nutrition education materials and related tools for FNS population groups. There will be no specific quantitative analysis of data. No attempt will be made to generalize the findings to be nationally representative or statistically valid.

Respondents: Recipients and those persons eligible for FNS nutrition assistance programs, State and local staff administering FNS programs, FNS stakeholders and consumers, and other interested parties.

Estimated Number of Respondents:	19,000
Focus Group Screeners	3000
Interview Screeners/Surveys	1400
Focus Groups	1500
Intercept Interviews	800
Dyad/Triad Interviews	200
Telephone Interviews	1500
Surveys	800
Web-based Collections	800
Confidentiality Agreements	9000
Estimated Time per Response:	
Focus Group Screeners	[1] 10
Interview Screeners/Surveys	[1] 10
Focus Groups	[1] 120
Intercept Interviews	[1] 30
Dyad/Triad Interviews	[1] 60
Telephone Interviews	[1] 15
Surveys	[1] 30
Web-based Collections	[1] 30
Confidentiality Agreement	[1] 10
Estimated Total Annual Burden on Respondents:	
Focus Group Screeners	[1] 30,000
Interview Screeners/Surveys	[1] 14,000
Focus Groups	[1] 180,000
Intercept Interviews	[1] 24,000
Dyad/Triad Interviews	[1] 12,000
Telephone Interviews	[1] 22,500
Survey Instruments	[1] 24,000
Web-based Collections	[1] 24,000
Confidentiality Agreement	[1] 90,000
Total Estimated Burden	[1] 420,500

[1] Minutes.

Public reporting burden for this collection of information is estimated to average 19,000 respondents with a total estimated burden of 420,500 minutes or 7,008 hours.

Dated: June 28, 2006.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E6–10466 Filed 7–3–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2006–0008]

Retail and Home Food Handling and Preparation Behaviors That May Lead to Cross-Contamination by Bacterial Pathogens of Foods That Are Not Likely To Undergo Cooking or Additional Cooking

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of request for information.

SUMMARY: The Food Safety and Inspection Service (FSIS) is requesting information on studies related to cross-contamination by bacterial foodborne pathogens of foods that are not likely to undergo cooking or additional cooking in food handling and preparation. Specifically, FSIS is interested in quantitative data obtained by observation of retail (commercial and institutional settings) and home food handlers. FSIS requests information on the types of food handling and preparation behaviors that could lead to the transfer of bacteria from products of animal origin to foods that are not likely to undergo cooking or additional cooking (*e.g.,* salad components and ready-to-eat foods), as well as information on the frequency at which these behaviors occur. Information submitted in response to this Request for Information may be used in risk assessment modeling to estimate the public health impact of the presence of various bacterial foodborne pathogens in meat, poultry, and egg products.

DATES: Submissions must be received on or before September 3, 2006.

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

• Mail, including floppy disks or CD–ROM's, and hand-or courier-delivered items: Send to Neal J. Golden, U.S. Department of Agriculture, Food Safety and Inspection Service, Office of Public

Health Science, Risk Assessment Division, 1400 Independence Avenue, SW., Room 374, Aerospace Center, Washington, DC 20250–3700.

• Electronic mail: *neal.golden@fsis.usda.gov.*

• Facsimile: Neal Golden at (202) 690–6337.

All submissions must include the Agency name and docket number FSIS–2006–0008.

FOR FURTHER INFORMATION CONTACT: Neal Golden, Office of Public Health Science, Food Safety and Inspection Service; Telephone: (202) 690–6419, Electronic mail: *neal.golden@fsis.usda.gov.* Please note that the telephone and facsimile numbers are not toll free numbers. Office hours are from 9 a.m. to 5 p.m., e.s.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Risk Assessment Division of FSIS' Office of Public Health Science develops and performs risk assessments of bacterial pathogens in meat, poultry, eggs and egg products to inform the Agency's policy development activities. These risk assessments are used to evaluate intervention strategies to reduce foodborne risks and to guide, support, and enhance the Agency's overall decision-making process, risk-management policies, outreach efforts, data collection initiatives, and research priorities.

The purpose of this notice is to encourage the submission of quantitative data or information on studies of retail and home food preparation behavior that could lead to cross-contamination of foods that are not likely to undergo cooking or additional cooking after the contamination occurs. In particular, quantitative information obtained through observation of retail and home food handlers is needed.

FSIS will review the information submitted in response to this Request for Information for use in the development of risk assessment models. This Request for Information does not pertain to a particular regulatory initiative or rule-making proposal but is rather a method to identify information to inform Agency risk assessments.

B. Background

Cross-contamination of foods by bacterial foodborne pathogens occurs at retail establishments and in the home and is thought to be a significant contributing factor for foodborne illness in the U.S. Improper handling of raw products of animal origin can result in the contamination of salad components and other foods that are typically consumed without further cooking.

Data are needed to inform risk assessments to assess the consumer risk from foods that have been cross-contaminated. The exposure assessment component of a risk assessment estimates the likelihood of exposure to a microbial pathogen and the number of organisms likely to be consumed. To develop an accurate assessment of exposure, it is necessary to consider the major exposure pathways. However, there is a lack of quantitative data to evaluate the impact of cross-contamination on consumer exposure to foodborne pathogens.

To better understand the impact of retail and home cross-contamination on public health, information is needed on the following two topics: (1) Food handling behaviors and their frequency and (2) transfer rate of bacterial foodborne pathogens.

1. Food Handling Behaviors and Frequency

To incorporate cross-contamination exposure pathways into risk assessment modeling, we need to know the types of food preparation and handling behaviors used at retail and in the home. We also need to know the frequency at which these behaviors are exhibited.

Most information available on retail and home food handling is based upon self-reported surveys, obtained by the use of questionnaires, interviews, and focus groups. However, data obtained in this manner may not be a true reflection of actual practices because of reporting bias. Though this type of survey data can be useful, it is not preferable.

Direct observation of food preparation behaviors is required to understand more fully cross-contamination exposure pathways. Observational data can be obtained by different means; video taping, observation by closed circuit viewing, and direct observation (being present in the food preparation location) have been used. Observational techniques can produce quantitative data and are less biased than self-reporting. As a result, quantitative observational data are favored for risk assessment modeling purposes.

2. Transfer Rate of Bacterial Foodborne Pathogens

To understand the transfer of bacterial pathogens in kitchens, information on the likelihood of transfer to different components within this environment is needed. Researchers have investigated bacterial transfer rates; however, these studies have used a limited number of contamination sources and a limited range of bacteria. For example, studies that use raw products purchased at retail to examine the transfer of pathogens present on that product would be more representative than studies that add bacteria and then study the transfer rate. Information on the distribution of transfer rates of *E. coli* O157:H7, *Salmonella*, *Campylobacter*, and *Listeria* from meat, poultry, and egg products during food handling and preparation behaviors would be useful to model retail and domestic cross-contamination.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/2006_Notices_Index/index.asp.*

The Regulations.gov Web site is the central online rulemaking portal of the United States government. It is being offered as a public service to increase participation in the Federal government's regulatory activities. FSIS participates in Regulations.gov and will accept comments on documents published on the site. The site allows visitors to search by keyword or Department or Agency for rulemakings that allow for public comment. Each entry provides a quick link to a comment form so that visitors can type in their comments and submit them to FSIS. The website is located at *http://www.regulations.gov.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS Web page. Through Listserv and the web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

C. Disclaimer

This Request for Information should not be construed as a commitment by the Agency to enter into any agreement with any entity submitting response(s).

Done in Washington, DC, June 28, 2006.

Barbara J. Masters,

Administrator.

[FR Doc. E6–10418 Filed 7–3–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Norwood Project; Hell Canyon Ranger District, Black Hills National Forest; Custer, SD

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Hell Canyon Ranger District of the Black Hills National Forest intends to prepare an Environmental Impact Statement (EIS) for a proposal to implement multiple resource management actions within the Norwood project area as directed by the Black Hills National Forest Land and Resource Management Plan. The Norwood project area is approximately 46,450 acres in size, with 42,250 acres of National Forest lands and 4,200 acres of private land. The South Dakota State snowmobile trail system bisects the area and the Beaver Creek cross-country ski area is within the project area. The project proposes to modify stand conditions in the project area to enhance vegetative diversity, reduce the risk of mountain pine beetle infestation and large scale wildfire, provide for wildlife habitat needs and provide for a sustainable supply of commercial timber, while providing for management and public access needs.

DATES: Comments concerning the scope of the analysis will be most useful if received within 30 days following publication of this notice. The draft environmental impact statement is expected to be available in October 2006 and the final environmental impact statement is expected to be completed by February 2007.

ADDRESSES: Send written comments to Michael D. Lloyd, District Ranger, Back Hills National Forest, Hell Canyon Ranger District, 330 Mount Rushmore Road, Custer, South Dakota 57730. Telephone number: (605) 673–4853. Fax number: (605) 673–5461. Electronic comments must be readable in Word, Rich Text or pdf formats and must contain ''Norwood'' in the subject line. electronic comments may be e-mailed to: *comments-rocky-mountain-black-hills-hell-canyon@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Kelly Honors, Project Leader, at the address listed above or by phone at (315) 668–3307 or (605) 673–4853.

SUPPLEMENTARY INFORMATION: The actions proposed are in direct response to management direction provided by the Black Hills National Forest Land and Resource Management Plan, as amended (Forest Plan). The Project Area is located along approximately 22 miles of the Wyoming and South Dakota border in Pennington County, South Dakota and Weston and Crook Counties in Wyoming. The southernmost point of the project area is approximately 7 miles directly east of Newcastle, Wyoming.

Purpose and Need for Action

The purpose and need for action in the Norwood project area is to enhance vegetative diversity, reduce the risk of mountain pine beetle infestation and large-scale wildfire, provide for wildlife habitat needs and provide a sustainable supply of commercial timber consistent with Forest Plan direction, while providing for management and public access needs. This project is focused on implementing management actions that move toward achieving desired conditions and objectives embodied in Goals 2 (provide for biologically diverse ecosystems), 3 (provide for sustained commodity uses) and 10 (establish and maintain a mosaic of vegetation conditions to reduce occurrences of large-scale fire, insect, and disease events) of the Forest Plan.

Proposed Action

The proposed action includes the following management actions.

- Commercial thinning on approximately 6,900 acres to increase tree growth and vigor, reduce the potential for mountain pine beetle infestation and reduce the potential for spreading crown fires.
- Creation and maintenance of within stand diversity in pine and mixed spruce sites through use of uneven-aged management prescriptions on approximately 600 acres.
- Restoration and maintenance of hardwood and meadow habitats by removing conifers from approximately 1,800 acres of these habitats.
- Regeneration of mature pine stands on approximately 1,700 acres and releasing approximately 2,000 acres of regenerated pine stands through overstory removal prescription.
- Removal of live pine trees which have mountain pine beetle larva in them, on approximately 270 acres, as a suppression method for mountain pine beetle infestation.
- Fuels treatments designed to reduce fuel loadings, would occur on approximately 5,500 acres with broadcast burning being proposed on approximately 2,300 of these acres.
- Reducing the density of the managed road system from 4.0 miles per square mile to 3.2 miles per square mile. This is to be accomplished by obliterating unneeded roads and by converting needed undetermined roads to system roads.

Responsible Official

Michael D. Lloyd, Hell Canyon District Ranger, Black Hills National Forest, 330 Mount Rushmore Road, Custer, SD, 57730.

Nature of Decision To Be Made

The decision to be made is whether or not to implement the proposed action or an alternative to the proposed action at this time.

Scoping Process

The Hell Canyon Ranger District has mailed letters with comprehensive scoping documents to adjacent landowners, local and tribal government representatives, permittees, organizations and other interested or potentially affected parties. The scoping document with attached maps is also posted on the Black Hills National Forest worldwide Web site, *http://www.fs.fed.us/r2/blackhills/.* Comments submitted in response to this NOI, will be most useful if received within 30 days from the date of this notice.

Comment Requested

This notice of intent is part of the scoping process which will guide the development of the EIS. Comments received will assist the planning team to identify key issues and opportunities used to refine the proposal or possible alternatives and mitigation measures. Comments on the DEIS will be requested during the 45 day comment period following publication of the Notice of Availability in the **Federal Register**, expected in October, 2006.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: June 26, 2006.

Brad Exton,

Deputy Forest Supervisor, Black Hills National Forest.

[FR Doc. 06–5971 Filed 7–3–06; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC from Monday through Wednesday, July 24–26, 2006, at the times and location noted below.

DATES: The schedule of events is as follows:

Monday, July 24, 2006

8:30–9:30 a.m. Technical Programs Committee (Closed Session).
9:30–11 Planning and Evaluation Committee.
11–Noon Budget Committee.
3 p.m.–5 Planning and Evaluation Committee.

Tuesday, July 25, 2006

9 a.m.–Noon Information Meeting on Transportation Vehicle Access.
1:30–4:30 p.m. Information Meeting on Communications Access.

Wednesday, July 26, 2006

3–4 p.m. Board Meeting.

ADDRESSES: All meetings will be held at the Crowne Plaza Hotel, 1001 14th Street, NW., Washington, DC, 20005.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–0001 (voice) and (202) 272–0082 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the May 10, 2006 draft Board Meeting Minutes.
- Technical Programs Committee Report.
- Planning and Evaluation Committee Report.
- Budget Committee Report.
- Public Rights-of-Way Access Advisory Committee Report.
- Transportation Vehicle Access Information Meeting Report.
- Communications Access Issues Information Meeting Report.
- Special Election; Access Board Vice Chair.

The Technical Programs Committee session will be closed to the general public; all remaining meetings are open. All meetings are accessible to persons with disabilities. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board.

[FR Doc. E6–10413 Filed 7–3–06; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 05–BIS–20]

In the Matter of MUTCO International Kelenbergweg 37 1101 EX Amsterdam, Netherlands; Respondent

Decision and Order

In a charging letter dated November 22, 2005, the Bureau of Industry and Security (''BIS'') alleged that Respondent, MUTCO International (''MUTCO''), committed two violations of the Export Administration Regulations (''Regulations''), [1] issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (the ''Act'').[2] BIS alleged that MUTCO conspired to obtain toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and

[1] The Regulations are currently codified at 15 CFR Parts 730–774 (2006). The charged violations occurred in 2000 through 2002. The Regulations governing the violations at issue are found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR Parts 730–774 (2000–2002)). The 2006 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR Part 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR Part 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 FR 45,273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

classified under export control classification number (''ECCN'') 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. The charging letter also alleged that MUTCO solicited a violation of the Regulations by ordering the aforementioned toxins from a United States company and by agreeing to complete the shipment of the toxins through the Netherlands to North Korea.

In accordance with § 766.3(b)(1) of the Regulations, on November 22, 2005, BIS mailed the notice of issuance of the charging letter by registered mail to MUTCO at its last known address. BIS has established that this charging letter by registered mail to MUTCO at its last known address. BIS has established that this charging letter was served in accordance with § 766.3 of the Regulations and that BIS received the signed mail return receipt on January 9, 2006. MUTCO did not file an answer to the charging letter with the ALJ, as required by § 766.6(a) of the Regulations.

In accordance with §766.7 of the Regulations, BIS filed a Motion for Default Order on April 17, 2006. This Motion for Default Order recommended that MUTCO be denied export privileges under the Regulations for a period of six years. Under § 766.7(a) of the Regulations, ''[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear,'' and ''on BIS's motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter.''

On June 8, 2006, based on the record before him, the ALJ found the Respondent to be in default, and issued a Recommended Decision and Order in which he found that MUTCO committed one violation of § 764.2(d) and one violation of § 764.2(c) of the Regulations. The ALJ recommended the penalty of denial of MUTCO's export privileges for a period of six years.

The ALJ's Recommended Decision and Order, together with the entire record in this case, has been referred to me for final action under § 766.22 of the Regulations.

I find that the record supports the ALJ's findings of fact and conclusions of law. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations, the lack of mitigating circumstances, and the importance of preventing future unauthorized exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.

Accordingly, *it is therefore ordered, first*, that, for a period of six years from the date this Order is published in the **Federal Register**, MUTCO International, Kelenbergweg 37 1101, EX Amsterdam, Netherlands, and all of its successors and assigns, and when acting for on behalf of MUTCO, its officers, representatives, agents, and employees (''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, sorting, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in § 766.23 of the Regulation, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the **Federal Register**.

This Order which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Dated: June 27, 2006.

David H. McCormick,

Under Secretary of Commerce for Industry and Security.

Recommended Decision and Order

On November 22, 2005, the Bureau of Industry and Security, U.S. Department of Commerce (''BIS''), issued a charging letter initiating this administrative enforcement proceeding against MUTCO International (''MUTCO''). The charging letter alleged that MUTCO committed two violations of the Export Administration Regulations (currently codified at CFR Parts 730–774 (2006)) (the ''Regulations''),[1] issued under the Export Administration Act of 1979, as

[1] The charged violations occurred in 2000 through 2002. The Regulations governing the violations at issue are found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR Parts 730–774 (2000–2002)). The 2006 Regulations establish the procedures that apply to this matter.

amended (50 U.S.C. App. 2401–2420 (2000)) (the ''Act'').[2]

Specifically, the charging letter alleged that MUTCO conspired and acted in concert with others, known and unknown, to export toxins from the United States to North Korea without the required Department of Commerce license. BIS alleged that the goal of the conspiracy was to obtain toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number (''ECCN'') 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. BIS alleged that, in furtherance of the conspiracy, MUTCO ordered the toxins from a co-conspirator in the United States and agreed to complete the export to North Korea once the toxins were delivered to the Netherlands from the United. States. BIS alleged that, contrary to § 742.2 of the Regulations, no Department of Commerce license was obtained for the export from the Untied States to North Korea. (Charge 1).

The charging letter filed by BIS also alleged that, in or about July 2002, MUTCO solicited a violation of the Regulations by ordering toxins, including Aflatoxin (M1, P1, Q1) and Staphyloccocal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number (''ECCN'') 1C351, from a co-conspirator in the United States and agreeing to complete the export of the toxins to North Korea. BIS also alleged that, contrary § 742.2 of the Regulations, no Department of Commerce license was obtained for the export from the United States to North Korea. (Charge 2).

Section 766.3(b)(1) of the Regulations provides that notice of the issuance of a charging letter shall be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address. In accordance with the Regulations, on November 22, 2005, BIS mailed the notice of issuance of a charging letter by registered mail to MUTCO at its last known address: MUTCO International, Kelenberweg 37 1101, EX Amsterdam, Netherlands. BIS has submitted evidence that establishes that this charging letter was served in accordance with § 766.3 of the Regulations and that BIS received the signed return receipt on January 9, 2006.

Section 766.6(a) of the Regulations provides, in pertinent part, that ''[t]he respondent must answer the charging letter within 30 days after being served with notice of issuance of the charging letter'' initiating the administrative enforcement proceeding. To date, MUTCO has not filed an answer to the charging letter.

Pursuant to the default procedures set forth in § 766.7 of the Regulations, the undersigned finds the facts to be as alleged in the charging letter, and hereby determines that those facts establish that MUTCO committed one violation of § 764.2(d), and one violation of § 764.2(c) of the Regulations.

Section 764.3 of the Regulations sets forth the sanctions BIS may seek for violations of the Regulations. The applicable sanctions are: (i) A monetary penalty, (ii) suspension from practice before the Bureau of Industry and Security, and (iii) a denial of export privileges under the Regulations. *See* 15 CFR 764.3 (2000–2002). Because MUTCO solicited the export of toxins, items controlled by BIS for Anti-Terrorism reasons for export to North Korea, BIS requests that the undersigned recommends to the Under Secretary of Commerce for Industry and Security[3] that MUTCO's export privileges be denied for six years.

BIS has suggested these sanctions because MUTCO's role in conspiring to export toxins to North Korea, as well as its role in ordering toxins for export to North Korea, represents a significant potential harm to the essential national interests protected by U.S. export controls.[4] BIS has noted that the items involved in the attempted export in this case involved Aflatoxins (M1, P1, Q1) and Staphyloccocal Enterotoxins (A and B). These items are controlled by BIS for Anti-Terrorism reasons. Furthermore, BIS has noted that MUTCO's role in conspiring and soliciting the export of these items for delivery to North Korea—a country that the United States Government has designated a state sponsor of international terrorism—represents significant harm to the national interests protected by U.S. export controls.[5] Furthermore, BIS believes that the imposition of a six-year denial order is particularly appropriate in this case since BIS may face difficulties in collecting a monetary penalty, as MUTCO is not located in the United States. Finally, BIS believes that the recommended denial order is particularly appropriate in this case, since MUTCO has failed to respond to the charging letter filed by BIS. In light of these circumstances, BIS believes that the denial of MUTCO's export privileges for six years is an appropriate sanction.

On this basis, the undersigned concurs with BIS and recommends that the Under Secretary enter an Order denying MUTCO's export privileges for a period of six years. Such a denial order is consistent with penalties imposed in past cases under the Regulations involving shipments to countries designated as ''Terrorist Supporting Countries.''[6] *See In the Matter of Petrom GmbH International Trade,* 70 FR 32,743 (June 6, 2005) (affirming the recommendations of the Administrative Law Judge that a twenty-year denial order and a civil monetary sanction of $143,000 were appropriate where knowing violations involved a shipment of EAR99 items to Iran); *In the Matters of Yaudat Mustafa Talyi a.k.a. Yaudat Mustafa a.k.a. Joseph Talyi,* 69 FR 77,177 (Dec. 27, 2004) (affirming the ALJ's recommendations that a twenty-year denial order and the maximum civil penalty of $11,000 per violation were appropriate where an individual exported oil field parts to Libya without authorization, in violation of a BIS order temporarily denying his export privileges and with knowledge that a violation would occur; and solicited a violation of the Regulations by ordering oil field parts from a U.S. manufacturer without authorization and with knowledge that a violation would occur); *In the Matter of Arian*

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[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which was extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR part 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–06 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, The Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR part 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 FR 45,273 (Aug. 5, 2005)), has continued the Regulations in effect under IEEPA.

[3] Pursuant to Section 13(c)(1) of the Export Administration Act and § 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge makes recommended findings of fact and conclusions of law that the Under Secretary must affirm, modify or vacate. The Under Secretary's action is the final decision for the U.S. Commerce Department.

[4] *See* 15 CFR Part 766, Supp. No. 1, III, A. (Stating that a denial order may be considered even in matters involving simple negligence or carelessness, if the violation(s) involves ''harm to the national security or other *essential interests protected by the export control system,''* if the violations are of such a nature and extent that a monetary fine alone represents an insufficient penalty. * * *) (emphasis added).

[5] *See id. (''Destination Involved:* BIS is more likely to seek a greater monetary penalty and/or denial or export privileges * * * in cases involving: (1) exports or reexports to countries subject to anti-terrorism controls. * * *'') (emphasis in original).

[6] BIS's list of Terrorist Supporting Countries is set forth in 15 CFR Part 740, Supp. No. 1, Country Group E:1.

Transportvermittlungs, GmbH, 69 FR 28,120 (May 18, 2004) (affirming the recommendation of the Administrative Law Judge that a ten-year denial order was appropriate where knowing violations involved a shipment of a controlled item to Iran); *In the Matter of Jabal Damavand General Trading Company,* 67 FR 32,009 (May 13, 2002) (affirming the recommendation of the Administrative Law Judge that a ten-year denial order was appropriate where knowing violations involved shipments of EAR99 items to Iran); *In the Matter of Adbulamir Mahdi,* 68 FR 57,406 (Oct. 3, 2003) (affirming the recommendation of the Administrative Law Judge that a twenty-year denial order was appropriate where knowing violations involved shipments of EAR99 items to Iran as part of a conspiracy to ship such items through Canada to Iran). A six-year denial of MUTCO's export privileges is warranted because MUTCO's violations, like those of the respondents in the above-cited case, involved exports made to Terrorist Supporting Countries in violation of U.S. export control laws.

The terms of the denial of export privileges against MUTCO should be consistent with the standard language used by BIS in such orders. The language is:

[REDACTED SECTION]

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Accordingly, the undersigned refers this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the respondent, as provided in § 766.7 of the Regulations.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. *See* 15 CFR 766.22(c).

Dated: June 8, 2006.

The Honorable Joseph N. Ingolia,
Chief Administrative Law Judge.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing RECOMMENDED DECISION & ORDER by DHL Express to the following person:

James C. Pelletier, Esq., Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, Room H–3839, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230.

I hereby certify that I have served the foregoing RECOMMENDED DECISION & ORDER by U.S. First Class Mail to the following person:

MUTCO International, Kelenberweg 37 1101, EX Amsterdam, Netherlands
Attn: Kailash Muttreja, President

Done and dated June 8, 2006 at Baltimore, Maryland.
Debra Gundy,
Paralegal Specialist.

[FR Doc. 06–5986 Filed 7–3–06; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062606A]

Endangered Species; File Nos. 1079–1828, 1053–1825, 1095–1837

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

ACTION: Notice; receipt of applications for permits.

SUMMARY: Notice is hereby given that the following three individuals have applied in due form for permits for scientific research on marine mammals: Peter M. Scheifele, MD(r), Ph.D, University of Connecticut, Department of Animal Science, Bioacoustics and Neuroaudiology, 3636 Horsebarn Hill Road Ext., Unit 4040, Storrs, CT 06269 (File No. 1079–1828); David Mann, Ph.D., College of Marine Science, The University of South Florida, College of Marine Science, 140 Seventh Avenue South, St. Petersburg, FL 33701 (File No. 1053–1825); and Dorian S. Houser, Ph.D., Biomimetica, 7951 Shantung Drive, Santee, CA 92071 (File No. 1095–1837).

DATES: Written, telefaxed, or e-mail comments on these applications must be received on or before August 4, 2006.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment (See **SUPPLEMENTARY INFORMATION**).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on a particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the appropriate document identifier: File No. 1079–1828, 1053–1825, or 1095–1837.

FOR FURTHER INFORMATION CONTACT: Andrew Wright or Amy Sloan, (301)713–2289

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–227).

All three applicants are all seeking permits to conduct hearing measurements on either permanently captive marine mammals, or those that are stranded, entrapped, or in a rehabilitation center. Marine mammals use sound for communication in a number of behaviors critical to survival and reproduction. Results of this work would increase our knowledge of the abilities of marine mammals to perceive natural sounds and variations in those sounds, and improve our understanding of how anthropogenic sounds affect them in order to facilitate their conservation. These types of recordings are routinely used to measure the hearing of other animals, including human infants, and do not represent a risk to the marine mammals.

File No. 1079–1828: Dr. Scheifele seeks a 5–year permit to use auditory evoked potential recordings with non-invasive suction cup sensors on up to 15 individuals of certain species of cetaceans in the U.S. (see application for specific cetacean species and stocks requested) and subdermal needle electrodes on up to 15 each of harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), and harp seals (*Phoca groenladica*). The research would be conducted on stranded and public display animals held at Mystic Aquarium and Institute for Exploration, Mystic, CT.

File No. 1053–1825: Dr. Mann seeks a 5–year permit to use auditory evoked potential recordings with non-invasive suction cup sensors on up to 15 individuals of any species of cetaceans in the U.S. The research would be conducted on stranded animals in the field or at a rehabilitation center.

File No. 1095–1837: Dr. Houser seeks a 5–year permit to use auditory evoked potential recordings with non-invasive suction cup sensors on up to 15 individuals of any species of cetaceans in the U.S. The research would be conducted on stranded or accidentally entrapped animals in the field or at a rehabilitation center.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of these applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documentation

The applications and related documents are available for review upon written request or by appointment in the following office(s):

All documents: Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394;

File Nos. 1053–1825 and 1095–1837: Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018;

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

Dated: June 29, 2006.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–10463 Filed 7–3–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061906B]

Endangered Species; File No. 1538

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that NMFS, Southeast Fisheries Science Center (SEFSC), 75 Virginia Beach Drive, Miami, Florida 33149 has been issued a permit to take smalltooth sawfish (*Pristis pectinata*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East–West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Jennifer Skidmore, (301)713–2289.

SUPPLEMENTARY INFORMATION: On August 10, 2005, notice was published in the Federal Register (70 FR 46492) that a request for a scientific research permit to take smalltooth sawfish had been submitted by the above–named organization. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Researchers will annually capture up to 5 smalltooth sawfish using bottom longline gear. Animals will be sexed, measured, biopsy sampled, photographed, external dart tagged, and tagged with a pop–up satellite archival tag. The research will provide information on the survival rates of smalltooth sawfish captured and released from commercial fishing gear; habitat for adult sawfish; and daily and seasonal movement patterns and migration corridors that could aid management efforts in reducing further fishery interactions. The research will be concentrated in areas offshore of the Marquesas Keys, Florida Keys, and south of the Florida Keys in the Florida straights outside of Florida state waters. The permit is issued for 5 years.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of any endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 27, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–10464 Filed 7–3–06; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Agenda, Priorities and Strategic Plan; Public Hearing

Federal Register Citation of Previous Announcement: Vol. 71, No. 109, Wednesday, June 7, 2006, pages 32929–32930.

Previously Announced Time and Date of Meeting: 10 a.m., Tuesday, July 11, 2006.

Changes in Meeting: The public hearing on Commission Agenda, Priorities and Strategic Plan for fiscal year 2008 is canceled.

For a recorded message containing the latest agenda information, call (301) 504–7948.

FOR FURTHER INFORMATION CONTACT: Todd A. Stevenson, Consumer Product Safety Commission, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–7923.

Dated: June 28, 2006.

Todd A. Stevenson,

Secretary.

[FR Doc. 06–5982 Filed 7–3–06; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0114]

Federal Acquisition Regulation; Information Collection; Right of First Refusal of Employment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an public comments regarding extension to an existing OMB clearance 9000–0114.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning rights of first refusal of employment. The clearance currently expires on October 31, 2006.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before September 5, 2006.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden to the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT Ms. Gloria Sochon, Contract Policy Division, GSA, (202) 219–0311.

SUPPLEMENTARY INFORMATION:

A. Purpose

Right of First Refusal of Employment is a regulation which establishes policy regarding adversely affected or separated Government employees resulting from the conversion from in-house performance to performance by contract. The policy will enable these employees to have an opportunity to work for the contractor who is awarded the contract.

The information gathered will be used by the Government to gain knowledge of which employees, adversely affected or separated as a result of the contract award, have gained employment with the contractor within 90 days after contract performance begins.

B. Annual Reporting Burden

Number of Respondents: 200.
Responses Per Respondent: 1.
Total Responses: 200.
Average Burden Hours Per Response: 3.
Total Burden Hours: 600.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–0114, Right of First Refusal of Employment, in all correspondence.

Dated: June 20, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

[FR Doc. 06–5977 Filed 7–3–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 246. This bulletin lists revision in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 246 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* July 1, 2006.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 245. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 246 ARE UPDATES TO THE RATES FOR PUERTO RICO.				
ALASKA				
ADAK	120	79	199	07/01/2003
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	170	93	263	05/01/2006
09/16 - 04/30	95	85	180	05/01/2006
BARROW	159	95	254	05/01/2002
BETHEL	125	78	203	05/01/2006
BETTLES	135	62	197	10/01/2004
CLEAR AB	80	55	135	09/01/2001
COLD BAY	90	73	163	05/01/2002
COLDFOOT	135	71	206	10/01/1999
COPPER CENTER				
05/01 - 09/30	129	75	204	04/01/2006
10/01 - 04/30	89	71	160	04/01/2006
CORDOVA				
05/01 - 09/30	95	74	169	05/01/2006
10/01 - 04/30	85	72	157	04/01/2005
CRAIG				
04/15 - 09/14	125	67	192	04/01/2006
09/15 - 04/14	95	64	159	04/01/2006
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	90	82	172	04/01/2006
DENALI NATIONAL PARK				
06/01 - 08/31	122	66	188	04/01/2006
09/01 - 05/31	70	61	131	04/01/2006
DILLINGHAM	114	69	183	06/01/2004
DUTCH HARBOR-UNALASKA	121	84	205	04/01/2006
EARECKSON AIR STATION	80	55	135	09/01/2001
EIELSON AFB				
05/01 - 09/15	169	88	257	04/01/2006
09/16 - 04/30	75	79	154	04/01/2006
ELMENDORF AFB				
05/01 - 09/15	170	93	263	05/01/2006
09/16 - 04/30	95	85	180	05/01/2006
FAIRBANKS				
05/01 - 09/15	169	88	257	04/01/2006
09/16 - 04/30	75	79	154	04/01/2006
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	90	82	172	04/01/2006
FT. RICHARDSON				
05/01 - 09/15	170	93	263	05/01/2006
09/16 - 04/30	95	85	180	05/01/2006
FT. WAINWRIGHT				
05/01 - 09/15	169	88	257	04/01/2006
09/16 - 04/30	75	79	154	04/01/2006
GLENNALLEN				

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01 - 09/30	129	75	204	04/01/2006
10/01 - 04/30	89	71	160	04/01/2006
HAINES	90	69	159	04/01/2006
HEALY				
06/01 - 08/31	122	66	188	04/01/2006
09/01 - 05/31	70	61	131	04/01/2006
HOMER				
05/15 - 09/15	139	80	219	05/01/2006
09/16 - 05/14	79	74	153	05/01/2006
JUNEAU				
05/01 - 09/30	129	89	218	04/01/2006
10/01 - 04/30	79	84	163	04/01/2006
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
05/01 - 08/31	129	92	221	04/01/2006
09/01 - 04/30	79	87	166	04/01/2006
KENNICOTT	189	85	274	04/01/2005
KETCHIKAN				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK				
04/15 - 09/14	125	67	192	04/01/2006
09/15 - 04/14	95	64	159	04/01/2006
KODIAK				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
KOTZEBUE				
05/15 - 09/30	151	90	241	05/01/2006
10/01 - 05/14	135	89	224	05/01/2006
KULIS AGS				
05/01 - 09/15	170	93	263	05/01/2006
09/16 - 04/30	95	85	180	05/01/2006
MCCARTHY	189	85	274	04/01/2005
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	169	88	257	04/01/2006
09/16 - 04/30	75	79	154	04/01/2006
NOME	125	86	211	05/01/2006
NUIQSUT	180	53	233	05/01/2002
PETERSBURG	80	62	142	06/01/2005
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				
05/01 - 09/30	171	79	250	04/01/2006
10/01 - 04/30	69	69	138	04/01/2006
SITKA-MT. EDGECUMBE				
05/01 - 09/30	119	75	194	04/01/2006
10/01 - 04/30	99	73	172	04/01/2006
SKAGWAY				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
SLANA				
05/01 - 09/30	139	55	194	02/01/2005
10/01 - 04/30	99	55	154	02/01/2005
SPRUCE CAPE				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
ST. GEORGE	129	55	184	06/01/2004
TALKEETNA	100	89	189	07/01/2002
TANANA	125	86	211	05/01/2006
TOGIAK	100	39	139	07/01/2002
TOK	90	65	155	05/01/2006
UMIAT	180	107	287	04/01/2005
UNALAKLEET	79	80	159	04/01/2003
VALDEZ				
05/01 - 10/01	129	80	209	04/01/2006
10/02 - 04/30	79	75	154	04/01/2006
WASILLA				
05/01 - 09/30	134	84	218	04/01/2006
10/01 - 04/30	80	79	159	04/01/2006
WRANGELL				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	55	135	09/01/2001
AMERICAN SAMOA				
AMERICAN SAMOA	122	73	195	12/01/2005
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	90	225	06/01/2005
HAWAII				
CAMP H M SMITH	149	100	249	05/01/2006
EASTPAC NAVAL COMP TELE AREA	149	100	249	05/01/2006
FT. DERUSSEY	149	100	249	05/01/2006
FT. SHAFTER	149	100	249	05/01/2006
HICKAM AFB	149	100	249	05/01/2006
HONOLULU (INCL NAV & MC RES CTR)	149	100	249	05/01/2006
ISLE OF HAWAII: HILO	112	93	205	05/01/2006
ISLE OF HAWAII: OTHER	150	95	245	05/01/2006
ISLE OF KAUAI	188	102	290	05/01/2006
ISLE OF MAUI	159	95	254	05/01/2006

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ISLE OF OAHU	149	100	249	05/01/2006
KEKAHA PACIFIC MISSILE RANGE FAC	188	102	290	05/01/2006
KILAUEA MILITARY CAMP	112	93	205	05/01/2006
LANAI	175	130	305	05/01/2006
LUALUALEI NAVAL MAGAZINE	149	100	249	05/01/2006
MCB HAWAII	149	100	249	05/01/2006
MOLOKAI	153	95	248	05/01/2006
NAS BARBERS POINT	149	100	249	05/01/2006
PEARL HARBOR [INCL ALL MILITARY]	149	100	249	05/01/2006
SCHOFIELD BARRACKS	149	100	249	05/01/2006
WHEELER ARMY AIRFIELD	149	100	249	05/01/2006
[OTHER]	72	61	133	01/01/2000
MIDWAY ISLANDS				
MIDWAY ISLANDS				
INCL ALL MILITARY				
	100	45	145	06/01/2006
NORTHERN MARIANA ISLANDS				
ROTA	129	91	220	05/01/2006
SAIPAN	121	94	215	05/01/2006
TINIAN	85	80	165	06/01/2005
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
AGUADILLA	87	70	157	07/01/2006
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	109	73	182	07/01/2006
PONCE				
01/01 - 05/31	139	73	212	07/01/2006
06/01 - 07/31	230	82	312	07/01/2006
08/01 - 11/30	139	73	212	07/01/2006
12/01 - 12/31	230	82	312	07/01/2006
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	135	92	227	05/01/2006
12/15 - 04/14	187	97	284	05/01/2006
ST. JOHN				
04/15 - 12/14	163	98	261	05/01/2006
12/15 - 04/14	220	104	324	05/01/2006
ST. THOMAS				
04/15 - 12/14	240	105	345	05/01/2006
12/15 - 04/14	299	111	410	05/01/2006
WAKE ISLAND				
WAKE ISLAND	152	15	167	06/01/2006

[FR Doc. 06–5976 Filed 7–3–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The following inventions are assigned to the U.S. Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

U.S. Patent No. 11/444,816: MICRO FABRICATED INERTIAL SHOCK BANDPASS FILTER.//U.S. Patent No. 11/040,300: MEMS MULTIDIRECTIONAL SHOCK SENSOR.//U.S. Patent No. 11/198,410: MEMS MULTIDIRECTIONAL SHOCK SENSOR WITH MULTIPLE MASSES.// U.S. Patent No. 11/009,847: MULTIPLE SHOCK SENSING DEVICE.// U.S. Patent No. 11/374,482: MEMS TIMER USING SEQUENTIAL UNLOCKING AND RE-LOCKING NESTED MASSES.//U.S. Patent No. 11/040,291: MICRO FABRICATED FALLING LEAF INERTIAL DELAY MECHANISM.//U.S. Patent No. 6,508,136: HIGH OUTPUT DIFFERENTIAL PRESSURE FLOW SENSOR.//U.S. Patent No. 11/447,519: LAUNCHED REMOTE SENSOR PROJECTILE.//U.S. Patent No. 6,995,707: IMPASS INTEGRATED MARITIME PORTABLE ACOUSTIC SCORING & SIMULATOR.//U.S. Patent No. 6,919,453: COLORANT COMPOSITIONS: DYES, DRUGS, DETECTION AGENTS.//U.S. Patent No. 11/417,294: FUNCTIONALIZATION OF CARBON NANOTUBES.//U.S. Patent No. 10/637,090: PERFLUOROALKYL PASSIVATED ALUMINUM.// U.S. Patent No. 11/076,456: METHOD FOR DEPOSITION OF STEEL PROTECTIVE COATING.//U.S. Patent No. 11/031,735: FLUSH RINSE PLATING PROCESS.// U.S. Patent No. 11/444,815: UNITARY LATCH/LIFT EYE.//U.S. Patent No. 7,063,810: CO-EXTRUSION OF ENERGETIC MATERIALS USING MULTIPLE TWIN SCREW EXTRUDERS.// U.S. Patent No. 11/076,456: METHOD FOR DEPOSITION OF STEEL PROTECTIVE COATING.// U.S. Patent No. 11/387,084: COMMON MODULAR INTERMODAL SHIPPING SYSTEM TECHNOLOGY.//U.S. Patent No. 11/010,701: INHIBITION OF METAL OXIDATION THROUGH THE VAPOR DEPOSITION OF A PASSIVATION LAYER.//U.S. Patent No. 11/444,812: ELECTROMAGNETIC PULSE (EMP) DEVICE FOR VEHICLE IMMOBILIZATION.//U.S. Patent No. 11/141,604: PRODUCTION OF INFRARED RADIATION AT ANY WAVELENGTH.//U.S. Patent No. 11/040,292: PRODUCING FIREBREAKS USING FIREBREAKS.//U.S. Patent No. 11/447,518: COMBINATION REAL-TIME BIOMETRIC CAMERA AND RADIO FREQUENCY IDENTIFICATION TAG AS A SYSTEM FOR REAL-TIME IDENTIFICATION AND VERIFICATION OF PERSONNEL IN AN AUTOMOBILE.//U.S. Patent No. 11/447,811: REACTIVE TARGET.

ADDRESSES: Requests for copies of the Patents or Patent Applications cited should be directed to the Naval Surface Warfare Center, Code CAB, 101 Strauss Avenue, Indian Head, MD 20640–5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code CAB, 101 Strauss Avenue, Indian Head, MD 20640–5035, telephone 301–744–6111.

Dated: June 27, 2006.

M. A. Harvison,

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

[FR Doc. E6–10430 Filed 7–3–06; 8:45 am]
BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Partially Exclusive Patent License; Elemental Wireless, LLC

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Elemental Wireless, LLC, a revocable, nonassignable, partially exclusive license in the United States to practice the Government-Owned inventions described in U.S. Patent No. 5,062,083: PING ELONGATOR-MODULATOR FOR REALISTIC ECHO SYNTHESIS, issue date October 29, 1991.//U.S. Patent No. 5,073,784: TRANSMITTER LOCATION SYSTEM FOR FREQUENCIES BELOW Hf, issue date December 17, 1991.//U.S. Patent No. 5,264,693: MICROELECTRONIC PHOTOMULTIPLIER DEVICE WITH INTEGRATED CIRCUITRY, issue date November 23, 1993.//U.S. Patent No. 5,272,476: DATA ACQUISITION SYSTEM HAVING NOVEL, LOW POWER CIRCUIT FOR TIME-DIVISION- MULTIPLEXING SENSOR ARRAY SIGNALS, issue date December 21, 1993.//U.S. Patent No. 5,276,695: MULTIFREQUENCY, RAPIDLY SEQUENCED OR SIMULTANEOUS TUNABLE LASER, issue date January 4, 1994.//U.S. Patent No. 5,285,467: COMPACT, EFFICIENT, SCALABLE NEODYMIUM LASER CO-DOPED WITH ACTIVATOR IONS AND PUMPED BY VISIBLE LASER DIODES, issue date February 8, 1994.//U.S. Patent No. 5,306,904: MULTILAYER MICROELECTRONIC PHOTOMULTIPLIER DEVICE WITH A STACKED SERIES OF DYNODE AND INSULATING LAYERS, issue date April 26, 1994.//U.S. Patent No. 5,310,989: METHOD FOR LASER-ASSISTED ETCHING OF III–V AND II–VI SEMICONDUCTOR COMPOUNDS USING CHLOROFLUOROCARBON AMBIENTS, issue date May 10, 1994.// U.S. Patent No. 5,310,990: METHOD OF LASER PROCESSING FERROELECTRIC MATERIALS, issue date May 10, 1994.// U.S. Patent No. 5,341,463: SELECTIVE POLYGON MAP DISPLAY METHOD, issue date August 23, 1994.//U.S. Patent No. 5,475,802: SELECTIVE POLYGON MAP DISPLAY METHOD, issue date December 12, 1995.//U.S. Patent No. 5,648,940: PULSE CODED SONAR HAVING IMPROVED DOPPLER DETERMINATION FEATURE, issue date July 15, 1997.//U.S. Patent No. 5,736,950: SIGMA-DELTA MODULATOR WITH TUNABLE SIGNAL PASSBAND, issue date April 7, 1998.//U.S. Patent No. 5,737,347: LASER WITH MULTIPLE GAIN ELEMENTS, issue date April 7, 1998.// U.S. Patent No. 5,754,496: DETECTOR EMPLOYING LOGIC CIRCUITRY FOR THE SELECTIVE SCREENING OF SIGNALS (U), issue date May 19, 1998.//U.S. Patent No. 5,757,867: DIGITAL MIXING TO BASEBAND DECIMATION FILTER, issue date May 26, 1998.//U.S. Patent No. 5,760,722: DISTRIBUTED QUANTIZATION NOISE TRANSMISSION ZEROS IN CASCADED SIGMA-DELTA MODULATORS, issue date June 2, 1998.//U.S. Patent No. 5,764,677: LASER DIODE POWER COMBINER, issue date June 9, 1998.//U.S. Patent No. 5,789,961: NOISE- AND COUPLING-TUNED SIGNAL PROCESSOR WITH ARRAYS OF NONLINEAR DYNAMIC ELEMENTS, issue date August 4, 1998.//U.S. Patent No. 5,805,635: SECURE COMMUNICATION SYSTEM, issue date September 8, 1998.//U.S. Patent No. 5,892,765: SYSTEM AND METHOD FOR EFFECTUATING COMMUNICATIONS BETWEEN NETWORKS OPERATING ASYNCHRONOUSLY WITH RESPECT

TO ONE ANOTHER, issue date April 6, 1999.//U.S. Patent No. 6,008,642: STOCHASTIC RESONANCE DETECTOR FOR WEAK SIGNALS, issue date December 28, 1999.//U.S. Patent No. 6,040,801: LOW DUTY CYCLE NAVIGATION SYSTEM, issue date March 21, 2000.//U.S. Patent No. 6,052,100: COMPUTER CONTROLLED THREE-DIMENSIONAL VOLUMETRIC DISPLAY, issue date April 18, 2000.// U.S. Patent No. 6,061,821: CONTEXT BASED ERROR DETECTION AND CORRECTION FOR BINARY ENCODED TEXT MESSAGES, issue date May 9, 2000.//U.S. Patent No. 6,067,448: SYSTEM AND METHOD FOR ISOLATING RADIO FREQUENCY SIGNALS, issue date May 23, 2000.// U.S. Patent No. 6,133,865: Cw CONVERTER CIRCUIT, issue date October 17, 2000.//U.S. Patent No. 6,137,609: OVER-THE-HORIZON OPTICAL COMMUNICATIONS TRANSCEIVER, issue date October 24, 2000.//U.S. Patent No. 6,138,572: THREE-BEAM PASSIVE INFRARED GUIDED MISSILE FUSE (U), issue date October 31, 2000.//U.S. Patent No. 6,166,680: RANGE DEPENDENT TIME DELAY TARGET DETECTING DEVICE, issue date December 26, 2000.//U.S. Patent No. 6,177,913: VOLUMETRIC DISPLAY, issue date January 23, 2001.// U.S. Patent No. 6,198,425: PULSE DOPPLER TARGET DETECTING DEVICE, issue date March 6, 2001.//U.S. Patent No. 6,229,847: SIGNAL QUALITY MEASUREMENT DEVICE, issue date May 8, 2001.//U.S. Patent No. 6,232,931: OPTO-ELECTRONICALLY CONTROLLED FREQUENCY SELECTIVE SURFACE, issue date May 15, 2001.//U.S. Patent No. 6,342,866: WIDEBAND ANTENNA SYSTEM, issue date January 29, 2002.//U.S. Patent No. 6,395,435: PHOTO-LITHOGRAPHIC MASK HAVING TOTAL INTERNAL REFLECTIVE SURFACES, issue date May 28, 2002.//U.S. Patent No. 6,404,038: COMPLEMENTARY VERTICAL BIPOLAR JUNCTION TRANSISTORS FABRICATED OF SILICON- ON-SAPPHIRE UTILIZING WIDE BASE Pnp TRANSISTORS, issue date June 11, 2002.//U.S. Patent No. 6,414,305: AUTOMATED SYSTEM FOR DETERMINING MINIMUM RESOLVABLE TEMPERATURE DIFFERENCES, issue date July 2, 2002.//U.S. Patent No. 6,437,890: LASER COMMUNICATIONS LINK, issue date August 20, 2002.//U.S. Patent No. 6,448,941: METHOD FOR SECURE COMMUNICATIONS USING SPIRAL ANTENNAS, issue date September 10, 2002.//U.S. Patent No. 6,459,745: FREQUENCY/TIMING RECOVERY CIRCUIT FOR ORTHOGONAL FREQUENCY DIVISION MULTIPLEXED SIGNALS, issue date October 1, 2002.// U.S. Patent No. 6,466,184: THREE DIMENSIONAL VOLUMETRIC DISPLAY, issue date October 15, 2002.// U.S. Patent No. 6,507,252: HIGH REJECTION EVANESCENT MIC MULTIPLEXERS FOR MULTIFUNCTIONAL SYSTEMS, issue date January 14, 2003.//U.S. Patent No. 6,525,325 SYSTEM FOR QUANTIFYING THE HYDROCARBON CONTENT OF AQUEOUS MEDIA, issue date February 25, 2003.//U.S. Patent No. 6,549,560: COMB LIMITER COMBINER FOR FREQUENCY-HOPPED COMMUNICATIONS, issue date April 15, 2003.//U.S. Patent No. 6,584,300: OBJECT-ORIENTED SYSTEM FOR SIMULATING SONAR TARGET ACOUSTIC SCATTERING, issue date June 24, 2003.//U.S. Patent No. 6,619,866: DYNAMIC RANGE EXTENDED FOR OPTICAL TRANSMITTERS, issue date September 16, 2003.//U.S. Patent No. 6,622,092: PREDICTOR FOR OPTIMAL BROADBAND IMPEDANCE MATCHING, issue date September 16, 2003.//U.S. Patent No. 6,625,896: ELECTROLYTIC TILT SENSOR AND METHOD FOR MANUFACTURING SAME, issue date September 30, 2003.// U.S. Patent No. 6,631,156: DIGITAL DATA COMMUNICATIONS SYSTEM, issue date October 7, 2003.//U.S. Patent No. 6,661,566: METHOD AND OPTICAL SWITCH FOR ALTERING AN ELECTROMAGNETIC ENERGY WAVE IN RESPONSE TO ACCELERATION FORCES, issue date December 9, 2003.// U.S. Patent No. 6,671,304: AMPLITUDE-MODULATED LASER FOR HIGH-BANDWIDTH COMMUNICATIONS SYSTEMS, issue date December 30, 2003.//U.S. Patent No. 6,710,737: CALIBRATOR FOR RADAR TARGET SIMULATOR, issue date March 23, 2004.//U.S. Patent No. 6,727,941: UNIVERSAL DIGITAL CAMERA CONTROLLER WITH AUTOMATIC IRIS TUNING, issue date April 27, 2004.//U.S. Patent No. 6,753,994: SPATIALLY CONFORMABLE TUNABLE FILTER, issue date June 22, 2004.//U.S. Patent No. 6,782,063: AUTOMATIC GAIN CONTROL, issue date August 24, 2004.//U.S. Patent No. 6,784,670: DUAL CHAMBERED ANECHOIC CHAMBER, issue date August 31, 2004.//U.S. Patent No. 6,802,132: ELECTROLYTIC TILT SENSOR AND METHOD FOR MANUFACTURING SAME, issue date October 12, 2004.//U.S. Patent No. 6,822,522: METHOD AND APPARATUS FOR AN IMPROVED NONLINEAR OSCILLATOR, issue date November 23, 2004.//U.S. Patent No. 6,842,013: METHOD FOR MAKING TRANSMISSION MEASUREMENTS IN A DUAL-CHAMBERED ANECHOIC CHAMBER USING SPATIAL AVERAGING, issue date January 11, 2005.//U.S. Patent No. 6,925,136: SIMULTANEOUS FREQUENCY AND PHASE SYNCHRONIZER, issue date August 2, 2005.//U.S. Patent No. 6,943,358: METHOD FOR DEVELOPING A CALIBRATION ALGORITHM FOR QUANTIFYING THE HYDROCARBON CONTENT OF AQUEOUS MEDIA, issue date September 13, 2005.//U.S. Patent No. 6,947,504: FREQUENCY SYNCHRONIZER, issue date September 20, 2005.//U.S. Patent No. 6,948,388: WIRELESS REMOTE SENSOR, issue date September 27, 2005.//U.S. Patent No. 6,958,466: METHOD AND SYSTEM FOR DETECTING TARGETS KNOWN UP TO A SIMPLEX FROM MULTI-SPECTRAL AND HYPER-SPECTRAL IMAGERY EMPLOYING THE NORMAL COMPOSITIONAL MODEL, issue date October 25, 2005.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than July 20, 2006.

ADDRESSES: Written objections are to be filed with the Office of Research and Technology Applications, Space and Naval Warfare Systems Center, Code 2112, 83570 Silvergate Ave., Room 2306, San Diego, CA 92152–5048.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen H. Lieberman, Office of Research and Technology Applications, Space and Naval Warfare Systems Center, Code 2112, 83570 Silvergate Ave., Room 2306, San Diego, CA 92152–5048, telephone 619–553–2778 or E-Mail *stephen.lieberman@navy.mil.*

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: June 22, 2006.

M. A. Harvison,

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

[FR Doc. E6–10431 Filed 7–3–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Hart Biologicals, Ltd

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Hart Biologicals, Ltd., a revocable, nonassignable, exclusive license to practice in the field of use for production of calibration and control materials for use in the International Normalized Ratio monitor blood coagulation test market in the United States and certain foreign countries, the Government-owned inventions described in U.S. Patent No. 6,358,678: Applications of Reversible Crosslinking and Co-Treatment in Stabilization and Viral Inactivations of Erythrocytes, Navy Case No. 78,253.//U.S. Patent No. 6,436,705: Shape Stabilized Erythrocytes, Navy Case No. 83,638 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this License must file written objections along with supporting evidence, if any, not later than July 20, 2006.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone 202–767–7230. Due to U.S. Postal delays, please fax 202–404–7920 OR E-mail: *techtran@utopia.nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: June 23, 2006.

M. A. Harvison,

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

[FR Doc. E6–10429 Filed 7–3–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Sequestered Solutions Alaska, LLC

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Sequestered Solutions Alaska, LLC, a revocable, nonassignable, exclusive license to practice in the fields of applications of the Government of the State of Alaska and applications of entities that derive the majority of their revenues from the exploration for and/or the production of hydrocarbons in the United States and certain foreign countries, the Government-owned invention described in U.S. Patent Application Serial No. 10/627,102: Systems and Methods for Providing Increased Computer Security, Navy Case No. 84,150 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this License must file written objections along with supporting evidence, if any, not later than July 20, 2006.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone 202–767–7230. Due to U.S. Postal delays, please fax 202–404–7920 or E-mail: *techtran@utopia.nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: June 22, 2006.

M. A. Harvison,

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

[FR Doc. E6–10428 Filed 7–3–06; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–0592; FRL–8190–6]

Board of Scientific Counselors Executive Committee Meeting—July 2006

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of one meeting (via conference call) of the Board of Scientific Counselors (BOSC) Executive Committee.

DATES: The conference call will be held on Thursday July 20, 2006 from 10 a.m. to 1 p.m., eastern time, and may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to 1 business day before the meeting.

ADDRESSES: Participation in the conference call will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the calls from Lorelei Kowalski, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2006–0592 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov*, Attention Docket ID No. EPA–HQ–ORD–2006–0592.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2006–0592.
- *Mail:* Send comments by mail to: Board of Scientific Counselors Executive Committee Meeting—July 2006 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. EPA–HQ–ORD–2006–0592.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2006–0592.

Note: This is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2006–0592. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov or e-mail.* The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the

Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Board of Scientific Counselors Executive Committee Meeting—July 2006 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Lorelei Kowalski, Mail Code 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–3408; via fax at: (202) 565–2911; or via e-mail at: *kowalski.lorelei@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the conference call may contact Lorelei Kowalski, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section. In general, each individual making an oral presentation will be limited to a total of three minutes.

The purpose of this conference call is to review, discuss, and potentially approve a revised draft report prepared by the BOSC Science to Achieve Results (STAR)/Greater Research Opportunities (GRO) Fellowship Subcommittee, and discuss follow-up to the BOSC Executive Committee's June 2006 public meeting. Proposed agenda items for the conference call include, but are not limited to, discussion of: the revised draft STAR/GRO Fellowship Subcommittee report; next steps in implementing standing lab/center subcommittees and mid-cycle program reviews; and expertise needed for Executive Committee upcoming vacancies. The conference call is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Lorelei Kowalski at (202) 564–3408 or *kowalski.lorelei@epa.gov.* To request accommodation of a disability, please contact Lorelei Kowalski, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 28, 2006.

Jeffrey Morris,

Acting Director, Office of Science Policy.

[FR Doc. E6–10427 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8078–8]

Temporary Changes to the EPA Docket Center

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Docket Center (EPA/DC) in Washington, DC is temporarily closed due to flooding. This notice provides information regarding submitting comments and accessing affected dockets during this closure.

FOR FURTHER INFORMATION CONTACT: Patrick Grimm, Mailcode 2822T, Office of Information Collection, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566–1677; fax number: (202) 566–1639; e-mail address: *Grimm.Patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Dockets, Electronic Dockets, and Information Centers serve as the repository for information related to particular Agency actions. The Federal Docket Management System (FDMS) serves as EPA's electronic public docket and on-line comment system. If you would like to submit an electronic comment or obtain docket materials for an EPA docket, please visit FDMS at *www.regulations.gov.*

In 2002, EPA consolidated eight paper docket facilities into one location in the Agency's Washington, DC office. The EPA Docket Center (EPA/DC) includes a Public Reading Room that offers a variety of access tools for members of the public seeking access to hardcopy or electronic public dockets.

At this time, the EPA/DC's Public Reading Room is closed until further notice due to flooding. Fax numbers for Docket offices in the EPA/DC are temporarily unavailable. If you wish to hand deliver comments during this closure, you may drop them off between the hours of 8:30 a.m. and 4:30 p.m. eastern standard time (e.s.t.), Monday through Friday, excluding Federal holidays at the EPA Headquarters Library, Infoterra Room (room number 3334C) in the EPA West Building located at 1301 Constitution Ave., NW., Washington, DC. EPA visitors are required to show photographic identification and sign the EPA visitor log. After processing through the X-ray and magnetometer machines, visitors will be given an EPA/DC badge that must be visible at all times.

Informational updates will be provided via the EPA website at *www.epa.gov/epahome/dockets.htm* as they are available.

If you wish to obtain materials from a docket in the EPA/DC, please go first to *www.regulations.gov.* If the materials are listed in the docket index but the documents themselves are not available in *www.regulations.gov*, please call the applicable number from the list posted below:

- Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566–1742.
- Office of Enforcement and Compliance Assurance (OECA) Docket/Telephone number: (202) 566–1752.
- Office of Environmental Information (OEI) Docket (includes Toxics Release Inventory (TRI) Docket)/Telephone number: (202) 566–1752.
- Office of Pollution Prevention and Toxics (OPPT) Docket/Telephone number: (202) 566–0280.
- Office of Research and Development (ORD) Docket/Telephone number: (202) 566–1752.
- Office of Solid Waste and Emergency Response (OSWER)

Resource Conservation and Recovery Act (RCRA) Docket/Telephone number: (202) 566–0270.

Superfund Docket/Telephone number: (202) 566–0276.

Underground Storage Tanks (UST) Docket/Telephone number: (202) 566–0270.

• Office of Water (OW) Docket/ Telephone number: (202) 566–2426.

If you have any other questions concerning the temporary closing of the EPA/DC Public Reading Room, you may call (202) 566–1744 between the hours of 8:30 a.m. and 4:30 p.m. e.s.t.

List of Subjects

Environmental protection.

Dated: June 30, 2006.

Andrew T. Battin,

Acting Director, Office of Information Collection.

[FR Doc. 06–6025 Filed 6–30–06; 2:26 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0061; FRL–8076–4]

Azinphos-methyl; Amending Existing Stocks Provisions of Distribution for Cranberry Growers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the order to amend the existing stocks provision as written in the cancellation order published in the**Federal Register** on March 29, 2006 (71 FR 15731) (FRL–7771–4) to allow the distribution and sale of end-use products containing the pesticide azinphos-methyl, for use on cranberries until August 15, 2006. This will allow distribution and sale for use on cranberries for the 2006 season, as contemplated by the March 29, 2006, cancellation order. The stop use date for these end-use products is still September 30, 2006, as provided in the March 29 order.

FOR FURTHER INFORMATION CONTACT: Tom Myers, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8589; fax number: (703) 308-8041; e-mail address: *myers.tom@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0061. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr.*

II. Background

A. What Action is the Agency Taking?

This notice announces the order to amend the existing stocks provision as written in the cancellation order published in the **Federal Register** on March 29, 2006 (71 FR 15731) (FRL–7771–4) to allow the distribution and sale of end-use products containing the pesticide azinphos-methyl, for use on cranberries until August 15, 2006. This will allow sale for use on cranberries for the 2006 season, as EPA intended. The stop use date for these end-use products is still September 30, 2006, as published in the cancellation order on March 29, 2006.

TABLE 1. — AZINPHOS-METHYL END-USE PRODUCTS BEARING INSTRUCTIONS FOR USE ON CRANBERRIES

Registration No.	Product name	Company
264–733	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Cropscience
10163–78 10163–138 10163–139 10163–180	Gowan Azinphos-M 50 WSB Gowan Azinphos-M 35 WP Gowan Azinphos-M 35 WSB Gowan Azinphos 50 PVA	Gowan Company
11678–53 66222–11	Cotnion-Methyl Azinphos-methyl 50W	Makhteshim Chemical Works
51036–164	Azinphos-methyl 50W	Microflo Company

Table 2 includes the names and addresses of record for the registrants that requested use terminations for their products, in sequence by EPA company number.

TABLE 2. — REGISTRANTS OF AMENDED AZINPHOS-METHYL PRODUCTS

EPA Company No.	Company Name and Address
264	Bayer CropScience 2 T.W. Alexander Drive, Research Triangle Park, North Carolina 27709
10163	Gowan Company, P.O. Box 5569, Yuma, Arizona 85366–5569
11678 66222	Makhteshim Chemical Works, 4515 Falls of Neuse Road, Suite 300, Raleigh, North Carolina 27609
51036	Micro-Flo Corporation, LLC 530 Oak Court Drive, Memphis, Tennessee 38117

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

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses.

FIFRA further provides that, before acting on the request, EPA must publish for public comment a notice of receipt of any such request in the **Federal Register**.

III. Amendment to Existing Stocks Order

The cancellation order published in the **Federal Register** on March 29, 2006 (71 FR 15731) (FRL–7771–4) is hereby amended to allow the distribution and sale of existing stocks of the end-use products listed in Table 1, in Unit II.A. for use on cranberries until August 15, 2006. All other provisions of the March 29, 2006, order otherwise remain in effect.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: June 28, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–10452 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0495; FRL–8062–2]

Imazapyr Reregistration Eligibility Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide imazapyr. The Agency's risk assessments and other related documents also are available in the imazapyr docket. Imazapyr is a systemic, non-selective, pre- and post-emergent herbicide used for the control of terrestrial annual and perennial grasses, broad-leaved herbs, woody species, and riparian and emergent aquatic species. It is registered for use on a variety of agricultural, commercial, and residential use sites. EPA has reviewed imazapyr through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

FOR FURTHER INFORMATION CONTACT: Sherrie Kinard, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0563; fax number: (703) 308-8005; e-mail address:*kinard.sherrie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2005–0495. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Telephone number is (703) 305-5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr.*

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, imazapyr under section 4(g)(2)(A) of FIFRA.

Imazapyr is a systemic, non-selective, pre- and post-emergent herbicide used for the control of terrestrial annual and perennial grasses, broad-leaved herbs, woody species, and riparian and emergent aquatic species. It is registered for use on a variety of agricultural, commercial, and residential use sites, including corn, forestry sites, rights-of-way, fence rows, hedge rows, drainage systems, outdoor industrial areas, outdoor buildings and structures, domestic dwellings, paved areas, driveways, patios, parking areas, walkways, various water bodies (including ponds, lakes, streams, swamps, wetlands, and stagnant water), and urban areas.

Imazapyr is formulated as a liquid, a wettable powder (including water soluble bags), and a granular. Application methods include aerial, groundboom, boat, and tractor-drawn spreader. Applications to smaller areas may be made with handheld equipment, including low-pressure handwand sprayers, backpack sprayers, sprinkling cans, and handgun sprayers. Application rates range from 0.014 lbs ai/acre on corn, to 1.5 lbs ai/acre on non-cropped areas and aquatic sites.

EPA has determined that the data base to support reregistration is substantially complete and that products containing imazapyr are eligible for reregistration, provided the risks are mitigated in the manner described in the RED. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing imazapyr.

EPA must review tolerances and tolerance exemptions that were in effect when the Food Quality Protection Act (FQPA) was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA reassessed the imazapyr tolerances in 2003 when new food uses were established and has made the requisite safety finding for the imazapyr tolerances referred to in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, imazapyr was reviewed through the modified 4-Phase public participation process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for imazapyr.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. An additional comment period was not required for imazapyr since all risk issues associated with the use of this pesticide were resolved through consultations with stakeholders. The Agency therefore is issuing the imazapyr RED without a comment period.

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

Section 4(g)(2) of FIFRA as amended , directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 28, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–10449 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0522; FRL–8074–2]

Notice of Filing of Pesticide Petitions for Establishment of Regulations for Residues of Pyraclostrobin in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or amendment of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before August 4, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0522 and pesticide petitions number (PPs) 5E7014 and 5F7002, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0522. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: *For PP 5E7014*: Barbara Madden, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number (703) 305-6463, e-mail address: *madden.barbara@epa.gov*.

For PP 5F7002: John Bazuin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number (703) 305-7381, e-mail address: *bazuin.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).
• Food manufacturing (NAICS code 311).
• Pesticide manufacturing (NAICS code 32532).

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/ or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on the pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of the petitions included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov.* To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petitions summary.

New Tolerances

1. *PP 5E7014.* Interregional Research Project Number 4 (IR-4), 681 U.S. Highway 1 South, North Brunswick, NJ 08902-3390, proposes to establish tolerances for residues of the fungicide, pyraclostrobin, carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its metabolite methyl-N-[[[1-(4-chlorophenyl) pyrazol-3-yl]oxy]o-tolyl] carbamate (BF 500-3); expressed as parent compound in or on food commodities endive, Belgian, at 11 parts per million (ppm); fruit, pome, group, at 6.5 ppm; and fruit, stone, group at 11 ppm. In plants, the method of analysis used to measure and evaluate the chemical residue(s) is aqueous organic solvent extraction, column clean up and quantitation by liquid chromatography/ mass spectrometry/mass spectrometry (LC/MS/MS). In animals, the method of analysis involves base hydrolysis, organic extraction, column clean up and quantitation by LC/MS/MS or derivatization (methylation) followed by quantitation by gas chromatography/ mass spectrometry (GC/MS).

2. *PP 5F7002.* BASF Corporation, Research Triangle Park, NC 27709, proposes to establish tolerances for residues of the fungicide, pyraclostrobin, carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its metabolite methyl-N-[[[1-(4-chlorophenyl) pyrazol-3-yl]oxy]o-tolyl] carbamate (BF 500-3); expressed as parent compound in or on food commodities berry group 13 at 4 parts per million (ppm), cotton undelinted seed at 0.4 ppm, and cotton gin byproducts at 30 ppm. In plants, the method of analysis used to measure and evaluate the chemical residue(s) is aqueous organic solvent extraction, column clean up and quantitation by liquid chromatography/mass spectrometry/mass spectrometry (LC/ MS/MS). In animals, the method of analysis involves base hydrolysis, organic extraction, column clean up and quantitation by LC/MS/MS or derivatization (methylation) followed by quantitation by gas chromatography/ mass spectrometry (GC/MS).

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 26, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–10459 Filed 7–3–06; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0504; FRL–8073–5]

Notice of Filing of a Pesticide Petition for Amendment to Regulations for Residues of Propoxycarbazone and Its Metabolite in or on Wheat (Forage) and Animal Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the amendment of 40 CFR 180.600 by increasing established tolerances for residues of the herbicide propoxycarbazone, methyl 2-[[[(4,5-dihydro-4-methyl-5-oxo-3-propoxy-1H-

1,2,4-triazol-1-yl)carbonyl]amino] sulfonyl]benzoate (MKH-6561) and its metabolite, methyl 2-[[[(4,5-dihydro-3-(2-hydroxypropoxy)-4-methyl-5-oxo-1H-1,2,4-triazol-1-yl)carbonyl]amino]sulfonyl] benzoate (Pr-2-OH MKH-6561) in or on wheat (forage) and animal commodities.

DATES: Comments must be received on or before August 4, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0504 and pesticide petition number (PP) 5F6959, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0504. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: James Stone, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7391; e-mail address: *stone.james@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

Amendment to Existing Tolerance

PP 5F6959. Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709, proposes to amend the tolerances in 40 CFR 180.600 by increasing established tolerances for residues of the herbicide propoxycarbazone, methyl 2-[[[(4,5-dihydro-4-methyl-5-oxo-3-propoxy-1H-1,2,4-triazol-1-yl)carbonyl]amino] sulfonyl]benzoate (MKH-6561) and its metabolite, methyl 2-[[[(4,5-dihydro-3-(2-hydroxypropoxy)-4-methyl-5-oxo-1H-1,2,4-triazol-1-yl)carbonyl]amino]sulfonyl] benzoate (Pr-2-OH MKH-6561) in or on the food/feed commodities wheat, forage from 1.5 parts per million (ppm) to 11.0 ppm; and of propoxycarbazone in or on animal commodities cattle/goat/horse/sheep, meat byproducts from 0.05 ppm to 0.30 ppm; and milk from 0.004 ppm to 0.03 ppm. An analytical method was developed to measure these two analytes in plant matrices and was validated in wheat tissues. The resultant sample was analyzed by liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS). An analytical method was developed to measure the MKH-6561 analyte in animal tissues and milk and was validated in animal tissues and milk. The resultant sample was analyzed by LC/MS/MS.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 16, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–10455 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0521; FRL–8074–1]

Notice of Filing of Pesticide Petition for Establishment of Regulations for Residues of Hexakis in or on Pistachio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment or amendment of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before August 4, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0521 and pesticide petition number (PP) 6E7052, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0521. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6463; e-mail address: *madden.barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).

• Animal production (NAICS code 112).
• Food manufacturing (NAICS code 311).
• Pesticide manufacturing (NAICS code 32532).

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 6E7052. Interregional Research Project Number 4 (IR–4), 681 U.S. Highway 1 South, North Brunswick, NJ 08902–3390, proposes to establish a tolerance for residues of the insecticide hexakis (2-methyl-2-phenylpropyl)-distannoxane in or on food commodity pistachio at 0.5 parts per million (ppm). The gas-liquid chromatography with flame photometric detection (GLC/FPD) method MMS–R–494–2 for plants and animals and a spectrophotometric method for determining total organotin and a gas liquid chromatography/electron capture (GLC/EC) method (MMS–R–391–1) for determining the parent compound are published in PAM, Vol. II as Methods I and II, and are used to measure and evaluate the chemical residue(s).

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 20, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–10453 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0321; FRL–8074–7]

Notice of Filing of Pesticide Petitions for the Establishment of Regulations for Residues of Sethoxydim in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of sethoxydim in/on buckwheat; okra; dill; radish; vegetable root, except sugar beet, group 1B; and turnip tops.

DATES: Comments must be received on or before August 4, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0321 and pesticide petition numbers PP 4E6885 and 0E6204, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0321. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:
Shaja R. Brothers, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-3194; e-mail address: *brothers.shaja@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that these pesticide petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), summaries of the petitions included in this notice, prepared by the petitioner along with descriptions of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including each petition summary.

New Tolerance

PP 4E6885 and 0E6204. Interregional Project Number 4, 681 Highway 1 South, North Brunswick, NJ 08902-3390, proposes to establish tolerances for residues of the herbicide sethoxydim (2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety in or on the following food commodities:

1. *PP 4E6885* proposes to establish tolerances for buckwheat, grain at 20 parts per million (ppm); and buckwheat, flour at 20 ppm; borage; seed at 5.0 ppm; borage, meal at 40 ppm; and borage, oil at 40 ppm; dill, fresh leaves at 10 ppm, and dill, dried leaves at 10 ppm; and okra at 4.0 ppm; vegetable

root, except sugar beet, group 1B at 4.0 ppm; and radish tops at 5.0 ppm.

2. *PP 0E6204* proposes to establish a tolerance for turnip tops at 5.0 ppm.

Analytical methods for detecting levels of sethoxydim and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the level in these tolerances were submitted to EPA. The proposed analytical method involves extraction, partition, and clean-up. Samples are then analyzed by gas chromatography with sulfur-specific flame photometric detection. The limit of quantitation is 0.05 ppm.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 20, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–10456 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0487; FRL–8072–2]

Notice of Filing of a Pesticide Petition for Establishment of Regulations for Residues of Trinexapac-Ethyl in or on Grasses Grown for Seed and Animal Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of trinexapac-ethyl in or on grasses grown for seed and animal commodities.

DATES: Comments must be received on or before August 4, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0487 and pesticide petition number (PP) 3F6571, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0487. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ‘‘anonymous access’’ system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:
Eugene Wilson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-6103; e-mail address: *wilson.eugene@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov/*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 3F6571. Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419, proposes to establish a tolerance for residues of the herbicide trinexapac-ethyl, cyclohexanecarboxylic acid, 4-(cyclopropylhydroxymethylene)-3,5-dioxo-, ethyl ester expressed as its primary metabolite CGA-179500, cyclohexanecarboxylic acid, 4-(cyclopropylcarbonyl)-3,5-dioxo- in or on food and feed commodities grasses grown for seed: grass, hay at 2.0 parts per million (ppm); grass, forage at 1.5 ppm; and cattle/goat/horse/sheep (fat/meat/meat byproducts) at 0.05 ppm.

Syngenta crop protection has submitted a practical analytical method (AG-110-01) detecting and measuring levels of trinexapac-ethyl expressed as its major metabolite CGA-179500, in or on food with a limit of quantitation (LOQ) that allows monitoring of food with residues at or above the levels set in the proposed tolerances. EPA has validated this method and copies have been provided to the Food and Drug Administration (FDA) for insertion into the Pesticide Analytical Manual (PAM) II. Because residues in the animal diets indicate that the transfer of residues will be at or near the limit of detection, Syngenta Crop Protection, Inc. proposes that the Nature of Residue study can be used to define the Magnitude of Residue in livestock.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 16, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–10457 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2006–0549; FRL–8076–1]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from June 5, 2006 to June 15, 2006, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before August 4, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) no. EPA–HQ–OPPT–2006–0549, by one of the following methods.

• *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO, EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2006–0549. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

• *Instructions*: Direct your comments to docket ID number EPA–HQ–OPPT–2006–0549. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through regulations.gov or in hard copy at the OPPT Docket, EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at the estimate.

vi. Provide specific examples to illustrate your concerns, and suggested alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from June 5, 2006 to June 15, 2006, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 34 PREMANUFACTURE NOTICES RECEIVED FROM: 06/05/06 TO 06/15/06

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0581	05/30/06	08/27/06	CBI	(G) Carpet treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0582	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkylacrylate copolymer

I. 34 PREMANUFACTURE NOTICES RECEIVED FROM: 06/05/06 TO 06/15/06—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0583	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0584	05/30/06	08/27/06	CBI	(G) Carpet treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0585	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0586	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0587	05/30/06	08/27/06	CBI	(G) Nonwoven internal additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0588	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl acrylate copolymer
P–06–0589	05/31/06	08/28/06	CBI	(G) Energy curable compounds	(G) Alkoxylated pentaerythritol tetra acrylate
P–06–0590	05/31/06	08/28/06	CBI	(G) Open non dispersive (binder)	(G) Polyester polyol
P–06–0591	06/02/06	08/30/06	CBI	(G) Modifier for epoxy formulations	(G) Polysulfide epoxy resin adduct
P–06–0592	06/05/06	09/02/06	Incorez Corporation	(S) Polyurethane resin for coating	(S) 1,4-butanediol, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, methyloxirane and oxirane
P–06–0593	06/05/06	09/02/06	CBI	(G) Open, non-dispersive use	(G) Aliphatic isocyanate resin
P–06–0594	06/06/06	09/03/06	CBI	(G) Destructive use	(G) Substituted dioxolane
P–06–0595	06/06/06	09/03/06	CBI	(G) Destructive use	(S) Phosphonium, [2-(1,3-dioxolane-2-yl)ethyl]triphenyl-, bromide-
P–06–0596	06/06/06	09/03/06	International Flavors and Fragrances, Inc.	(S) Raw material for use in fragrance for soaps, detergents, cleaners and other household products	(S) 1h-indene, 2,3,3a,4,5,7a-hexahydro-1,1,2,3,3-pentamethyl-6-(2-propenyl)- 2h-indeno[4,5-b]furan, decahydro-2,6,6,7,8,8-hexamethyl-
P–06–0597	06/06/06	09/03/06	PPG Industries, Inc.	(G) Component of industrial topcoat	(S) Octadecanoic acid, 12-hydroxy-, ion(1-), salts with 1,1-dimethylpropyl ethaneperoxoate-initiated bu acrylate-et acrylate-glycidlyl methacrylate-me methacrylate-propylene glycol monomethacrylate polymer-2,2′-thiobis[ethanol] reacion products lactates (salts)
P–06–0598	06/06/06	09/03/06	CBI	(G) Adhesive agent	(G) Polyester polyol urethane modified epoxy resin
P–06–0599	06/07/06	09/04/06	CIBA Specialty Chemicals Corporation	(S) Raw material for pigment synthesis	(G) PMN substance b) aromatic substituted bis-dihydropyrrole monosodium salt; pmn substance c) aromatic substituted bis-dihydropyrrole disodium salt
P–06–0600	06/07/06	09/04/06	CBI	(G) Used as a performance enhancer for engineering materials	(G) Substituted benzenedicarboxylic acid, 5,5′-oxybis, polymer with substituted[benzenamine]
P–06–0601	06/07/06	09/04/06	CBI	(G) Used as a performance enhancer for engineering materials	(G) Substituted benzenedicarboxylic acid, 5,5′-oxybis, polymer with substituted[benzenamine]
P–06–0602	06/07/06	09/04/06	Shin-etsu Silicones of America Inc.	(S) Additive of thermoplasticity elastmer	(G) Silicone modified acrylic polymer
P–06–0603	06/07/06	09/04/06	Degussa Corporation	(G) Coating material	(G) Alkylether alkenoate
P–06–0604	06/08/06	09/05/06	CBI	(G) Papermaking chemical	(S) Formamide, n-ethenyl-, homopolymer, hydrolyzed, *N*-(3-amino-3-oxopropyl) derivates
P–06–0605	06/08/06	09/05/06	Sasol North America Inc.	(S) Polymer performance additive	(S) 1-propanamine, 3-(trimethoxysilyl)-, reaction products with boehmite (al(oh)o)
P–06–0606	06/09/06	09/06/06	Sasol North America Inc.	(S) Polymer performance additive	(S) 1-propanamine, 3-(triethoxysilyl)-, reaction products with boehmite (al(oh)o)
P–06–0607	06/09/06	09/06/06	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–06–0608	06/12/06	09/09/06	CBI	(G) Paint	(G) Alkyl acrylate, polymer with alkyl acrylates, styrene and hydroxyalkyl acrylates, peroxide-initiated
P–06–0609	06/14/06	09/11/06	CBI	(G) Polymer film	(G) Dimethyl terephthalate alkanediol copolymer

I. 34 PREMANUFACTURE NOTICES RECEIVED FROM: 06/05/06 TO 06/15/06—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0610	06/14/06	09/11/06	CBI	(G) Non woven fiber	(G) Dimethyl terephthalate alkanediol copolymer
P–06–0611	06/14/06	09/11/06	CBI	(G) Chemical intermdiate	(G) Substituted carbohydrate
P–06–0612	06/14/06	09/11/06	CBI	(G) Chemical intermediate	(G) Substituted carbohydrate
P–06–0613	06/14/06	09/11/06	Degussa Corporation	(S) Polymer powder f. shapes manufurated by compression molding	(S) 1h-3h-benzo[1,2-c:4,5-c']difuran-1,3,5,7-tetrone, polymer with 5,5'-carbonylbis[1,3-isobenzofurandione], 1,3-diisocyanatomethylbenzene and 4,4′-oxybis[benzenamine]
P–06–0614	06/14/06	09/11/06	CBI	(G) Polymer additive	(G) Substituted benzylidene sorbitol

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II. 3 TEST MARKETING EXEMPTIONS NOTICES RECEIVED FROM: 06/05/06 TO 06/15/06

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–06–0005	06/06/06	07/20/06	PPG Industries, Inc.	(G) component of industrial topcoat	(S) Octadecanoic acid, 12-hydroxy-, ion(1-), salts with 1,1-dimethylpropyl ethaneperoxoate-initiated bu acrylate-et acrylate-glycidlyl methacrylate-me methacrylate-propylene glycol monomethacrylate polymer-2,2′-thiobis[ethanol] reacion products lactates (salts)
T–06–0006	06/12/06	07/26/06	CBI	(S) Tinters for latex paint	(G) Alkyl monoethanolamide ethoxylate
T–06–0007	06/12/06	07/26/06	CBI	(S) Tinters for latex paint	(G) phosphoric acid ester

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 13 NOTICES OF COMMENCEMENT FROM: 06/05/06 TO 06/15/06

Case No.	Received Date	Commencement Notice End Date	Chemical
P–04–0101	06/06/06	05/22/06	(G) Polyolefin aminoester
P–05–0355	06/06/06	10/06/05	(G) Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-hydroxy-, polymer with alkyl diisocyanate
P–05–0377	06/06/06	05/05/06	(G) Silane terminated polyurethane
P–05–0721	06/07/06	05/09/06	(G) Formaldehyde, polymer with amines and phenol
P–06–0008	06/07/06	05/08/06	(G) Carbon black,4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl)substituted]phenyl-modified
P–06–0124	06/07/06	05/30/06	(G) Modified thionocarbamate
P–06–0138	06/02/06	05/04/06	(G) Acrylic polymer
P–06–0180	06/02/06	05/16/06	(G) Unsaturated aliphatic urethane acrylate
P–06–0291	06/06/06	05/14/06	(S) Hexanedioic acid, polymers with 1,4-butanediol, hydrogenated butadiene-isoprene-styrene polymer and 1,1′-methylenebis[4-isocyanatobenzene]
P–06–0295	06/05/06	05/12/06	(S) 2-(difluoromethoxy)-1,1,1-trifluoroethane
P–06–0303	06/07/06	06/05/06	(S) Alpha-amylase
P–98–0062	06/07/06	05/01/06	(S) Poly(oxy-1,2-(ethanediyl), alpha-hydro-omega-hydroxy, monoethers with lauryl alc. distn. lights
P–98–0063	06/05/06	05/01/06	(S) Poly(oxy-1,2-(ethanediyl), alpha-hydro-omega-hydroxy, monoethers with myristyl alc. distn. lights

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: June 20, 2006.

LaRona M. Washington,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E6–10450 Filed 7–3–06; 8:45 am]

BILLING CODE 6560–50–S

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE: Thursday, July 13, 2006, 10 a.m. eastern time.

PLACE: Clarence M. Mitchell, Jr. Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Votes, and
2. Obligation of Funds for the EEOC National Contact Center—Option Years.

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Stephen Llewellyn, Acting Executive Officer on (202) 663–4070.

Dated: June 30, 2006.

Stephen Llewellyn,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 06–6024 Filed 6–30–06; 2:08 pm]

BILLING CODE 6570–06–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission, Comments Requested

June 22, 2006.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 5, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0249.

Title: Sections 74.781, 74.1281 and 78.69, Station Records.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Federal or Tribal Governments.

Number of Respondents: 12,600.

Estimated Time per Response: 15 minutes—1 hour.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 10,318 hours.

Total Annual Cost: $250,444.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 74.781 requires (a) The licensee of a low power TV, TV translator, or TV booster station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment or improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.765(c) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years. 47 CFR 74.1281 requires (a) The licensee of a station authorized under this Subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment of improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years. 47 CFR 78.69 requires each licensee of a CARS station shall maintain records showing the following:

(a) For all attended or remotely controlled stations, the date and time of the beginning and end of each period of transmission of each channel;

(b) For all stations, the date and time of any unscheduled interruptions to the transmissions of the station, the duration of such interruptions, and the causes thereof;

(c) For all stations, the results and dates of the frequency measurements made pursuant to § 78.113 and the name of the person or persons making the measurements;

(d) For all stations, when service or maintenance duties are performed, which may affect a station's proper operation, the responsible operator shall sign and date an entry in the station's records, giving:

(1) Pertinent details of all transmitter adjustments performed by the operator or under the operator's supervision.

(e) When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not employed.

(3) In the event of any observed or otherwise known failure of a tower light:

(i) Nature of such failure.

(ii) Date and time the failure was observed or otherwise noted.

(iii) Date, time, and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Flight Service Station (Federal Aviation Administration) that the required illumination was resumed.

(4) Upon completion of the 3-month periodic inspection required by § 78.63(c):

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

(f) For all stations, station record entries shall be made in an orderly and legible manner by the person or persons competent to do so, having actual knowledge of the facts required, who shall sign the station record when starting duty and again when going off duty.

(g) For all stations, no station record or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention required by rule. Any necessary correction may be made only by the person who made the original entry who shall strike out the erroneous portion, initial the correction made, and show the date the correction was made.

(h) For all stations, station records shall be retained for a period of not less than 2 years. The Commission reserves the right to order retention of station records for a longer period of time. In cases where the licensee or permittee has notice of any claim or complaint, the station record shall be retained until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 06–5824 Filed 7–3–06; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 02–353; ET Docket No. 00–258; DA 06–1279]

Wireless Telecommunications Bureau Opens Filing Window for Proposals To Develop and Manage the Clearinghouse That Will Administer the Relocation Cost Sharing Plan for Licensees in the 2.1 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) announces the opening of the filing window in soliciting proposals from entities who wish to act as a neutral, not-for-profit clearinghouse responsible for facilitating cost sharing among entrants benefiting from the relocation of incumbent licensees in the 2.1 GHz bands.

DATES: The Bureau will accept proposals until July 17, 2006, and will make the proposals available for public inspection. Comments on the specific proposals or on other issues related to the Bureau's selection of a clearinghouse must be filed by July 31, 2006, and replies to comments on specific proposals must be filed by August 14, 2006.

ADDRESSES: You may submit comments, identified by [WT Docket No. 02–353; ET Docket No. 00–258; DA 06–1279], by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: *http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mary Woytek, Wireless Telecommunications Bureau, Broadband Division, at (202) 418–2487.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 06–1279, released June 15, 2006, in WT Docket No. 02–353, ET Docket No. 00–258. Copies of the documents filed in this matter may be obtained from Best Copy and Printing, Inc. in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *fcc@bcpiweb.com.* These documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The documents are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet Web site at *http://www.fcc.gov.* People with Disabilities: Contact the FCC to request this public notice in accessible formats (computer diskette, large print, audio recording, and Braille) send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0539 (voice), (202) 418–0432 (TTY).

Background Information. On April 12, 2006, the Commission adopted the *AWS Relocation and Cost Sharing Report and Order,*[1] establishing procedures for the relocation of Broadband Radio Service (BRS) operations from the 2150–2160/62 MHz band.[2] The *AWS Relocation and Cost Sharing Report and Order* also established procedures for the relocation of Fixed Microwave Service (FS) operations from the 2160–2175 MHz band and modified existing relocation procedures for the 2110–2150 MHz and 2175–2180 MHz bands. In addition, the Commission adopted cost sharing rules to identify the reimbursement obligations for Advanced Wireless Service (AWS) and Mobile Satellite Service (MSS) entrants benefiting from the relocation of incumbent FS operations in the 2110–2150 MHz and 2160–2200 MHz bands and AWS entrants benefiting from the relocation of BRS incumbents in the 2150–2160/62 MHz band.

Specifically, in the *AWS Relocation and Cost Sharing Report and Order*, the Commission delegated authority to the Bureau to select one or more entities for the creation and management of a neutral, not-for-profit clearinghouse[3] that would facilitate cost sharing among AWS and MSS entrants benefiting from the relocation of FS incumbents in the 2110–2150 MHz and 2160–2200 MHz bands. Mobile Satellite Service operators are required to participate in the clearinghouse for Ancillary Terrestrial Component (ATC) base stations, *see e.g.*, 47 CFR 101.82(d), and may elect to submit claims for reimbursement to the AWS clearinghouse for FS links relocated due to interference from the MSS space-to-Earth operations. The Commission also therein delegated authority to the Bureau to select one or more entities for the creation and management of a neutral, not-for-profit clearinghouse to facilitate cost sharing among AWS entrants benefiting from the relocation of BRS incumbents in the 2150–2160/62 MHz band.[4] The Commission stated that selection would be based on criteria established by the Bureau, and that the Bureau would publicly announce the criteria and solicit proposals from qualified parties. The Commission also instructed the Bureau to solicit public comment on proposals that are submitted and, after selecting the clearinghouse administrator(s), to announce the effective date of the clearinghouse filing requirements.[5]

Parties submitting comments to the Commission should specifically address the particulars of each proposal. In addition, we seek comment on whether more than one clearinghouse would be feasible and, if we decide to designate multiple clearinghouses, what mechanisms should be implemented to facilitate their simultaneous operation. We further seek comment on whether, as a general matter, proposals that offer to administer cost sharing for both FS and BRS relocations are preferable to proposals that seek to administer cost sharing for only one of these relocation processes.

Clearinghouse Proposals. We request that an existing or newly-formed entity interested in serving as a cost sharing clearinghouse submit a business plan detailing how the entity would perform the functions of a clearinghouse. Proposals received after July 17, 2006, will not be considered. At a minimum, each proposal must include:

- A reference to this public notice and WT Docket No. 02–353 and ET Docket No. 00–258;
- The name and a description of the entity proposing to be a clearinghouse, and a description of its qualifications;
- Information regarding financial data, including business plans, which should address how the entity intends to raise start-up funds and how much the entity plans to charge for individual transactions;
- Whether the entity is interested in serving as a clearinghouse for FS relocations, BRS relocations, or both;
- A detailed description of accounting methods (*e.g.*, how the entity intends to separate out premium payments, which are nonreimbursable);
- A description of how the entity intends to address concerns about confidentiality, and a description of security measures the entity will take to safeguard submitted information, including off-site data back-up facilities and measures to ensure continuity of access to the information in the event the entity's operations are interrupted;
- A certification that the entity will be able and willing to work with other clearinghouse managers should WTB decide to designate more than one;
- A certification that the entity is a not-for-profit organization and will retain its not-for-profit status during the term of its operations;
- A description of how the entity intends to remain impartial and how it will prevent any conflicts of interest;
- An assessment of how long it would take the entity to become operational

[1] Amendment of part 2 of the Commission's rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Service to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00–258, Service Rules for Advances Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02–353, *Ninth Report and Order and Order*, FCC 06–45 (rel. April 21, 2006) (*AWS Relocation and Cost Sharing Report and Order*).

[2] The Multipoint Distribution Service (MDS) was renamed the Broadband Radio Service (BRS) in the *BRS R&O. See* Amendment of parts 1, 21, 73, 74 and 101 of the Commission's rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 MHz and 2500–2690 MHz Bands, WT Docket No. 03–66, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 14165 (2004) (*BRS R&O and FNPRM*); *Third Memorandum Opinion and Order and Second Report and Order*, FCC 06–46 (rel. April 27, 2006) (*BRS Third MO&O and Second R&O).* Therefore, all former MDS licensees are now referred to as BRS licensees. BRS uses 2160–2162 MHz only in the top 50 markets. In WT Docket 03–66, as part of an overall restructuring of the BRS spectrum, the Commission established a channel plan in the 2496–2690 MHz band that is designed to accommodate BRS licensees that currently operate in the 2150–2160/62 MHz band.

[3] WTB will select one or more entities to operate as a neutral, not-for-profit clearinghouse(s). This clearinghouse(s) will administer the cost-sharing plan. *See* 47 CFR 27.1162, 27.1178. For convenience only, herein we refer to the clearinghouse in the singular.

[4] *See AWS Relocation and Cost Sharing Report and Order* at paragraphs 106–107. The Commission made no determination at the time as to whether a clearinghouse must provide administration for both FS and BRS-related cost sharing. *See id.* at n.374. However, the Commission recognized the efficiencies in a clearinghouse administering the cost sharing processes for the relocation of both FS and BRS incumbents in the subject bands. *See id.* at paragraph 106.

[5] *See id.* at paragraphs 83, 107. Claims for reimbursement are limited to relocation expenses incurred on or after the date when the first AWS license is issued in the relevant AWS band (start date). If a clearinghouse is not selected by that date, claims for reimbursement and notices of operation for activities that occurred after the start date but prior to the clearinghouse selection must be submitted to the clearinghouse within thirty calendar days of the selection date. *See* 47 CFR 27.1166.

and how many days it would take the clearinghouse to notify licensees of a reimbursement obligation;

- A description of how the entity intends to resolve disputes between parties (*e.g.*, disputes over whether a particular expense is reimbursable); and
- The name, address, telephone number, and signature of a contact person familiar with the proposal.

We emphasize that the above requirements are only what, at a minimum, must be included in each proposal. The Bureau will evaluate proposals by balancing a number of factors, which include the criteria listed above (in particular, the entity's qualifications, plans for operation of the clearinghouse, and amount of time to become operational) as well as an overall assessment of the particulars of each entity's proposal.

Once selected, a clearinghouse must operate in accordance with the Commission's rules. Accordingly, any entity proposing to serve as a clearinghouse is expected to be familiar with the applicable Commission rules, policies, and procedures.

Filing instructions. Under the Commission's current procedures for the submission of filings and other documents,[6] submissions in this matter may be filed electronically (*i.e.*, through ECFS) or by paper copy. EXCEPTION: Any material submitted with a request for non-disclosure pursuant to 47 CFR 0.459 must be filed by paper. Confidential filings are not permitted to be filed electronically.

- *If filed by ECFS,*[7] comments shall be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. For ECFS filers, if multiple docket or rule making numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rule making number referenced in the caption. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.
- If filed by paper, the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to the Commission's duplicating contractor, Best Copy and Printing, Inc., at *fcc@bcpiweb.com,* or (202) 488–5563 (facsimile).
- *Permit-but-disclose proceeding.* Because of the policy implications and potential impact of this proceeding on persons not parties hereto, we believe it would be in the public interest to treat all proposals filed in response to this public notice as a single, permit-but-disclose proceeding under the *ex parte* rules, *see* 47 CFR 1.1200(a) and 1.1206. Therefore, subsequent to the release of this public notice, *ex parte* presentations that are made with respect to proposals, comments, or other issues involved herein will be allowed but must be disclosed in accordance with the requirements of § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b). Permit-but-disclose *ex parte* procedures permit interested parties to make *ex parte* presentations to the Commissioners and Commission employees and require that these presentations be disclosed in the record of the relevant proceeding. Persons making a written *ex parte* presentation to the Commissioners or Commission employees must file the written presentation with the Commission's Secretary no later than the next business day after the presentation. 47 CFR 1.1206(b)(1). Persons making oral *ex parte* presentations must file a summary of the presentation and deliver copies to the Commissioners or Commission employees involved with the presentation no later than the next business day after the presentation. 47 CFR 1.1206(b)(2). All *ex parte* filings must be clearly labeled as such and must reference WT Docket No. 02–353 and the DA number of this public notice, DA 06–1279.

Decision. WTB will base its decision on the information provided. Once WTB designates one or more clearinghouse managers, such designation(s) will take effect upon the execution by such clearinghouse manager(s) and the WTB of a Memorandum of Understanding (MOU). Once a decision has been made and MOUs executed, the Bureau will announce by public notice the names and addresses of the selected Database Managers.

Federal Communications Commission.

Catherine W. Seidel,

Acting Chief, Wireless Telecommunications Bureau.

[FR Doc. E6–10370 Filed 7–3–06; 8:45 am]

BILLING CODE 6712–01–P

[6] *See* Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd 21483 (2001); *see also* FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001); Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media, *Public Notice*, 18 FCC Rcd 16705 (2003).

[7] *See* Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97–113, *Report and Order*, 13 FCC Rcd 11322 (1998).

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting; Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, July 11, 2006, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Proposed Amendment to Part 308 Increasing Fees for Late Assessment Penalties.

Memorandum and resolution re: Final Statement of Policy Regarding the National Historic Preservation Act of 1996.

Discussion Agenda:

Memorandum and resolution re: Notice of Proposed Rulemaking on Risk-Based Assessments.

Memorandum and resolution re: Notice of Proposed Rulemaking on Setting the Designated Reserve Ratio.

Memorandum and resolution re: Notice of Proposed Rulemaking Regarding the Official FDIC Sign and Advertising of FDIC Membership.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Ms. Valerie J. Best, Assistant Executive Secretary of the Corporation, at (202) 898–7122.

Dated: June 30, 2006.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 06–6018 Filed 6–30–06; 1:37pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting; Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, July 11, 2006, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) Title 5, United States Code, to consider matters relating to the Corporation's corporate activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 500–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Ms. Valerie J. Best, Assistant Executive Secretary of the Corporation, at (202) 898–7122.

Dated: June 30, 2006.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 06–6019 Filed 6–30–06; 1:37 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background

Notice is hereby given of the final approval of proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). 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 instrument(s) 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.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Michelle Long—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829) .

OMB Desk Officer—Mark Menchik—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or email to *mmenchik@omb.eop.gov.*

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

Report title: Suspicious Activity Report by Depository Institutions.

Agency form number: FR 2230.

OMB Control number: 7100–0212.

Frequency: On occasion.

Reporters: Depository institutions, bank holding companies, nonbank subsidiaries of bank holding companies, Edge and agreement corporations, and U.S. branches and agencies of foreign banks.

Annual reporting hours: 93,600 hours.

Estimated average hours per response: 1 hour.

Number of respondents: 7,000.

General description of report: This information collection is mandatory, pursuant to authority contained in the following statutes: 12 U.S.C. 248(a)(1), 324, 334, 625, 1844(c), 3105(c)(2), and 3106(a). The obligation to file a Suspicious Activity Report by Depository Institutions (SAR) is set forth in the Federal Reserve's rules, and is mandatory (12 CFR 208.62(c) (state member banks), 12 CFR 225.4(f) (entities subject to the Bank Holding Company Act), 12 CFR 211.5(k) (Edge and agreement corporations), and 12 CFR 211.24(f) (branches, agencies, and representative offices of foreign banks)).

Section 5318(g)(2)(a)(ii) of Title 31 prohibits an officer or employee of the federal government from disclosing the existence of a SAR to anyone involved in the transaction, and section 5319 of Title 31 provides that all reports, including SARs filed thereunder, are exempt from disclosure under Freedom of Information Act (FOIA). The information collected on a SAR is covered by exemptions three and seven of the FOIA (5 U.S.C. 552(b)(3)(7)) and exemption two of the Privacy Act (5 U.S.C. 552a(k)(2)).

Abstract: Since 1996, the federal banking agencies (the Federal Reserve Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration) and the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) (collectively, the agencies) have required certain types of financial institutions to report known or suspected violations of law and suspicious transactions. To fulfill these requirements, supervised banking organizations file SARs. Law enforcement agencies use the information submitted on the reporting form to initiate investigations and the Federal Reserve uses the information in the examination and oversight of supervised institutions.

Current Actions: On February 17, 2006, the federal banking agencies and FinCEN published a joint **Federal Register** notice (71 FR 8640) seeking comment on proposed revisions to the existing SAR. The agencies proposed several revisions to the reporting form and instructions in order to enhance clarity, allow for joint filing of SARs, and to improve the usefulness of the SAR to law enforcement. The agencies collectively received twenty-three comment letters. The commenters raised several minor issues and provided editorial comments about certain data items. The other agencies published a separate **Federal Register** notice on June 19, 2006 (71 FR 35325) and will each separately submit their SAR information collection to OMB.

Several commenters suggested that the agencies provide a test site for filing electronic submissions. Due to time constraints, FinCEN is unable to provide a test site; however, respondents will have a six-month transition period before being required to use the revised reporting form for submitting data.

Two commenters stated that the overall burden estimate appeared to be low even though it was increased from thirty minutes to one hour. One commenter specifically noted that the burden estimate did not account for regulatory compliance, fraud detection, and mitigation. While important, these regulatory requirements are outside the scope of the burden calculation required by the Paperwork Reduction Act. The agencies, however, continue to welcome comments from the industry and would reevaluate and make adjustments to the burden, as appropriate.

Several commenters expressed concern over the new format of the reporting form and whether it would cause important information to be omitted by respondents. The agencies rearranged data items on the reporting form, per law enforcement request, to improve the usefulness of the data. Also, additional clarifications were included in the instructions to provide respondents with better guidance on how to submit the revised data.

Board of Governors of the Federal Reserve System, June 28, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–10410 Filed 7–3–06; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 28, 2006.

A. Federal Reserve Bank of New York (Anne McEwen, Financial Specialist) 33 Liberty Street, New York, New York 10045-0001:

1. The Toronto—Dominion Bank, Toronto, Ontario, Canada; and TD Banknorth Inc., Portland, Maine; to acquire shares of Interchange Financial Services Corporation, and thereby indirectly acquire Interchange Bank, both of Saddle Brook, New Jersey.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Cross County Bancshares, Inc., Wynne, Arkansas; to acquire 6.6 percent of the voting shares of Pinnacle Bancshares, Inc., and thereby indirectly acquire Pinnacle Bank, both in Bentonville, Arkansas.

2. Lonoke Bancshares, Inc., Lonoke, Arkansas; to acquire 6.6 percent of the voting shares of Pinnacle Bancshares, Inc., and thereby indirectly acquire Pinnacle Bank, both in Bentonville, Arkansas.

3. Pinnacle Bancshares Inc., Bentonville, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of Pinnacle Bank, Bentonville, Arkansas.

4. German American Bancorp, Inc., Jasper, Indiana; to acquire 100 percent of the voting shares of German American Bancorp, Jasper, Indiana (in organization).

Board of Governors of the Federal Reserve System, June 28, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–10399 Filed 7–3–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E6-9670) published on page 35423 of the issue for Tuesday, June 20, 2006.

Under the Federal Reserve Bank of Chicago, the entry for NRBC Holding Corporation, Chicago, Illinois, is revised to read as follows:

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

NRBC Holding Corporation, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the outstanding shares of The National Republic Bank of Chicago, Chicago, Illinois.

Comments on this application must be received by July 14, 2006.

Board of Governors of the Federal Reserve System, June 29, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–10438 Filed 7–3–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Lingjie Zhao, University of Iowa: Based on the investigation reports drafted by the University of Iowa (UI) and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Lingjie Zhao, former Doctoral Student, UI, engaged in research misconduct. The research was supported by National Cancer Institute (NCI), National Institutes of Health (NIH), grant P01 CA66081.

PHS found that Ms. Zhao engaged in research misconduct by falsifying research records included in: (a) A manuscript submitted for publication in *Cancer Research*, (b) drafts of her work reported in the laboratory, and (c) drafts of her work reported to her dissertation committee. Specifically, PHS found:

1. That Ms. Zhao darkened with a marking device the thioredoxin (Trx) band of Lanes 1 and 2 on the autoradiographic film that was to become part of Figure 9 of the manuscript.

2. That Ms. Zhao (a) falsified this same original film of the western blot by darkening Lanes 1, 2, 4, and 5 with a marking device at the *origin* of the gel and (b) further falsified Figure 9 of the *Cancer Research* manuscript by claiming falsely that these marked bands were thioredoxin reductase (TR) untreated and with mismatch oligodeoxynucleotide in the presence and absence of tumor necrosis factor alpha.

3. That Ms. Zhao falsified the glutathione reductase (GR) activity data in either Figure 4 or Figure 9 of the *Cancer Research* manuscript (the data are identical but stated to be from entirely different experimental conditions).

4. That Ms. Zhao falsified the actin data in either Figure 4 or Figure 9 of the *Cancer Research* manuscript or in the experiments simultaneously using Prx III-As and Phospholipid hydroperoxide glutathione peroxidase-As reported in slide presentations (the actin data are identical under 3 entirely different experimental conditions).

5. That Ms. Zhao falsified the manganese superoxide dismutase (MnSOD) data in either Figure 1A or Figure 4 of the *Cancer Research* manuscript (these MnSOD data are identical while being clearly described as coming from different experiments).

6. That Ms. Zhao falsified the MnSOD data in Figure 2 of the *Cancer Research* manuscript by enhancing with a marking device Lanes 6 and 7, mismatch and antisense Prx oligos at 3 days of incubation (unmarked, Prx III–As decreased the expression of MnSOD).

Ms. Zhao has entered into a Voluntary Exclusion Agreement in which she has voluntarily agreed, for a period of three (3) years, beginning on June 3, 2006:

(1) To exclude herself from any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government as defined in the debarment regulations at 45 CFR part 76;

(2) To exclude herself from serving in any advisory capacity to PHS including, but not limited, to service on any PHS advisory committee, board, and/or peer review committee, or as consultant.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852. (240) 453–8800.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. E6–10440 Filed 7–3–06; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, Department of Health and Human Services.

ACTION: Notices.

SUMMARY: This notice announced the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) allow the proposed information collection project: ''Eisenberg Center Voluntary Customer Survey Generic Clearance for the Agency for Healthcare Research and Quality.'' In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by September 5, 2006.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, 540 Gaither Road, Room #5036, Rockville, MD 20850.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from AHRQ's Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ, Reports Clearance Officer, (301) 427–1477.

SUPPLEMENTARY INFORMATION:

Proposed Project

''Eisenberg Center Voluntary Customer Survey Generic Clearance for the Agency for Healthcare Research and Quality.''

AHRQ's newly-established Eisenberg Center is an innovative effort aimed at improving communication of findings to a variety of audiences (''customers''), including consumers, clinicians, payers, and health care policy makers. The Eisenberg Center, one of three components of AHRQ's Effective Health Care Program announced in September 2005, is directed through a contract by the Oregon Health and Science University, Department of Medicine, located in Portland, Oregon. The Eisenberg Center intends to employ the latest survey research techniques to (1) determine how well its products and services are meeting customers' current and anticipated needs; (2) identify problem areas with existing products and services and determine what improvements should be made to improve these products and services; and (3) identify and develop new products and services.

To address customer requirements and to evaluate current and future AHRQ products and services, the Eisenberg Center must periodically determine how well the Eisenberg Center products and services are meeting customer's' current and anticipated needs. Work conducted under this clearance will improve the products and services the Center develops for AHRQ for a three year period. The health care environment changes rapidly and requires a quick response from AHRQ to provide appropriately refined products and services. A generic clearance for this work will facilitate AHRQ's timely response to customers' needs.

Methods of Collection

Participation in survey testing will be fully voluntary and non-participation will have not affect on eligibility for, or receipt of, future AHRQ health services research support, on future opportunities to participate in research or to obtain informative research results. Specific estimation procedures, when used, will be described when we notify OMB as to actual studies conducted under the clearance.

ESTIMATED ANNUAL RESPONDENT BURDEN

Type of survey	Number of respondents	Average hours per response	Total hours
Focus groups for needs assessment	30	1	30
Individual interviews for needs assessment	50	.75	37.5
Formative focus groups for information tools	120	1	120
Cognitive testing of information tools	500	1	500
Clinician interview for information tools	160	.75	120
Decision aid laboratory testing	100	1	100
Formative focus groups for decision aids	60	1	60
Automated/web-based surveys for product evaluation	600	.163	98
Telephone interviews for product evaluation	100	1	100
Focus groups for product evaluation	20	1	20
Totals	1,740	NA	1,186

Estimated Costs to the Federal Government

The maximum cost to the Federal Government is $750,000 annually for FY 2007, FY 2008, and FY 2009. Most of the work will be carried out through contracts. The costs were estimated to $200 for each face-to-face interview, $100 for each telephone interview, $5,000 for each focus group, $10,000 for web-based surveys, and $20,000 for each laboratory testing module. Any deviation from these limits will be noted in reports made to OMB with respect to a particular study or studies conducted under the clearance.

Request for Comments

In accordance with the above-cited legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of health care information dissemination functions of AHRQ, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: June 23, 2006.

Carolyn M. Clancy,

Director.

[FR Doc. 06–5960 Filed 7–3–06; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Prposed Projects

Title: Evaluation of the Head Start Oral Health Initiative.

OMB No.: New collection.

Description: The purpose of this evaluation is to examine the implementation of the Head Start Oral Health Initiative (OHI). The Office of Head Start has funded 52 programs for OHI to improve the oral-health services to young children, from birth to five, and pregnant women. The funded programs will develop, implement, and disseminate culturally sensitive, innovative, and empirically based best practices for oral health in Head Start. The evaluation will examine information on approaches taken by the 52 individual programs and the implementation of the approaches, including challenges faced, as well as facilitating factors, and create a uniform method for collecting administrative information across all sites.

Respondents: Head Start directors, staff, and teachers who are implementing OHI; community organizations that have partnered with Head Start programs implementing OHI; and parents or guardians of children who attend Head Start programs where OHI is being implemented.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Head Start Directors: Telephone Interview	52	1	1.5	78
Head Start Staff: Program Recordkeeping System	52	184	1.08	10,333
Head Start Directors: Site Visit Interview	16	1	1.5	24
Head Start Staff: Site Visit Interview	48	1	1.5	72
Head Start Community Partner: Interview	80	1	1	80
Head Start Parent: Focus Group	160	1	1.5	240
Parents/Guardians: Focus Group	192	1	2	384

Estimated Total Annual Burden Hours: 11,211.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 27, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–5978 Filed 7–3–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: OCSE–75 Tribal Child Support Enforcement Program Annual Data Report.

OMB No.: New Collection.

Description: The data collected by form OCSE–75 are used to prepare the OCSE preliminary and annual data reports. In addition, Tribes administering CSE programs under Title IV–D of the Social Security Act are required to report program status and accomplishments and submit the OCSE–75 report annually.

Respondents: Tribal Child Support Enforcement Organizations or the Department/Agency/Bureau responsible for Child Support Enforcement in each Tribe.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OCSE–75	9	1	2.5	22.5

Estimated Total Annual Burden Hours: 22.5.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollectionrsargis@acf.hhs.gov.* All requests should be sent to *infocollection@acf.hhs.gov* identifying the request by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 27, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–5979 Filed 7–3–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: 45 CFR Part 1303—Appeal Procedures for Head Start and Early Head Start Grantees and Current or Prospective Delegate Agencies.

OMB No.: 0980–0242.

Description: Section 646 of the Head Start Act requires the Secretary of Health and Human Services to prescribe a timeline for conducting administrative hearings when adverse actions are taken or proposed against Head Start and Early Head Start grantees and delegate agencies. The Office of Head Start is proposing to renew, without changes, this rule, which implements these requirements and which prescribes when a grantee must submit certain information and what that information shall include.

Respondents: Head Start and Early Head Start grantees and Delegate Agencies.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Rule	20	1	26	520

Estimated Total Annual Burden Hours: 520.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF. E-mail address: *Katherine_T._Astrich@omb.eop.gov.*

Dated: June 26, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–5980 Filed 7–3–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004E–0396]

Determination of Regulatory Review Period for Purposes of Patent Extension; TAXUS EXPRESS Paclitaxel-Eluting Coronary Stent System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for TAXUS EXPRESS Paclitaxel-Eluting Coronary Stent System and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device TAXUS EXPRESS Paclitaxel-Eluting Coronary Stent System. TAXUS EXPRESS Paclitaxel-Eluting Coronary Stent System is indicated for improving luminal diameter for the treatment of *de novo* lesions ≤28 mm in length in native coronary arteries ≥2.5 to ≤3.75 mm in diameter. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for TAXUS EXPRESS Paclitaxel-Eluting Coronary Stent System (U.S. Patent No. 5,716,981) from Angiotech Phamaceuticals, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 24, 2006, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of TAXUS EXPRESS Paclitaxel-Eluting Coronary Stent System represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for TAXUS EXPRESS Paclitaxel-Eluting Coronary Stent System is 716 days. Of this time, 456 days occurred during the testing phase of the regulatory review period, while 260 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act involving this device became effective*: March 21, 2002. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) for human tests to begin became effective on October 25, 2001. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on March 21, 2002, which represents the IDE effective date.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: June 19, 2003. The applicant claims February 25, 2003, as the date the premarket approval application (PMA) for TAXUS EXPRESS Paclitaxel-Eluting Coronary Stent System (PMA P030025) was initially submitted. However, FDA records indicate that PMA P030025 was submitted in modules and was not substantially complete until the final submission of clinical data on June 19, 2003.

3. *The date the application was approved*: March 4, 2004. FDA has verified the applicant's claim that PMA P030025 was approved on March 4, 2004.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 807 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by September 5, 2006. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by January 2, 2006. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 13, 2006.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E6–10408 Filed 7–3–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0065]

Emerging Clostridial Disease; Public Workshop; Reopening of the Administrative Record

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments; reopening of the administrative record.

SUMMARY: The Food and Drug Administration (FDA) is reopening until July 31, 2006, the administrative record to accept comments concerning the public workshop entitled ''Emerging Clostridial Disease,'' as the administrative record officially closed on June 15, 2006.

DATES: Submit written or electronic comments by July 31, 2006.

ADDRESSES: Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Lee Lemley, Center for Drug Evaluation and Research (HFD–006), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5392.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 14, 2006 (71 FR 7778), FDA published a notice announcing a public workshop entitled ''Emerging Clostridial Disease,'' to be held on May 11, 2006. This workshop was developed in response to reports of morbidity and mortality associated with *Clostridium sordellii* (*C. sordellii*) and *Clostridium difficile* (*C. difficile*). These reports include cases and clusters of *C. sordellii* toxic shock syndrome following treatment with mifepristone, *C. sordellii* sepsis associated with tissue grafts, and rapidly fatal toxin-medicated cases of community acquired *C. difficile* infection. The goal of the workshop was to bring together scientific and public health experts to develop a draft research agenda. Additionally, the goals were to identify research needs and priorities that will enable rapid progress in detecting cases and conducting surveillance of disease and organisms. Interested persons were asked to submit written comments by June 15, 2006. In the interest of allowing additional comments to be received, FDA has decided to reopen the comment period until July 31, 2006.

Interested persons may, on or before July 31, 2006, submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this public workshop. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments should be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 28, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–10409 Filed 7–3–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Request for Nominations

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The Exxon Valdez Oil Spill Trustee Council is soliciting nominations for the Public Advisory Committee, which advises the Trustee Council on decisions related to the planning, evaluation, and conduct of injury assessment, restoration, long-term monitoring, and research activities using funds obtained as part of the civil settlement pursuant to the T/V Exxon Valdez oil spill of 1989. Public Advisory Committee members will be selected to serve a 24-month term beginning in October 2006.

DATES: All nominations should be received on or before August 4, 2006.

ADDRESSES: Nominations should be sent to Executive Director, Exxon Valdez Oil Spill Trustee Council, 441 West 5th Avenue, Suite 500, Anchorage, Alaska 99501–2340 or by email to PAC Nominations, Executive Director, c/o Cherri Womac, *cherri_womac@evostc.state.ak.us*.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Designated Federal Officer, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, 99501, 907–271–5011; or Cherri Womac, Exxon Valdez Oil Spill Trustee Council, 441 West 5th Avenue, Suite 500, Anchorage, Alaska, 99501–2340, 907–278–8012 or 800–478–7745. A copy of the charter for the Public Advisory Committee is available upon request.

SUPPLEMENTARY INFORMATION: The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91–081 CV. The Public Advisory Committee was created to advise the Trustee Council on matters relating to decisions on injury assessment, restoration activities or other use of natural resources damage recoveries obtained by the governments.

The Trustee Council consists of representatives of the State of Alaska Attorney General; Commissioner of the Alaska Department of Fish and Game; Commissioner of the Alaska Department of Environmental Conservation; the Secretary of the Interior; the Secretary of Agriculture; and the Administrator of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. Appointment to the Public Advisory Committee will be made by the Secretary of the Interior with unanimous approval of the Trustees.

The Public Advisory Committee consists of 15 members representing the public at large and the following special interests: Aquaculturist/mariculturist, commercial fisher, commercial tourism business person, local government, conservationist/environmentalist, Native landowner, Tribal government, recreation user, sport hunter/fisher, subsistence user, regional monitoring program operator, marine transportation operator, and scientist/technologist.

Nominees need to submit the following information to the Trustee Council:

1. Nominee's name;
2. Nominee's email address;
3. Nominee's mailing address;
4. Nominee's telephone number;
5. Special interests the nominee represents;
6. A resume or one-page synopsis of the nominee's:

a. education;

b. affiliations;

c. knowledge of the region, peoples or principal economic and social activities of the area affected by the T/V Exxon Valdez oil spill;

d. expertise in public lands and resource management, if any;

e. breadth of experience and perspective and length of experience in one or more of the special interests; and

7. Indicate if the person being nominated has been contacted and agrees to consider serving if selected.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 06–5889 Filed 7–3–06; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Pinedale Anticline Working Group and Task Groups—Notice of Renewal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of renewal of the Pinedale Anticline Working Group and Task Groups.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior has renewed the Pinedale Anticline Working Group and Task Groups (PAWG). The purpose of the Working Group and Task Groups will be to advise the Bureau of Land Management, Pinedale Field Office Manager, regarding recommendations on matters pertinent to the Bureau of Land Management's responsibilities related to the Pinedale Anticline Environmental Impact Statement and Record of Decision.

Members to the PAWG will be appointed as follows: A representative from the State of Wyoming, Office of the Governor; a representative of the Town of Pinedale (Wyoming); a representative of the oil/gas operators active in the Pinedale Anticline area; a representative of the Sublette County Government (Wyoming); a representative of environmental groups; a representative of the landowners within or bordering the Pinedale Anticline area; a representative of local livestock operators operating within or bordering the Pinedale Anticline area; and two representatives from the public-at-large within or adjacent to the PAWG's jurisdiction.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Stenger, Pinedale Field Office Manager, Bureau of Land Management, 432 East Mill Street, Pinedale, Wyoming 82941, Phone: (307) 367–5300.

Certification

I hereby certify that the renewal of the Pinedale Anticline Working Group and Task Groups is necessary and in the public interest in connection with the Secretary of the Interior's responsibilities to manage the lands, resources, and facilities administered by the Bureau of Land Management.

Dated: June 23, 2006.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. E6–10411 Filed 7–3–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the *Exxon Valdez* Oil Spill Public Advisory Committee.

DATES: July 14, 2006, at 1 p.m.

ADDRESSES: Exxon Valdez Oil Spill Trustee Council Office, 441 West 5th Avenue, Suite 500, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, 99501, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The meeting agenda will include a review of project reporting procedures, the office lease, and an update on the injured resources and services list.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. E6–10402 Filed 7–3–06; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Meeting Announcements: North American Wetlands Conservation Council; Neotropical Migratory Bird Conservation Advisory Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet to select North American Wetlands Conservation Act (NAWCA) grant proposals for recommendation to the Migratory Bird Conservation Commission (Commission). The meeting is open to the public. The Advisory Group for the Neotropical Migratory Bird Conservation Act (NMBCA) grants program will hold its first meeting. The meeting is open to the public, and interested persons may present oral or written statements.

DATES: Council: July 11, 2006, 1–3 p.m.; Advisory Group: July 10, 2006, 9 a.m.–5 p.m.

ADDRESSES: The meetings will be held at the St. Eugene Mission Resort, Cranbrook, British Columbia, Canada. Meetings are coordinated by the Division of Bird Habitat Conservation, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop: MBSP 4501–4075, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Division Chief, (703) 358–1784 or *dbhc@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with NAWCA (Pub. L. 101–

233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Commission. Proposal due dates, application instructions, and eligibility requirements are available through the NAWCA Web site at *http://birdhabitat.fws.gov.* Proposals require a minimum of 50 percent non-Federal matching funds. Canadian and U.S. Standard grant proposals will be considered at the Council meeting. The tentative date for the Commission meeting is September 13, 2006.

The Advisory Group was named by the Secretary of the Interior pursuant to NMBCA (Pub. L. 106–247, 114 Stat. 593, July 20, 2000) and will hold its first meeting. Proposal due dates, application instructions, and eligibility requirements are available through the NMBCA Web site at *http://birdhabitat.fws.gov.*

Dated: June 21, 2006.

Paul Schmidt,

Assistant Director—Migratory Birds.

[FR Doc. E6–10443 Filed 7–3–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Class III Gaming Procedures and Tribal Revenue Allocation Plans: Submission to the Office of Management and Budget

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is submitting two information collection requests for review and renewal by the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). The two collections are: Class III Gaming Procedures, 1076–0149, and Tribal Revenue Allocation Plans, 1076–0152.

DATES: Submit your comments and suggestions on or before August 4, 2006 to be assured of consideration.

ADDRESSES: Written comments should be sent directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, either by facsimile at (202) 395–6566 or by e-mail at *OIRA_DOCKET@omb.eop.gov.* Send a copy of your comments to: Mr. George Skibine, Bureau of Indian Affairs, Office of Indian Gaming Management, Mail Stop 3657–MIB, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain copies of the information collection requests without charge by contacting Mr. George Skibine at (202) 219–4066 or facsimile number (202) 273–3153.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 provides an opportunity for interested parties to comment on proposed information collection requests. We did not receive any comments during the request for comments period published January 24, 2006 (67 FR 3883). The Bureau of Indian Affairs, Office of Indian Gaming Management is proceeding with requesting an information collection clearance from OMB. Each request contains (1) type of review, (2) title, (3) summary of the collection, (4) respondents, (5) frequency of collection, (6) reporting and record keeping requirements.

Please note that we will not sponsor nor conduct, and you need not respond to, a request for information unless we display the OMB control number and the expiration date.

Class III Gaming Procedures

Type of review: Renewal.

Title: Class III Gaming Procedures, 25 CFR Part 291.

Summary: The collection of information will ensure that the provisions of the Indian Gaming Regulatory Act, the relevant provisions of State laws, Federal law and the trust obligations of the United States are met when federally recognized tribes submit class III procedures for review and approval by the Secretary of the Interior. Sections 291.4, 291.10, 291.12 and 291.15 of 25 CFR part 291 Class III Gaming Procedures, specifies the information collection requirement. An Indian tribe must ask the Secretary to issue class III gaming procedures. The information to be collected includes: name of Tribe and State; tribal documents, State documents, regulatory schemes, the proposed procedures and other documents deemed necessary. Collection of this information is currently authorized under an approval by OMB (OMB Control Number 1076–0149). All information is collected when the tribe makes a request for class III gaming procedures. Annual reporting and record keeping burden for this collection of information is estimated to occur one time on an annual basis. The estimated number of annual requests is 12 tribes seeking class III gaming procedures. The estimated time to review instructions and complete each application is 320 hours. Thus, the total annual reporting and record keeping burden for this collection is estimated to be 3,840 hours.

Frequency of Collection: Annually.

Description of Respondents: Federally recognized tribes.

Total Respondents: 12.

Response Hours per Application: 320.

Total Annual Burden Hours: 3,840 hours.

Tribal Revenue Allocation Plans

Type of review: Renewal.

Title: Tribal Revenue Allocation Plans, 25 CFR part 290.

Summary: In order for Indian tribes to distribute net gaming revenues in the form of per capita payments, information is needed by the BIA to ensure that Tribal Revenue Allocation Plans include assurances that certain statutory requirements are met, a breakdown of the specific uses to which net gaming revenues will be allocated, eligibility requirements for participation, tax liability notification and the assurance of the protection and preservation of the per capita share of minors and legal incompetents. Sections 290.12, 290.17, 290.24 and 290.26 of 25 CFR part 290, Tribal Revenue Allocation Plans, specifies the information collection requirement. An Indian tribe must ask the Secretary to approve a Tribal Revenue Allocation Plan. The information to be collected includes: name of Tribe, tribal documents, the allocation plan and other documents deemed necessary. Collection of this information is currently authorized under an approval by OMB (OMB Control Number 1076–0152). All information is collected when the tribe submits a Tribal Revenue Allocation Plan. Annual reporting and record keeping burden for this collection of information is estimated to average between 75–100 hours for approximately 20 respondents, including the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and record keeping burden for this collection is estimated to be 1,500–2,000 hours. We are using the higher estimate for purposes of estimating the public burden.

Frequency of Collection: Annually.

Description of Respondents: Federally recognized tribes.

Total Respondents: 20.

Annual Response Hours: 100.

Total Annual Burden Hours: 2,000 hours.

Request for Comments

The Bureau of Indian Affairs solicits comments in order to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

(2) Evaluate the bureau'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 the information on those who are to respond.

Please note that the Office of Management and Budget has 60 days after receipt in which to make a decision but may make a decision after 30 days. Therefore, early submissions of comments have a better chance of receiving full consideration.

Dated: June 14, 2006.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E6–10448 Filed 7–3–06; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–270R]

Controlled Substances: Proposed Revised Aggregate Production Quotas for 2006

AGENCY: Drug Enforcement Administration (DEA), U.S. Department of Justice.

ACTION: Notice of proposed revised 2006 aggregate production quotas.

SUMMARY: This notice proposes revised 2006 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before July 26, 2006.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–270R on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/CCD. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/CCD, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by 28 CFR 0.100. The Administrator in turn, has redelegated this function to the Deputy Administrator, pursuant to 28 CFR 0.104.

On December 9, 2005, DEA published a notice of established initial 2006 aggregate production quotas for certain controlled substances in Schedules I and II (70 FR 73269). This notice stipulated that the DEA would adjust the quotas in early 2006 as provided for in 21 CFR part 1303.

The proposed revised 2006 aggregate production quotas represent those quantities of controlled substances in Schedules I and II that may be produced in the United States in 2006 to provide adequate supplies of each substance for: The estimated medical, scientific, research and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes.

The proposed revisions are based on a review of 2005 year-end inventories, 2005 disposition data submitted by quota applicants, estimates of the medical needs of the United States, product development, and other information available to the DEA.

Therefore, under the authority vested in the Attorney General by section 306 of the CSA of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby proposes the following revised 2006 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base:

	Previously established initial 2006 quotas (grams)	Proposed revised 2006 quotas (grams)
Basic Class—Schedule I:		
2,5–Dimethoxyamphetamine	2,801,000	2,801,000
2,5–Dimethoxy-4-ethylamphetamine (DOET)	2	2
3–Methylfentanyl	2	2
3–Methylthiofentanyl	2	2
3,4–Methylenedioxyamphetamine (MDA)	20	20
3,4–Methylenedioxy-N-ethylamphetamine (MDEA)	10	10
3,4–Methylenedioxymethamphetamine (MDMA)	22	22
3,4,5–Trimethoxyamphetamine	2	2
4–Bromo-2,5-dimethoxyamphetamine (DOB)	2	2
4–Bromo-2,5-dimethoxyphenethylamine (2–CB)	2	2
4–Methoxyamphetamine	77	77
4–Methylaminorex	2	2

	Previously established initial 2006 quotas (grams)	Proposed revised 2006 quotas (grams)
4–Methyl-2,5-dimethoxyamphetamine (DOM)	12	12
5–Methoxy-3,4-methylenedioxyamphetamine	2	2
Acetyl-alpha-methylfentanyl	2	2
Acetyldihydrocodeine	2	2
Acetylmethadol	2	2
Allylprodine	2	2
Alphacetylmethadol	2	2
Alpha-ethyltryptamine	2	2
Alphameprodine	2	2
Alphamethadol	3	3
Alpha-methylfentanyl	2	2
Alpha-methylthiofentanyl	2	2
Aminorex	2	2
Benzylmorphine	2	2
Betacetylmethadol	2	2
Beta-hydroxy-3-methylfentanyl	2	2
Beta-hydroxyfentanyl	2	2
Betameprodine	2	2
Betamethadol	2	2
Betaprodine	2	2
Bufotenine	5	5
Cathinone	3	3
Codeine-N-oxide	302	302
Diethyltryptamine	2	2
Difenoxin	5,000	5,000
Dihydromorphine	1,826,000	1,826,000
Dimethyltryptamine	3	3
Gamma-hydroxybutyric acid	8,000,000	8,000,000
Heroin	5	5
Hydromorphinol	2	2
Hydroxypethidine	2	2
Lysergic acid diethylamide (LSD)	61	61
Marihuana	4,500,000	4,500,000
Mescaline	2	2
Methaqualone	10	10
Methcathinone	4	4
Methyldihydromorphine	2	2
Morphine-N-oxide	310	310
N,N-Dimethylamphetamine	2	2
N-Ethylamphetamine	2	2
N-Hydroxy-3,4-methylenedioxyamphetamine	2	2
Noracymethadol	2	2
Norlevorphanol	52	52
Normethadone	2	2
Normorphine	16	16
Para-fluorofentanyl	2	2
Phenomorphan	2	2
Pholcodine	2	2
Psilocybin	7	7
Psilocyn	7	7
Tetrahydrocannabinols	312,500	312,500
Thiofentanyl	2	2
Trimeperidine	2	2
Basic Class—Schedule II:		
1-Phenylcyclohexylamine	2	2
Alfentanil	5,000	5,000
Alphaprodine	2	2
Amobarbital	101,000	101,000
Amphetamine	17,000,000	17,000,000
Cocaine	286,000	286,000
Codeine (for sale)	39,605,000	39,605,000
Codeine (for conversion)	55,000,000	55,000,000
Dextropropoxyphene	167,365,000	167,365,000
Dihydrocodeine	1,261,000	1,261,000
Diphenoxylate	828,000	828,000
Ecgonine	83,000	83,000
Ethylmorphine	2	2
Fentanyl	1,428,000	1,428,000
Glutethimide	2	2
Hydrocodone (for sale)	41,252,000	41,252,000
Hydrocodone (for conversion)	1,500,000	1,500,000

	Previously established initial 2006 quotas (grams)	Proposed revised 2006 quotas (grams)
Hydromorphone	3,300,000	3,300,000
Isomethadone	2	2
Levo-alphacetylmethadol (LAAM)	6	6
Levomethorphan	5	5
Levorphanol	5,000	5,000
Meperidine	9,753,000	9,753,000
Metazocine	1	1
Methadone (for sale)	21,000,000	25,000,000
Methadone Intermediate	26,000,000	26,000,000
Methamphetamine	3,130,000	3,130,000
[680,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 2,405,000 grams for methamphetamine mostly for conversion to a Schedule III product; and 45,000 grams for methamphetamine (for sale)]		
Methylphenidate	35,000,000	35,000,000
Morphine (for sale)	35,000,000	35,000,000
Morphine (for conversion)	110,774,000	110,774,000
Nabilone	2	2
Noroxymorphone (for sale)	1,002	1,002
Noroxymorphone (for conversion)	5,600,000	5,600,000
Opium	1,280,000	1,280,000
Oxycodone (for sale)	49,200,000	49,200,000
Oxycodone (for conversion)	920,000	920,000
Oxymorphone	534,000	534,000
Pentobarbital	20,335,000	28,000,000
Phencyclidine	2,021	2,021
Phenmetrazine	2	2
Racemethorphan	2	2
Remifentanil	2,700	2,700
Secobarbital	2	2
Sufentanil	6,500	6,500
Thebaine	72,453,000	72,453,000

The Deputy Administrator further proposes that aggregate production quotas for all other Schedules I and II controlled substances included in 21 CFR 1308.11 and 1308.12 remain at zero.

All interested persons are invited to submit their comments in writing or electronically regarding this proposal following the procedures in the **ADDRESSES** section of this document. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register,** summarizing the issues to be heard and setting the time for the hearing as per 21 CFR 1303.13(c).

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866.

This action does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

The Deputy Administrator hereby certifies that this action will not have a significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

This action meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

This action will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $118,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: June 26, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6–10467 Filed 7–3–06; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before August 21, 2006. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: requestschedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Agricultural Marketing Service (N1–136–06–4, 6 items, 6 temporary items). Inputs, outputs, master files, documentation, and electronic mail and word processing copies associated with an electronic information system used as a tracking and billing system for seed lots submitted to the Organization for Economic Cooperation and Development for seed grade scheme approval.

2. Department of Agriculture, Agricultural Marketing Service (N1–136–06–7, 6 items, 6 temporary items). Inputs, outputs, master files, documentation, and electronic mail and word processing copies associated with an electronic information system used to track the work of meat graders, and to collect and disseminate billing information relating to meat grading services and the volume of meat product graded and certified. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

3. Department of Agriculture, Cooperative State Research, Education, and Extension Service (N1–540–06–2, 7 items, 6 temporary items). Records include agency newsletters that are primarily not mission-related, files relating to the disbursement of funding awards, and authorizations to use the 4-H Club name and/or emblem. Also included are electronic copies of records created using electronic mail and word processing applications. Proposed for permanent retention are recordkeeping copies of mission-related agency newsletters in either paper or electronic form.

4. Department of Homeland Security, U.S. Citizenship and Immigration Services (N1–566–06–2, 6 items, 3 temporary items). Outputs and electronic mail and word processing copies associated with an electronic information system used to search and retrieve immigration and citizenship records. Proposed for permanent retention are the system inputs, master files, and documentation.

5. Department of the Interior, Office of the Secretary (N1–48–05–3, 5 items, 3 temporary items). Audiovisual records, including films and video recordings documenting routine functions and sound bites in digital and reel-to-reel formats that accompany press releases. Proposed for permanent retention are recordkeeping copies of historically significant video and motion picture recordings and an electronic log of these recordings.

6. Department of Justice, Criminal Division (N1–60–06–2, 4 items, 4 temporary items). Records of the Office of Community Oriented Policing Services used to monitor grants under

the Violent Crime Control and Law Enforcement Act. Included are case files relating to audits of agency programs, operations and procedures, and grantees. Also included are electronic copies of records created using electronic mail and word processing.

7. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (N1–436–06–1, 12 items, 12 temporary items). Inputs, outputs, master files, and documentation associated with a legacy electronic information system and the current system used to track and manage agency property. Also included are electronic copies of documents created using electronic mail and word processing.

8. Department of Justice, Federal Bureau of Investigation (N1–65–06–5, 17 items, 17 temporary items). Records of the Criminal Justice Information Services Division relating to audits of internal law enforcement systems to determine user compliance with policies and procedures. Included are records relating to audit administration, planning, training, and procedures, and inputs, outputs, master files, and documentation associated with electronic information systems used to maintain and track audit information and results. Also included are electronic copies of documents created using electronic mail and word processing.

9. Department of the Treasury, Internal Revenue Service (N1–58–06–5, 1 item, 1 temporary item). Form 8879 used by taxpayers to electronically file a return using the personal identification number method.

10. Department of the Treasury, Internal Revenue Service (N1–58–06–6, 1 item, 1 temporary item). Form 8875 used to elect to treat a corporation as a Real Estate Investment Trust under Internal Revenue Code Section 856(l).

11. Department of the Treasury, Internal Revenue Service (N1–58–06–7, 2 items, 2 temporary items). Quality control records used for taxpayer assistance review purposes. Included are audio digital recordings of taxpayer assistance conversations and computer screen images used to provide assistance.

Dated: June 26, 2006.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E6–10419 Filed 7–3–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL MEDIATION BOARD

Submission for OMB Review; Comment Request

AGENCY: National Mediation Board (NMB).

ACTION: Notice.

SUMMARY: The Director, Office of Administration, invites comments on the submission for OMB review, in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995 and 5 CFR part 1320). This notice announces that the NMB has submitted to the Office of Management and Budget a request for clearance of six (6) information collections.

DATES: Interested persons are invited to submit comments within 30 days from the date of this publication.

ADDRESSES: Written comments should be addressed to June D. W. King, Director, Office of Administration, National Mediation Board, 1301 K Street NW., Suite 250 East, Washington, DC, 20572 or should be e-mailed to *king@nmb.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (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 Chief Information Officer, Finance and Administration Department, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection 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 Record keeping burden. OMB invites public comment.

Dated: June 29, 2006.

June D. W. King,

Director, Office of Administration, National Mediation Board.

Request for Arbitration Panel for Airline System Boards of Adjustment

Frequency: On occasion.

Affected Public: Airline Carrier and Union Officials.

Reporting and Recordkeeping Hour Burden:

Responses: Estimate about 80 annually.

Burden Hours: 20.

Abstract: Section 183 of the Railway Labor Act, 45 U.S.C., 183, provides that the parties to the labor-management disputes in the airline industry must have a procedure for the resolution of disputes involving the interpretation or application of provisions of the collective bargaining agreement. The Railway Labor Act mentions system board of adjustment or arbitration boards as the mechanism for resolution and is silent as to how the neutral arbitrator is to be selected if the parties are unable to agree on an individual. The National Mediation Board provides panels of arbitrators to help the parties in their selection of an arbitrator.

This form is necessary to assist the parties in this process. The parties invoke the process through the submission of this form. The brief information is necessary for the NMB to perform this important function.

Arbitration Services—Personal Data Sheet

Frequency: On occasion.

Affected Public: Arbitrators.

Reporting and Recordkeeping Hour Burden:

Responses: 25 annually.

Burden Hours: 25.

Abstract: Sections 183 and 153 of the Railway Labor Act, 45 U.S.C., 153 and 183, provide for the use of arbitrators in the resolution of disputes concerning the application or interpretation of provisions of a collective bargaining agreement in the airline and railroad industries. The NMB maintains a roster of arbitrators for this purpose. The NMB must have a means for interested individuals to apply for inclusion on this roster. This form is the application for inclusion on the NMB roster. The brief information that the NMB solicits is necessary to perform this responsibility under the Railway Labor Act.

Request for Public Law Board Member

Frequency: On occasion.

Affected Public: Carrier and Union Officials of railroads.

Reporting and Recordkeeping Hour Burden:

Responses: Estimate 15 annually.

Burden Hours: 3.75.

Abstract: Section 153, Second, of the Railway Labor Act, 45 U.S.C. 153, Second, governs procedures to be followed by carriers and representatives of employees in the establishment and functioning of special adjustment boards. These special adjustment boards are referred to as public law boards (board). The statute provides that within thirty (30) days from the date a written request is made by an employee representative or carrier official for the establishment of a board, an agreement establishing such board shall be made. If, however, one party fails to designate a member of the board, the party making the request may ask the NMB to designate a member on behalf of the other party. The NMB must designate the representative who, together with the other party constitute the public board. It will be the task of these two individuals to decide on the terms of the agreement. If these individuals are unable to decide upon the terms, the Railway Labor Act provides that one of these parties may request that the NMB designate a neutral to resolve the remaining matters which are procedural issues. Pursuant to 29 C.F.R. 1207.2, requests for the NMB to appoint either representatives or neutrals must be made on printed forms which may be secured from the NMB.

This form is necessary for the NMB to fulfill its statutory responsibilities. Without this information, the NMB would not be able to assist the railroad labor and management representatives in resolving disputes, which is contrary to the intent of the Railway Labor Act.

Arbitration Services—Official Travel/ Referee Compensation Authorization

Frequency: On occasion.

Affected Public: Arbitrators.

Reporting and Recordkeeping Hour Burden:

Responses: Approximately 624 annually.

Burden Hours: 156.

Abstract: Section 153, First and Second of the Railway Labor Act, 45 U.S.C. 153, First and Second, provide that the NMB shall compensate arbitrators who resolve the resolves under these sections of the Act. The arbitrator must submit a written request, in advance, for authorization to be compensated for work to be performed. The arbitrator must obtain authorization before performing work. This form is the request and is necessary for the NMB to fulfill its financial responsibilities.

Arbitration Services—Pay Voucher for Personal Services

Frequency: On occasion.

Affected Public: Arbitrators.

Reporting and Recordkeeping Hour Burden:

Responses: Approximately 624 annually.

Burden Hours: 156.

Abstract: Section 153, First and Second of the Railway Labor Act, 45 U.S.C. 153, First and Second, provide that the NMB shall compensate arbitrators who resolve the resolves under these sections of the Act. After the work is performed, the arbitrator must submit a written request for compensation. This form is the vehicle used to request compensation and is necessary for the NMB to fulfill its financial responsibilities.

Neutral's Report of Activity

Frequency: On occasion.

Affected Public: Arbitrators.

Reporting and Recordkeeping Hour Burden:

Responses: Approximately 624 annually.

Burden Hours: 156.

Abstract: Section 153, First and Second of the Railway Labor Act, 45 U.S.C. 153, First and Second, provide that the parties may use an arbitrator to resolve their disputes concerning the application or interpretation of the provisions of a collective bargaining agreement. The NMB must record the decisions rendered by the arbitrators selected by the parties and compensated by the NMB. This form is used to gather that information. This brief information is necessary for the NMB to fulfill its responsibilities under the Railway labor Act.

Requests for copies of the proposed information collection request may be accessed from *http://www.nmb.gov* or should be addressed to Denise Murdock, NMB, 1301 K Street NW., Suite 250 E, Washington, DC 20572 or addressed to the e-mail address *murdock@nmb.gov* or faxed to 202–692–5081. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to June D. W. King at 202–692–5010 or via Internet address *king@nmb.gov* Individuals who use a telecommunications device for the deaf (TDD/TDY) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–10461 Filed 7–3–06; 8:45 am]

BILLING CODE 7550–01–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 40, Domestic Licensing of Source Material; and NRC Form 484, Detection Monitoring Data Report.

3. *The form number if applicable:* NRC Form 484.

4. *How often the collection is required:* On occasion. Reports required under 10 CFR Part 40 are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 5 to 10 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis. NRC Form 484 is submitted biannually to report ground-water data necessary to implement EPA ground-water standards.

5. *Who will be required or asked to report:* 10 CFR Part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.

NRC Form 484: Uranium recovery facility licensees reporting ground-water monitoring data pursuant to 10 CFR 40.64.

6. *An estimate of the number of annual responses:* 894 (273 NRC Licensees [68 NRC responses + 205 NRC Recordkeepers] + 621 Agreement State Licensees [349 Agreement State responses + 272 Agreement State recordkeepers]).

7. *The estimated number of annual respondents:* 340 licensees (68 for NRC

licensees and 272 for Agreement State licensees).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 65,418 total hours [20,769 for NRC Licensees (16,067 hours for reporting and 4,702 hours for recordkeeping) and 44,649 for Agreement State Licensees (26,923 hours for reporting and 17,726 hours for recordkeeping)].

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. *Abstract:* 10 CFR Part 40 establishes requirements for licenses for the receipt, possession, use and transfer of radioactive source and byproduct material. NRC Form 484 is used to report certain groundwater monitoring data required by 10 CFR Part 40 for uranium recovery licensees. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination on whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

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 4, 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 (3150–0020), 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 28th day of June, 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–10423 Filed 7–3–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of July 3, 10, 17, 24, 31, August 7, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of July 3, 2006

There are no meetings scheduled for the Week of July 3, 2006.

Week of July 10, 2006—Tentative

There are no meetings scheduled for the Week of July 10, 2006.

Week of July 17, 2006—Tentative

There are no meetings scheduled for the Week of July 17, 2006.

Week of July 24, 2006—Tentative

Thursday, July 27, 2006

9:30 a.m. Briefing on Office of International Programs (OIP) Programs, Performance, and Plans (Public Meeting). (Contact: Karen Henderson, 301–415–0202.)

This meeting will be Webcast live at the Web address *http://www.nrc.gov.*

1:30 p.m. Briefing on Equal Employment Opportunity (EEO) Programs (Public Meeting). (Contact: Barbara Williams, 301–415–7388.)

This meeting will be Webcast live at the Web address *http://www.nrc.gov.*

Week of July 31, 2006—Tentative

There are no meetings scheduled for the Week of July 31, 2006.

Week of August 7, 2006—Tentative

Wednesday, August 9, 2006

9:30 a.m. Discussion of Security Issues (closed—ex. 1) Tentative.

Thursday, August 10, 2006

9:30 a.m. Discussion of Security Issues (closed—ex. 1 & 3) Tentative.

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers, if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: June 29, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–5998 Filed 6–30–06; 10:25 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 9, 2006 to June 22, 2006. The last biweekly notice was published on June 20, 2006 (71 FR 35456).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

FPL Energy Seabrook LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: April 28, 2006.

Description of amendment request: The proposed amendment would revise the Seabrook Station Unit No. 1 (Seabrook) Technical Specifications (TSs) consistent with the NRC-approved Revision 9 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–359, ''Increased Flexibility in MODE Restraints.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 2, 2002 (67 FR 50475), on possible amendments adopting TSTF–359, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on April 4, 2003 (68 FR 16579). The licensee affirmed the applicability of the following NSHC determination in its application dated April 28, 2006.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1— The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions [are] not an initiator of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on required actions as allowed by [the] proposed LCO [limiting condition of operation] 3.0.4 are no different than the consequences of an accident while entering and relying on the required actions while starting in a condition of applicability of the TS. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2— The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not involve the physical alteration of the plant (no new or different type of equipment will be installed). Entering into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new of different kind of accident from an accident previously evaluated.

Criterion 3— The proposed change does not involve a significant reduction in the margin of safety.

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. The TS allow operation of the plant without the full compliment of equipment through the conditions for not meeting the TS Limiting Conditions for Operation (LCO). The risk associated with this allowance is managed by the imposition of required actions that must be performed within the prescribed times. The net effect of being in a TS condition on the margin of safety is not considered significant. The proposed change does not alter the required actions or completion times of the TS. The proposed change allows TS conditions to be entered, and the associated required actions and completion times to be used in new circumstances. This use is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The change also eliminates current allowances for utilizing required actions and completion times in similar circumstances, without assessing and managing risk. The new change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Darrell J. Roberts.

Indiana Michigan Power Company, Docket No. 50–315, D. C. Cook Nuclear Plant, Unit 1, Berrien County, Michigan

Date of amendment request: May 30, 2006.

Description of amendment request: The proposed amendment would revise the Technical Specifications, deleting from Surveillance Requirement (SR) 3.3.1.15 a note which specifies that the surveillance includes ''verification of Reactor Coolant System [RCS] resistance temperature detector [RTD] bypass loop flow rate.'' Approval of this proposed amendment would permit the licensee to effect a plant design change, removing the RTD bypass piping and install a replacement system using fast response thermowell-mounted RTDs located in the RCS loop piping.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided a no significant hazards determination analysis.

The NRC staff has reviewed the licensee's analysis and performed its own as follows:

(1) Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

No. The RTD bypass system is the passive hardware associated with RCS instrumentation with control and indication functions. The RTD bypass system was not considered a precursor to any previously analyzed accident, and was not considered a factor in the scenario leading to accident consequences. The new system replacing the RTD bypass system will perform the same control and indication functions, and similarly will not be considered a precursor to any accident, or a factor affecting accident consequences in previously analyzed accident scenarios. Therefore, replacement of the existing RTD bypass system with the new system will not increase the probability of occurrence of an accident, and will not increase consequences of an accident previously evaluated.

(2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The replacement of the existing RTD bypass with the replacement system would not create new failure modes, and the replacement system is not an initiator of any new or different kind of accident. The proposed deletion of the note in SR 3.3.1.15 does not affect the interaction of the replacement system with any system whose failure or malfunction can initiate an accident. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Does the proposed change involve a significant reduction in a margin of safety?

No. Margins of safety are established in the design of components, the configuration of components to meet certain performance parameters, and in the models and associated assumptions used to analysis the system's performance. The replacement system will continue to perform the same temperature detection function to the same level of reliability as defined in the D.C. Cook Updated Safety Analysis Report. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff evaluated the licensee's analysis, and based on this evaluation, the NRC staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Attorney for licensee: James M. Petro, Jr., Esquire, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: L. Raghavan.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment request: May 26, 2006.

Description of amendment request: The licensee proposed to amend each unit's Technical Specifications in accordance with Revision 4 to Technical Specifications Task Force (TSTF) Standard TS Change Traveller, TSTF–449, ''Steam Generator Tube Integrity'' (see 70 FR 24126). Specifically, the following Sections will be revised per TSTF–449: Section 1.1, Definitions; Section 3.4.13, Reactor Coolant System Operational LEAKAGE; Section 5.5.7, Steam Generator (SG) Program; and Section 5.6.7, Steam Generator Tube Inspection Report. Also, a new Section 3.4.17, SG Tube Integrity, will be added. The proposed changes are necessary in order to implement the guidance for the industry initiative in Nuclear Energy Institute (NEI) 97–06, Steam Generator Program Guidelines.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, by referencing the NRC staff's model analysis published in 70 FR 10298 (March 2, 2005). The NRC staff's model analysis is reproduced below:

Criterion 1 —The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change requires a SG Program that includes performance criteria that will provide reasonable assurance that the SG tubing will retain integrity over the full range of operating conditions (including startup, operation in the power range, hot standby, cooldown and all anticipated transients included in the design specification). The SG performance criteria are based on tube structural integrity, accident induced leakage, and operational LEAKAGE.

A SGTR event is one of the design-basis accidents that are analyzed as part of a plant's licensing basis. In the analysis of a SGTR event, a bounding primary to secondary LEAKAGE rate equal to the operational LEAKAGE rate limits in the licensing basis plus the LEAKAGE rate associated with a double-ended rupture of a single tube is assumed.

For other design-basis accidents such as MSLB [main steam line break], rod ejection, and reactor coolant pump locked rotor, the tubes are assumed to retain their structural integrity (i.e., they are assumed not to rupture). These analyses typically assume that primary to secondary LEAKAGE for all SGs is 1 gallon per minute or increases to 1 gallon per minute as a result of accident-induced stresses. The accident-induced leakage criterion introduced by the proposed changes accounts for tubes that may leak during design-basis accidents. The accident induced leakage criterion limits this leakage to no more than the value assumed in the accident analysis.

The SG performance criteria proposed change to the TS identify the standards against which tube integrity is to be measured. Meeting the performance criteria provides reasonable assurance that the SG tubing will remain capable of fulfilling its specific safety function of maintaining reactor coolant pressure boundary integrity throughout each operating cycle and in the unlikely event of a design-basis accident. The performance criteria are only a part of the SG Program required by the proposed change to the TS. The program, defined by NEI 97–06, Steam Generator Program Guidelines, includes a framework that incorporates a balance of prevention, inspection, evaluation, repair, and leakage monitoring. The proposed changes do not, therefore, significantly increase the probability of an accident previously evaluated.

The consequences of design-basis accidents are, in part, functions of the DOSE EQUIVALENT 1–131 in the primary coolant and the primary to secondary LEAKAGE rates resulting from an accident. Therefore, limits are included in the plant technical specifications for operational leakage and for DOSE EQUIVALENT 1–131 in primary coolant to ensure the plant is operated within its analyzed condition. The typical analysis of the limiting design-basis accident assumes that primary to secondary leak rate after the accident is 1 gallon per minute with no more than [150] gallons per day in any one SG, and that the reactor coolant activity levels of DOSE EQUIVALENT 1–131 are at the TS values before the accident.

The proposed change does not affect the design of the SGs, their method of operation, or primary coolant chemistry controls. The proposed approach updates the current TSs and enhances the requirements for SG inspections. The proposed change does not adversely impact any other previously evaluated design-basis accident and is an improvement over the current TSs.

Therefore, the proposed change does not affect the consequences of a SGTR accident and the probability of such an accident is reduced. In addition, the proposed changes do not affect the consequences of an MSLB, rod ejection, or a reactor coolant pump locked rotor event, or other previously evaluated accident.

Criterion 2 —The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated.

The proposed performance based requirements are an improvement over the requirements imposed by the current technical specifications. Implementation of the proposed SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the SG Program will be an enhancement of SG tube performance. Primary to secondary LEAKAGE that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

Criterion 3 —The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The SG tubes in pressurized-water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of an SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the SG Program to manage SG tube inspection, assessment, repair, and plugging. The requirements established by the SG Program are consistent with those in the applicable design codes and standards and are an improvement over the requirements in the current TSs.

For the above reasons, the margin of safety is not changed and overall plant safety will be enhanced by the proposed change to the TS.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: James M. Petro, Jr., Esquire, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: L. Raghavan.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: March 7, 2006, and as supplemented by letter dated May 10, 2006.

Description of amendment request: The proposed changes would revise Technical Specification (TS) Section 5.5.6, ''Inservice Testing Program,'' by replacing references to Section XI of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code with ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code). Section 50.55a of Title 10 of the Code of Federal Regulations (10 CFR) requires that the Inservice Testing (IST) Program be updated to the latest Edition and Addenda of the ASME OM Code incorporated by reference in 10 CFR 50.55a(b) 12 months before the start of the 10-year interval. Section XI of the ASME Boiler and Pressure Vessel Code has been replaced with the ASME OM Code as the code of reference for IST programs. Thus, the ASME OM Code is the code of reference for the IST Program for the next 10-year interval that began March 1, 2006. In addition, the scope of frequencies specified to be within the applicability of Surveillance Requirement (SR) 3.0.2 is expanded by adding mention of other normal and accelerated frequencies specified in the IST Program. This will eliminate any confusion regarding the applicability of SR 3.0.2 to IST Program Frequencies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes revise the CNS [Cooper Nuclear Station] TS for the IST Program to be consistent with the requirements of 10 CFR 50.55a(f)(4) for pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed changes incorporate revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves.

The proposed changes do not impact any accident initiators, analyzed events, or assumed mitigation of accident or transient events. They do not involve addition or removal of any equipment, nor any design changes to the facility.

Based on the above, NPPD [Nebraska Public Power District] concludes that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes revise the CNS TS for the IST Program to be consistent with the requirements of 10 CFR 50.55a(f)(4) for pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed changes incorporate revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves.

The proposed changes do not involve a modification to the physical configuration of the plant (*i.e.*, no new equipment will be installed) or a change in the methods governing normal plant operation. The proposed changes will not introduce a new accident initiator, accident precursor, or malfunction mechanism. There is no change in the types or increases in the amounts of any effluent that may be released off-site, and there is no increase in individual or cumulative occupational exposure.

Based on the above NPPD concludes that these proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes revise the CNS TS for the IST Program to be consistent with the requirements of 10 CFR 50.55a(f)(4) for pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed changes incorporate revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves.

The safety function of the affected pumps and valves will be maintained. Based on the above, NPPD concludes that these proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Branch Chief: David Terao.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Units 1 and 2, Salem County, New Jersey

Date of amendment request: April 25, 2006.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) requirements for mode change limitations in TSs 3.0.4 and 4.0.4, using the CLIIP described in the Nuclear Regulatory Commission (NRC) approved Technical Specification Task Force (TSTF) change, TSTF–359, Revision 9.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change allows entry into a MODE while relying on ACTIONS. Being in an ACTION is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on ACTIONS as allowed by the proposed LCO [limiting condition of operation] 3.0.4 are no different than the consequences of an accident while relying on ACTIONS for other reasons, such as equipment inoperability. Therefore, the consequences of an accident previously evaluated are not significantly increased by this change. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated; there is no change to the design basis.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change allows entry into a MODE or other specified conditions in the Applicability while relying on ACTIONS. The Technical Specifications allow operation of the plant without a full complement of equipment. The risk associated with this allowance is managed by the imposition of ACTIONS and Completion Times. The net effect of ACTIONS and Completion Times on the margin of safety is not considered significant. The proposed change does not change the ACTIONS or Completion Times of the Technical Specifications. The proposed change allows the ACTIONS and Completion Times to be used in new circumstances. However, this use is predicated on an assessment that focuses on managing plant risk. In addition, most current allowances to utilize the ACTIONS and Completion Times that do not require risk assessment are eliminated. As a result, the net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit–N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: Darrell J. Roberts.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: February 28, 2006.

This revised amendment request completely supercedes the licensee's submittal of December 17, 2004. Likewise, the biweekly **Federal Register** (FR) notice—notice of consideration of issuance of amendments to facility operating licenses, proposed no significant hazards consideration determination, and opportunity for a hearing, which was published in the FR on January 18, 2005 (70 FR 2897) is being superceded by the publication of this biweekly FR notice.

Description of amendment requests: The proposed amendment revises Technical Specifications (TSs) 3.8.1, ''AC [alternating current] Sources—Operating,'' 3.8.4, ''DC [direct current] Sources—Operating,'' 3.8.5, ''DC Sources—Shutdown,'' 3.8.6, ''Battery Cell Parameters,'' 3.8.7, ''Inverters—Operating,'' and 3.8.9, ''Distribution Systems—Operating.'' This change will also add a new Battery Monitoring and Maintenance Program, Section 5.5.2.16.

The proposed TS changes will provide operational flexibility supported by DC electrical subsystem design upgrades that are in progress. These upgrades will provide increased capacity batteries, additional battery chargers, and the means to cross-connect DC subsystems while meeting all design battery loading requirements. With these modifications in place, it will be feasible to perform routine surveillances as well as battery replacements online.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to Technical Specifications (TS) 3.8.4 and 3.8.6 would allow extension of the Completion Time (CT) for inoperable Direct Current (DC) distribution subsystems to manually cross-connect DC distribution buses of the same safety train of the operating unit for a period of 30 days. Currently the CT only allows for 2 hours to ascertain the source of the problem before a controlled shutdown is initiated. Loss of a DC subsystem is not an initiator of an event. However, complete loss of a Train A (subsystems A and C) or Train B (subsystems B and D) DC system would initiate a plant transient/plant trip.

Operation of a DC Train in cross-connected configuration does not affect the quality of DC control and motive power to any system. Therefore, allowing the cross-connect of DC distribution systems does not significantly increase the probability of an accident previously evaluated in Chapter 15 of the Updated Final Safety Analysis Report (UFSAR).

The above conclusion is supported by Probabilistic Risk Assessment (PRA) evaluation which encompasses all accidents, including UFSAR Chapter 15.

Modification to the Frequency for Surveillance Requirements in TS 3.8.4, 3.8.5, and 3.8.6 are consistent with previously described recommendations. Enhancements from TSTF–360, Rev. 1 and IEEE 450–2002 have been incorporated into Limiting Conditions for Operation (LCOs) 3.8.4, 3.8.5, and 3.8.6. These changes do not impact the probability or consequences of an accident previously evaluated.

Further changes are made of an editorial nature or provide clarification only. For example, discussions regarding electrical 'Trains' and 'Subsystems' will be in more conventional terminology. LCOs affected by editorial changes include 3.8.1, 3.8.4, 3.8.5, 3.8.6, 3.8.7, and 3.8.9.

The changes being proposed in the TS do not affect assumptions contained in other safety analyses or the physical design of the plant, nor do they affect other Technical Specifications that preserve safety analysis assumptions.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Will operation of the facility in accordance with this proposed change create the possibility of new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change modifies surveillances and LCOs for batteries and chargers to meet the requirements of IEEE

450–2002 whose intent is to maintain the same equipment capability as previously assumed in our commitment to IEEE 450–1980.

The proposed change will allow the cross-tie of DC subsystems and allow extension of the CT for an inoperable subsystem to 30 days. Failure of the crosstied DC buses and/or associated battery(ies) is bounded by existing evaluations for the failure of an entire electrical train.

Swing battery chargers are added to increase the overall DC system reliability. Administrative and mechanical controls will be in place to ensure the design and operation of the DC systems continue to meet the UFSAR design basis.

LCOs 3.8.1, 3.8.4, 3.8.5, 3.8.6, 3.8.7, and 3.8.9 revisions are editorial clarifications and do not affect plant design.

Therefore, operation of the facility in accordance with this proposed change will not create the possibility of new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

Changes in accordance with IEEE 450–2002 and TSTF–360, Rev. 1 maintain the same level of equipment performance stated in the UFSAR and the current Technical Specifications.

Swing battery chargers are added to increase the overall DC system reliability. Administrative and mechanical controls will be in place to ensure the design and operation of the DC systems continue to meet the UFSAR design basis.

The addition of the DC cross-tie capability proposed for LCO 3.8.4 has been evaluated, as described previously, using PRA and determined to be of acceptable risk as long as the duration while cross-tied is limited to 30 days. An LCO has been included as part of this proposed change to ensure that plant operation, with DC buses cross-tied, will not exceed 30 days.

All remaining changes are editorial.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Branch Chief: David Terao.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Duke Power Company LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: March 1, 2006, supplemented April 26, 2006.

Brief description of amendments: The amendments revised the Technical Specifications to reconcile the criticality requirements of Title 10 of the Code of Federal Regulations (10 CFR), Part 50, and 10 CFR part 72 for loading and unloading dry spent fuel pool canisters in the spent fuel pool.

Date of Issuance: June 15, 2006.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 351/353/352.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Licenses and Technical Specifications.

*Date of initial notice in **Federal Register:*** April 11, 2006 (71 FR 18373).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 15, 2006.

The supplement dated April 26, 2006, provided clarifying information that did not change the scope of the original application and the initial proposed no significant hazards consideration determination.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Docket Nos. 50–247 and 50–286, Indian Point Nuclear Generating Unit Nos. 2 and 3, Westchester County, New York

Date of application for amendment: April 22, 2005.

Brief description of amendment: The amendments revise the surveillance requirements (SRs) for Technical Specification 3.3.5, ''Loss of Power (LOP) Diesel Generator (DG) Start Instrumentation.'' Specifically, a note was added to IP2 SR 3.3.5.2 to indicate that the verification of the setpoint is not required for the 480 volt (V) bus degraded voltage function when performing the trip actuating device operational test. A similar note was added to IP3 SR 3.3.5.1 for the 480 V degraded voltage and undervoltage functions.

Date of issuance: June 7, 2006.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 247 and 231.

Facility Operating License Nos. DPR–26 and DPR–64: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** June 7, 2005 (70 FR 33213).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 7, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: April 30, 2004, as supplemented by letters dated December 17, 2004; June 30, 2004; July 5, 2005; September 30, 2005; and June 1, 2006.

Brief description of amendments: The amendments revised Technical Specification (TS) 3.3.1.3, ''Oscillation Power Range Monitor (OPRM) Instrumentation''; TS 3.4.1, ''Recirculation Loops Operating''; and TS 5.6.5, ''Core Operating Limits Report (COLR)''; to insert a new TS section for the ORPM instrumentation, delete the current thermal-hydraulic instability administrative requirements, and add the appropriate references for the OPRM trip setpoints and methodology.

Date of issuance: June 13, 2006.

Effective date: As of the date of issuance and shall be implemented within 150 days.

Amendment Nos.: 177/163.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** June 8, 2004 (69 FR 32073).

The December 17, 2004; June 30, 2004; July 5, 2005; September 30, 2005; and June 1, 2006, supplements contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 13, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: February 25, 2005.

Brief description of amendments: The amendments deleted the sections of the Facility Operating Licenses that require reporting of violations of the requirements in Sections 2.C and 2.E of the Facility Operating Licenses.

Date of issuance: June 14, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 178/164.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the License.

Date of initial notice in ***Federal Register:*** April 26, 2005 (70 FR 21456).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 14, 2006.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–335 and 50–389, St. Lucie Plants, Units 1 and 2, St. Lucie County, Florida

Date of application for amendments: April 21, 2005.

Brief description of amendments: The amendments revised Technical Specifications (TSs) to adopt seven TS Task Force (TSTF) generic changes (TSTF nos. 5, 65, 101, 258, 299, 308, and 361) that delete redundant safety limit violation notification requirements; adopt use of generic titles for utility positions; change the auxiliary feedwater pump test requirements to be consistent with the inservice test program; remove redundant requirements and add other requirements to Section 5.0, Administrative Controls; clarify the meaning of ''refueling cycle'' for system integrated leak test intervals in the Primary Coolant Sources Outside Containment program; clarify the requirements regarding the frequency of testing for cumulative and projected dose contributions from radioactive effluents; and add a note to the residual heat removal (RHR) requirements during Mode 6 low water level operations that allows one required RHR loop to be inoperable for up to 2 hours for surveillance testing provided the other RHR loop is operable and in operation.

Date of issuance: June 19, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos: 199 and 146.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** July 5, 2005 (70 FR 38720).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 19, 2006.

No significant hazards consideration comments received: No.

Nuclear Management Company (NMC), LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: November 12, 2004, as supplemented by letters dated January 30 and March 6, 2006.

Brief description of amendments: The amendments revise Technical Specification 5.5.7, ''Inservice Testing Program'' to update the references to the American Society of Mechanical Engineers Code and certain associated periodicities for inservice testing activities, consistent with the requirements of 10 CFR 50.55a.

Date of issuance: June 8, 2006.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos.: 222 and 228.

Renewed Facility Operating License Nos. DPR–24 and DPR–27: Amendments revise the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 17, 2006 (71 FR 2592).

The January 30, 2006, supplement withdrew a portion of the original request and the March 6, 2006, supplement contained clarifying information.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 8, 2006.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applications.

2. Environmental—primarily concerns/issues relating to matters discussed or referenced in the environmental analysis for the applications.

[1] To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

3. Miscellaneous—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more petitioners/requestors seek to co-sponsor a contention, the petitioners/requestors shall jointly designate a representative who shall have the authority to act for the petitioners/requestors with respect to that contention. If a petitioner/requestor seeks to adopt the contention of another sponsoring petitioner/requestor, the petitioner/requestor who seeks to adopt the contention must either agree that the sponsoring petitioner/requestor shall act as the representative with respect to that contention, or jointly designate with the sponsoring petitioner/requestor a representative who shall have the authority to act for the petitioners/requestors with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer or the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

FPL Energy Seabrook LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: June 7, 2006, as supplemented by letters dated June 8, and June 9, 2006.

Description of amendment request: The amendment revised Technical Specification (TS) 3.6.5.1, ''Containment Enclosure Emergency Air Cleanup Systems,'' to increase the TS allowed outage time with one inoperable enclosure air handling fan EAH–FN–31B from 7 days to 14 days, on a one-time basis.

Date of issuance: June 9, 2006.

Effective date: As of its date of issuance and shall be implemented prior to the expiration of the current 7-day allowed outage time entered on June 4, 2006, for fan EAH–FN–31B.

Amendment No.: 111.

Facility Operating License No. NPF–86: The amendment revised the TSs.

Public comments requested as to proposed no significant hazards consideration (NSHC): No. The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a Safety Evaluation dated June 9, 2006.

Attorney for licensee: M. S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Darrell J. Roberts.

Dated at Rockville, Maryland, this day of June 26, 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 06–5899 Filed 7–3–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

State of Rhode Island Relinquishment of Sealed Source and Device Evaluation and Approval Authority and Assumption by the Nuclear Regulatory Commission

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of assumption by the Nuclear Regulatory Commission of Sealed Source and Device Evaluation and approval authority from the State of Rhode Island.

SUMMARY: Notice is hereby given that effective July 1, 2006, the Nuclear Regulatory Commission will assume regulatory authority for sealed source and device evaluations and approvals in the State of Rhode Island in response to a request from the Governor of the State of Rhode Island to relinquish this authority.

DATES: *Effective Date:* July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer C. Tobin, Health Physicist, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2328, Internet: *JCT1@NRC.GOV.*

SUPPLEMENTARY INFORMATION: Currently, the State of Rhode Island has an Agreement with the Nuclear Regulatory Commission (NRC) which recognizes the State authority to regulate specific categories of radioactive materials formerly regulated by the NRC. This Agreement was entered into on January 1, 1980, pursuant to Section 274b of the Atomic Energy Act of 1954, as amended.

Recently, the NRC received a letter from Rhode Island Governor Donald L. Carcieri (May 16, 2006) requesting relinquishment of the State's authority to evaluate and approve sealed source and devices, and assumption of this authority by NRC. The requested action would involve assumption of regulatory authority by NRC over activities currently regulated by Rhode Island pursuant to its Agreement with NRC.

The Governor of Rhode Island noted there is one manufacturer in the State and there has been no sealed source and device evaluations conducted since 2001. Governor Carcieri indicated that it would not be cost effective to fund and maintain staff to conduct sealed source and device evaluations.

The Commission has agreed to the request and has notified Rhode Island that effective July 1, 2006, the NRC will reassume authority to evaluate and approve sealed source and device applications within the State of Rhode Island. The State of Rhode Island will retain authority to regulate the manufacture and use of sealed sources and devices within the State in accordance with its Section 274b. Agreement with the NRC.

Dated at Rockville, Maryland this 27th day of June, 2006.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E6–10424 Filed 7–3–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice of the Results of the 2005 Annual Product and Country Practices Reviews, and Certain Previously-Deferred Country Practice Decisions

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice announces the disposition of the product petitions accepted for review in the 2005 GSP Annual Product Review, the results of the 2005 Country Practices Review, the results of the 2005 *De Minimis* Waiver and Redesignation Reviews, the 2005 Competitive Need Limitation (CNL) removals, and certain previously-deferred country practice decisions.

FOR FURTHER INFORMATION CONTACT: The GSP Subcommittee, Office of the United States Trade Representative (USTR), Room F–220, 1724 F Street, NW., Washington, DC 20508. The telephone number is (202) 395–6971 and the facsimile number is (202) 395–9481. The e-mail address is *FR0441@USTR.GOV.*

SUPPLEMENTARY INFORMATION: The GSP program provides for the duty-free importation of designated articles when imported from beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''Trade Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

In the 2005 Annual Product Review, the GSP Subcommittee of the Trade Policy Staff Committee reviewed petitions to change the product coverage of the GSP. The disposition of those petitions is described in Part I of ''Results of the 2005 GSP Annual Review'', available at *http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html* (''2005 Results List'').

The disposition of petitions considered in the 2005 Country Practices Review, and certain previously-deferred country practice petitions, is described in Part II pf the 2005 Results List.

In the 2005 *De Minimis* Waiver and Redesignation Review, the GSP Subcommittee evaluated the appraised import values of each GSP-eligible article in 2005 to determine whether an article from a GSP beneficiary developing country exceeded the GSP CNLs. De minimis waivers were granted to certain articles that exceeded the 50 percent import share CNL, but for which the aggregate value of the imports of that article was below the 2005 *de minimis* level of $17.5 million. Part III pf the 2005 Results List contains a list of the articles and the associated countries granted *de minimis* waivers.

An article from a GSP-eligible country that had previously exceeded one of the CNLs, but had fallen below the CNL for total annual trade in 2005 was redesignated for GSP eligibility pursuant to the 2005 review. That article and country are listed in Part IV of the 2005 Results List. Articles that exceeded one of the GSP CNLs in 2005, and that are newly excluded from GSP eligibility for a specific country, are listed in Part V of the 2005 Results List.

Marideth J. Sandler,

Executive Director, Generalized System of Preferences (GSP) Program, Chairman, GSP Subcommittee.

[FR Doc. E6–10441 Filed 7–3–06; 8:45 am]

BILLING CODE 3190–W6–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting; July 13, 2006, Board of Directors Meeting

TIME AND DATE: Thursday, July 13, 2006, 10 a.m. (Open Portion), 10:15 a.m. (Closed Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Meeting Open to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report.
2. Approval of April 27, 2006 Minutes (Open Portion).

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 10:15 a.m.)

1. Report from Audit Committee.
2. Insurance Project—Egypt.
3. Finance Project—Russia.
4. Approval of April 27, 2006 Minutes (Closed Portion).
5. Pending Major Projects.
6. Reports.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: June 29, 2006.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 06–6006 Filed 6–30–06; 11:38am]

BILLING CODE 3210–01–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: New System of Records

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice of a new system of records.

SUMMARY: OPM proposes to add a new system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency (5 U.S.C. 552a(e)(4)).

DATES: The new system will be effective without further notice on August 14, 2006, unless we receive comments that result in a contrary determination.

ADDRESSES: Send written comments to the Office of Personnel Management, ATTN: Nelldean Monroe, OPM Voting Rights Administrator, P.O. Box 25167, Denver, CO 80225–0167.

FOR FURTHER INFORMATION CONTACT: Nelldean Monroe, 303–236–8031.

SUPPLEMENTARY INFORMATION: The Web-Enabled Voting Rights System (WEVRS) will allow OPM the ability to fulfill its mandate under the Voting Rights Act of 1965, as amended, to maintain a list of Federally registered voters (''the List'') by county, city, and precinct. Specified OPM personnel will use WEVRS to update the List when they receive notification and documentation from a jurisdiction about a change in a voter's name, address, or eligibility status. The system will also afford the Department of Justice read-only access to the List for monitoring purposes as required by the Voting Rights Act. Furthermore, it will allow jurisdictions limited read-only access so that they can identify and report changes to OPM about a voter's name, address, or eligibility status.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

OPM INTERNAL–17

SYSTEM NAME:

Web-Enabled Voting Rights System (WEVRS).

SYSTEM LOCATION:

The IT infrastructure of WEVRS is housed at Office of Personnel Management (OPM), 1900 E Street NW., Washington, DC 20415. Related original paperwork is housed at the Voting Rights Section, OPM, Room B1503, Building 20, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on certain citizens who were listed to vote by the Federal Government in order to ensure access to registration. The system currently contains information on approximately 112,000 Federally registered voters who live in certain counties and parishes (hereafter referred to as ''covered jurisdictions'') in five states: Alabama, Georgia, Louisiana, Mississippi, and South Carolina.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the database may contain the following on an individual voter:

a. Name.

b. Address, including state, county, and precinct.

c. Birth date.

d. Number and date of the Federal certificate (i.e., voting registration card).

e. The line number where the voter's name appears on original paper versions of the list of Federally registered voters (''the List'').

The same information may also appear on the paper certificates and in the original List.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Voting Rights Act of 1965 (42 U.S.C. 1973), as amended, gives OPM the authority for maintenance of the system.

PURPOSE:

In accordance with the Voting Rights Act of 1965, as amended, OPM maintains the List, keeping it as up-to-date as possible. If designated by Federal examiners, OPM can add voters to the List. If the appropriate jurisdictions provide proof to OPM that Federally listed voters have lost their eligibility to vote under state law, OPM will remove those voters' names from the List. Voters can become ineligible to vote under state laws for reasons such as death, loss of U.S. citizenship, conviction of a felony, legal declaration of insanity or incompetence, or change in residence outside of the certified county/parish where Federally registered. Also, when appropriate jurisdictions provide the specified documentation, OPM makes name, address, and precinct changes to the List as necessary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

1. For maintaining the List.

2. For the National Archives and Records Administration—To disclose information to the National Archives and Records Administration for use in records management inspections.

3. For litigation—To disclose information to the Department of Justice (DOJ), or in a proceeding before a court, adjudicative body or other administrative body before which OPM is authorized to appear, when: OPM, or any component thereof; or any employee of OPM in his or her official capacity; or any employee of OPM in his or her individual capacity where DOJ or OPM has agreed to represent the employee; or the United States, when OPM determines that litigation is likely to affect OPM or any of its components; is a party to litigation or has an interest in such litigation, and the use of such records by DOJ or OPM is deemed by OPM to be arguably relevant and necessary to the litigation provided; however, that the disclosure is compatible with the purpose for which records were collected.

4. For Certain Disclosures to DOJ—To disclose relevant and necessary information to designated officers and employees of DOJ for:

(a) Providing information to covered jurisdictions upon their request.

(b) Reminding covered jurisdictions of the presence of Federally registered voters within their bounds.

(c) Comparing voters on the List to those on county/parish voter registration lists.

5. For Certain Disclosures to States and Covered Jurisdictions—To reference information on the List when they make requests for changes or removals from it, and to ensure the accuracy of the voter registration lists.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

WEVRS maintains these records in an electronic database. OPM maintains the original List in press-board binders by date and jurisdiction in filing cabinets. It also maintains originals, or copies of originals, of Federal certificates (i.e., voter registration cards) in card files.

RETRIEVABILITY:

Records in WEVRS may be retrieved by the name, address, state, county/parish, or precinct of the individual about whom they are maintained.

SAFEGUARDS:

OPM has adopted appropriate administrative, technical, and physical controls in accordance with its Automated Information Systems Security Program to protect information in the WEVRS database. OPM stores the List and certificates in locked, metal file cabinets in a secured room. OPM restricts access to all of these records to employees who have the appropriate clearance and need-to-know.

RETENTION AND DISPOSAL:

OPM maintains these records in accordance with OPM's Records Retention Schedule, Section 3.LEG.01.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Human Resources Products and Services Division, Office of Personnel Management, Room 4310, 1900 E Street NW., Washington, DC 20415–4000.

NOTIFICATION AND RECORD ACCESS PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to FOI/P, OPM, ATTN: Mary Beth Smith-Toomey, Office of the Chief Information Officer, 1900 E Street NW., Room 5415, Washington, DC 20415–7900. Individuals must furnish the following information for their records to be located:

1. Full name.

2. Date and place of birth.

3. Social Security Number.

4. Signature.

5. Available information regarding the type of information requested.

6. The reason why the individual believes this system contains information about him/her.

7. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should write to Nelldean Monroe, OPM Voting Rights Administrator, P.O. Box 25167, Denver, CO 80225–0167 and furnish the following information for their records to be located:

1. Full name.
2. Date and place of birth.
3. Social Security Number.
4. Signature.
5. Precise identification of the information to be amended.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment to records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

1. The individual to whom the information applies.
2. Election commissioners and registrars of voters of covered jurisdictions.

SYSTEM EXEMPTIONS:

None.

[FR Doc. E6–10369 Filed 7–3–06; 8:45 am]

BILLING CODE 6325–38–P

POSTAL RATE COMMISSION

[Order No. 1469; Docket No. A2006–1]

Post Office Closing Appeal; Pittsburgh, PA

AGENCY: Postal Rate Commission.

ACTION: Notice and order.

SUMMARY: This document informs the public that a petitioner has filed an appeal of a post office closing in Pittsburgh, PA. It notes, among other things, that several preliminary steps have been taken, such as assigning the appeal a docket number, informing the Postal Service of the appeal, and developing a procedural schedule. A decision on the merits has not yet been made.

DATES: See **SUPPLEMENTARY INFORMATION** for dates.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to 39 U.S.C. 404(b), the Commission has accepted the petitioner's appeal of the closing of the Observatory Finance Station, Pittsburgh, PA. The Commission hereby institutes a proceeding under 39 U.S.C. 404(b)(5) and designates the case as Docket No. A2006–1 to consider the petitioner's appeal.

Categories of issues apparently raised. The categories of issues that appear to be raised include: 1. Observance of procedure required by law [39 U.S.C. 404(b)(5)(B)]; 2. Effect on the community [39 U.S.C. 404(b)(2)(A)]; and 3. Effect of resulting economic savings [39 U.S.C. 404(b)(2)(A)(iii)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the administrative record with the Commission is July 6, 2006 [39 CFR 3001.113].

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov*. Additional filings in this case and participants' submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at 202–789–6873 or via electronic mail at *prc-webmaster@prc.gov*.

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site *http://www.prc.gov*, unless a waiver is obtained [39 CFR 3001.9(a) and 10(a)]. Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov*, or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

Intervention. Those, other than the petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention on or before July 24, 2006 in accordance with 39 CFR 3001.111. The notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site (*http://www.prc.gov*), unless a waiver is obtained for hardcopy filing. Rules 9(a) and 10(a) [39 CFR 3001.9(a) and 10(a)].

Further procedures. The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed [39 U.S.C. 404 (b)(5)]. A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 14 days from the issuance of the request. Responses to such memoranda will be due 14 days from the date the memoranda is filed. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed [39 CFR 3001.21]. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

It is ordered:

1. The Postal Service shall file the administrative record in this appeal by July 6, 2006.
2. The procedural schedule is listed below.
3. The Secretary shall arrange for publication of this notice and order and procedural schedule in the **Federal Register**.

Procedural Schedule

June 21, 2006: Filing of appeal.
June 28, 2006: Commission notice and order of filing of appeal.
July 6, 2006: Deadline for Postal Service to file administrative record in this appeal.
July 24, 2006: Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
July 26, 2006: Petitioner's participant statement or initial brief [*see* 39 CFR 3001.115(a) and (b)].
August 15, 2006: Postal Service's answering brief [*see* 39 CFR 3001.115(c)].
August 30, 2006: Petitioner's reply brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)].
September 6, 2006: Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].
October 19, 2006: Expiration of the Commission's 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

Issued June 28, 2006.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E6–10439 Filed 7–3–06; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release 34–54056; File No. 600–23]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Order Approving an Extension of Temporary Registration as a Clearing Agency

June 28, 2006.

The Securities and Exchange Commission (''Commission'') is publishing this notice and order to solicit comments from interested persons and to extend the Fixed Income Clearing Corporation's (''FICC'') temporary registration as a clearing agency through June 30, 2007.[1]

On May 24, 1988, pursuant to sections 17A(b) and 19(a) of the Act[2] and Rule 17Ab2–1 promulgated thereunder,[3] the Commission granted the Government Securities Clearing Corporation (''GSCC'') registration as a clearing agency on a temporary basis for a period of three years.[4] The Commission subsequently extended GSCC's registration through June 30, 2003.[5]

On February 2, 1987, pursuant to sections 17A(b) and 19(a) of the Act[6] and Rule 17Ab2–1 promulgated thereunder,[7] the Commission granted the MBS Clearing Corporation (''MBSCC'') registration as a clearing agency on a temporary basis for a period of eighteen months.[8] The Commission subsequently extended MBSCC's registration through June 30, 2003.[9]

On January 1, 2003, MBSCC was merged into GSCC, and GSCC was renamed FICC.[10] The Commission subsequently extended FICC's temporary registration through June 30, 2006.[11]

On June 2, 2006, FICC requested that the Commission grant FICC permanent registration as a clearing agency or in the alternative extend FICC's temporary registration until such time as the Commission is prepared to grant FICC permanent registration.[12]

Recently FICC announced its intention to implement a central counterparty (''CCP'') service in its Mortgage-Backed Services Division (''MBS Division''). Pursuant to this service, FICC, acting as the CCP for MBS Division members, would become the new legal counterparty to all original counterparties for eligible mortgage-backed securities transactions. Currently, FICC, through its Government Securities Division, acts as the CCP for its members U.S. Government securities transactions.

The Commission therefore is extending FICC's temporary registration as a clearing agency in order that FICC may continue to provide its users clearing and settlement services as a registered clearing agency. The Commission will consider permanent registration of FICC at a future date after the Commission and FICC have had time to evaluate how FICC is functioning with its MBS Division acting as a CCP, assuming the MBS Division CCP service is implemented.

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 600–23 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 600–23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.ficc.com.* 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 600–23 and should be submitted on or before July 26, 2006.

It is therefore ordered that FICC's temporary registration as a clearing agency (File No. 600–23) be and hereby is extended through June 30, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Nancy M. Morris,

Secretary.

[FR Doc. E6–10433 Filed 7–3–06; 8:45 am]

BILLING CODE 8010–01–P

[1] FICC is the successor to MBS Clearing Corporation and Government Securities Clearing Corporation.

[2] 15 U.S.C. 78q–1(b) and 78s(a).

[3] 17 CFR 240.17Ab2–1.

[4] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[5] Securities Exchange Act Release Nos. 25740 (May 24, 1988), 53 FR 19639; 29236 (May 24, 1991), 56 FR 24852; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; 41104 (February 24, 1999), 64 FR 10510; 41805 (August 27, 1999), 64 FR 48682; 42335 (January 12, 2000), 65 FR 3509; 43089 (July 28, 2000), 65 FR 48032; 43900 (January 29, 2001), 66 FR 8988; 44553 (July 13, 2001), 66 FR 37714; 45164 (December 18, 2001), 66 FR 66957; 46135 (June 27, 2002), 67 FR 44655.

[6] *Supra* note 2.

[7] *Supra* note 3.

[8] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

[9] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 39537; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; 37372 (June 26, 1996), 61 FR 35281; 38784 (June 27, 1997), 62 FR 36587; 39776 (March 20, 1998), 63 FR 14740; 41211 (March 24, 1999), 64 FR 15854; 42568 (March 23, 2000), 65 FR 16980; 44089 (March 21, 2001), 66 FR 16961; 44831 (September 21, 2001), 66 FR 49728; 45607 (March 20, 2002), 67 FR 14755; 46136 (June 27, 2002), 67 FR 44655.

[10] Securities Exchange Act Release No. 47015 (December 17, 2002), 67 FR 78531 (December 24, 2002) [File Nos. SR–GSCC–2002–07 and SR–MBSCC–2002–01].

[11] Securities Exchange Act Release Nos. 48116 (July 1, 2003), 68 FR 41031; 49940 (June 29, 2004), 69 FR 40695; 51911 (June 23, 2005), 70 FR 37878.

[12] Letter from Nikki Poulos, Vice President and General Counsel, FICC (June 2, 2006).

[13] 17 CFR 200.30–3(a)(1506).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54051; File No. SR–NASD–2006–070]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change To Amend the Safe Harbor for Business Expansions

June 27, 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 2, 2006, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. 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

NASD is proposing to amend NASD Interpretative Material 1011–1 (Safe Harbors for Business Expansions) (''NASD IM–1011–1'') to limit the types of violations of NASD Rule 2110 (Standards of Commercial Honor and Principles of Trade) that would result in a member being ineligible to use the safe harbor for business expansions and to make certain technical changes. Below is the text of the proposed rule change. Proposed new language is *in italics;* proposed deletions are in [brackets].

IM–1011–1. Safe Harbor[s] for Business Expansions

This interpretive material concerns the types of business expansions that will not require a member to submit a Rule 1017 application to obtain NASD*'s* [Regulation's] approval of the expansion. This safe harbor applies to: (1) Firms that do not have a membership agreement, and (2) firms that have a membership agreement that does not contain a restriction on the factors listed below.

The safe harbor is not available to a member that has a membership agreement that contains a specific restriction as to one or more of the factors listed below. In that case, the agreement takes precedence because NASD [Regulation] has determined that a particular restriction should apply as to one or more of the factors, and NASD [Regulation] has issued a decision with a rationale for that restriction. Similarly, the safe harbor also does not apply if the member has a membership agreement that permits expansion beyond the limits set forth below (e.g., an Applicant requests and obtains approval for ten registered representatives in the first six months with an additional ten registered representatives in the next year); in such case, [the Department] *NASD* has specifically considered the firm's expansion plans and approved them.

The safe harbor is not available to any member that has disciplinary history. For purposes of this Interpretation, ''disciplinary history'' means a finding of a violation by the member or a principal of the member in the past five years by the Securities and Exchange Commission, a self-regulatory organization, or a foreign financial regulatory authority of one or more of the following provisions (or a comparable foreign provision) or rules or regulations thereunder: *violations of the types enumerated in* Section[s] 15(b)(4)(E) [and 15(c)] of the Securities Exchange Act of 1934; *Section 15(c) of the Securities Exchange Act of 1934;* Section 17(a) of the Securities Act of 1933; SEC Rules 10b–5 and 15g–1 through 15g–9; NASD Rules 2110 *(only if the finding of a violation is for unauthorized trading, churning, conversion, material misrepresentations or omissions to a customer, front-running, trading ahead of research reports or excessive markups)*, 2120, 2310, 2330, 2440, 3010 (failure to supervise only), 3310, and 3330; and MSRB Rules G–19, G–30, and G–37(b) & (c).

For those firms to which the safe harbor is available, the following types of expansions are presumed not to be a material change in business operations and therefore do not require a Rule 1017 application. For any expansion beyond these limits, a member should contact its district office prior to implementing the change to determine whether the proposed expansion requires an application under Rule 1017. Expansions in each area are measured on a rolling 12-month basis; members are required to keep records of increases in personnel, offices, and markets to determine whether they are within the safe harbor.

''Associated Persons involved in sales'' includes all Associated Persons, whether or not registered, who are involved in sales activities with public customers, including sales assistants and cold callers, but excludes clerical, back office, and trading personnel who are not involved in sales activities.

Number of Associated Persons Involved in Sales	Safe Harbor—Increase Permitted Within One Year Period Without Rule 1017 Application
1–10	10 persons.
11 or more	10 persons or a 30 percent increase, whichever is greater.
Number of Offices (registered or unregistered):	
1–5	3 offices.
6 or more	3 offices or a 30 percent increase, whichever is greater.
Number of Markets Made:	
1–10	10 markets.
11 or more	10 markets or a 30 percent increase, whichever is greater.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change 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. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD Rule 1017 (Application for Approval of Change in Ownership, Control, or Business Operations) requires that a member submit an application to NASD for approval prior to, among other things, making a ''material change in business operations,'' which is defined in NASD Rule 1011.[3] NASD IM–1011–1 creates a safe harbor for certain types of expansions that are presumed not to be a ''material change in business operations'' and therefore do not require NASD approval.[4] This provides members with greater certainty regarding which expansions require approval and eliminates unnecessary applications for approval of business changes.

However, the safe harbor in NASD IM–1011–1 is not available to any member that, among other things, has a ''disciplinary history'' as defined in NASD IM–1011–1.[5] For purposes of NASD IM–1011–1, disciplinary history means a finding of a violation by a member or a principal of the member in the past five years by the SEC, a self-regulatory organization, or a foreign financial regulatory authority of one or more specified provisions (or comparable foreign provisions) or rules or regulations thereunder,[6] including NASD Rule 2110.[7]

When a member or individual is charged with violating an NASD rule, NASD frequently charges a violation of NASD Rule 2110 as part of NASD's action (in both settled and litigated matters).[8] Thus, the inclusion of NASD Rule 2110 in NASD IM–1011–1, without any limitation, often results in members being ineligible to use the safe harbor if they (or any of their principals) have violated any other NASD rule, which was not the intended effect. Rather, the safe harbor specifically included a finite list of rules, the violation of which would preclude the member from using the safe harbor, and was not intended to capture violations of all NASD rules.

Accordingly, with respect to violations of NASD Rule 2110, NASD proposes amendments to NASD IM–1011–1 that would deem a member ineligible to use the safe harbor only where the finding of a violation of NASD Rule 2110 by the member or a principal of the member raises significant investor protection issues by involving unauthorized trading, churning, conversion, material misrepresentations or omissions to a customer, front-running, trading ahead of research reports or excessive markups.[9] Therefore, a member would not be eligible to rely on the safe harbor for material changes in business operations if the member or any of its principals have been found, within the past five years, to have violated NASD Rule 2110 in the context of one or more of these enumerated activities (or to have violated any of the other rules specified in NASD IM–1011–1).

In addition, NASD proposes to make a technical correction to the rule text with respect to the inclusion of section 15(b)(4)(E) of the Act in the list of rules the violation of which would preclude a member from relying on the safe harbor under NASD IM–1011–1. Section 15(b)(4)(E) of the Act lists the willful violations that will result in the statutory disqualification of a broker or dealer under the Federal securities laws. A member or principal of a member is not able to violate this section *per se.* Accordingly, the proposed rule change clarifies that a member would be ineligible to use the safe harbor in the event that a member or any of its principals has been found to have engaged in one or more violations of the type specified in section 15(b)(4)(E) of the Act in the past five years.

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the *Notice to Members* announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[10] in general, and with section 15A(b)(6) of the Act,[11] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that limiting the types of violations of NASD Rule 2110 that constitute ''disciplinary history'' for purposes of NASD IM–1101–1 will allow additional firms to be able to rely on the safe harbor consistent with the original intent of the IM, while at the same time continuing to ensure investor protection by deeming a member ineligible to use the safe harbor where the violation of NASD Rule 2110 by the member or a principal presents significant investor protection issues.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] A ''material change in business operations'' is defined in NASD Rule 1011(i) and includes, but is not limited to: removing or modifying a membership agreement restriction; market making, underwriting, or acting as a dealer for the first time; and adding business activities that require a higher minimum net capital under SEC Rule 15c3–1.

[4] The safe harbor permits within a one year period (1) an increase of 10 persons if the firm has 10 or less associated persons in sales, or an increase of 10 persons or a 30 percent increase, whichever is greater, if the firm has 11 or more associated persons in sales; (2) an increase of 3 offices if the firm has 5 or less offices, or an increase of 3 offices or a 30 percent increase, whichever is greater, if the firm has 6 or more offices; and (3) an increase of 10 markets to be made if the firm makes 10 or less markets, or an increase of 10 markets or a 30 percent increase, whichever is greater, if the firm makes 11 or more markets.

[5] The safe harbor is also generally not available to members with membership agreements that contain certain restrictions on number of personnel, offices, and markets that may be made.

[6] The applicable provisions are sections 15(b)(4)(E) and 15(c) of the Securities Exchange Act of 1934; section 17(a) of the Securities Act of 1933; SEC Rules 10b–5 and 15g–1 through 15g–9; NASD Rules 2110, 2120 (Use of Manipulative, Deceptive or Other Fraudulent Devices), 2310 (Recommendations to Customers (Suitability)), 2330 (Customers' Securities or Funds), 2440 (Fair Prices and Commissions), 3010 (Supervision-failure to supervise only), 3310 (Publication of Transactions and Quotations), and 3330 (Payment Designed to Influence Market Prices, Other than Paid Advertising); and MSRB Rules G–19, G–30 and G–37(b) and (c).

[7] NASD Rule 2110 requires that ''a member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.''

[8] *See* Joseph Abbondante, Securities Exchange Act Release No. 53066 (January 6, 2006) at 36 (''It is well settled that a violation of a rule promulgated by the SEC or by NASD also violates NASD Conduct Rule 2110.'').

[9] The proposed limits on violations of NASD Rule 2110 mirror the limits on NASD Rule 2110 with respect to the public release of disciplinary complaints. *See* NASD IM–8310–2 (Release of Disciplinary and Other Information Through BrokerCheck) and the related *Notice to Members* 97–42 (July 1997).

[10] 15 U.S.C. 78*o*–3.

[11] 15 U.S.C. 78*o*3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2006–070 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–NASD–2006–070. 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 NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2006–070 and should be submitted on or before July 26, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–10434 Filed 7–3–06; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54053; File No. SR–NASD–2003–168]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Amendment Nos. 4 and 5 to the Proposed Rule Change Relating to the Release of Information Through NASD BrokerCheck

June 27, 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 6, 2006 and June 22, 2006, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') Amendment Nos. 4 and 5, respectively, to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. The proposed rule change, incorporating Amendment Nos. 1, 2, and 3, was published for comment in the **Federal Register** on June 30, 2005.[3] The Commission received eight comment letters in response to the Notice.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended by Amendment Nos. 4 and 5, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In response to comments on the Notice, NASD proposes additional amendments to NASD Interpretive Material 8310–2 (''IM–8310–2'')[5] regarding disclosures through NASD BrokerCheck.[6] The discussion section of this notice focuses on the changes made in Amendment Nos. 4 and 5.[7] The text of the proposed rule change, as amended by Amendment Nos. 4 and 5, is available on NASD's Web site (*http://www.nasd.com*), at NASD's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 51915 (June 23, 2005), 70 FR 37880 (''Notice'').

[4] *See* letters from Barry Augenbraun, Senior Vice President and Corporate Secretary, Raymond James Financial, Inc., dated July 8, 2005; Joseph D. Fleming, Managing Director and Chief Compliance Officer, Piper Jaffray & Co., dated July 13, 2005; Ronald C. Long, Senior Vice President, Regulatory Policy and Administration, Wachovia Securities, LLC, dated July 18, 2005; Mario Di Trapani, President, Association of Registration Management, dated July 19, 2005 (''ARM Letter''); John S. Simmers, CEO, ING Advisors Network, dated July 19, 2005 (''ING Letter''); Coleman Wortham III, President and CEO, Davenport & Company LLC, dated July 20, 2005; Jill Gross, Director of Advocacy and Rosario M. Patane, Student Intern, Pace Investor Rights Project, dated July 21, 2005; and Ira Hammerman, Senior Vice President and General Counsel, Securities Industry Association, dated July 27, 2005 (''SIA Letter''). NASD submitted a response to comments on June 6, 2006. *See* letter from Richard E. Pullano, Associate Vice President & Chief Counsel, Registration and Disclosure, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated June 6, 2006 (''NASD Response to Comments''). The NASD Response to Comments is available on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*).

[5] NASD also proposes to make non-substantive technical changes to the proposed rule language, including the text of Interpretive Material 8310–3, in Amendment Nos. 4 and 5. In Amendment No. 5, NASD also clarifies that the implementation date for the proposed rule change would be no later than 90 days following Commission approval.

[6] In December 2003, NASD announced that its Public Disclosure Program would thereafter be known as ''NASD BrokerCheck.''

[7] For an explanation of the Notice, *see* Securities Exchange Act Release No. 51915, *supra* note 3.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule Filing History

On November 21, 2003, NASD filed with the Commission a proposed rule change to amend IM–8310–2 and amended the proposed rule change in Amendment Nos. 1, 2, and 3 on September 28, 2004, March 8, 2005, and April 12, 2005, respectively. The Commission published the Notice in the **Federal Register** on June 30, 2005.[8] The comment period closed on July 21, 2005. Based on comments received in response to the Notice, NASD is filing Amendment No. 4 to amend the rule language of IM–8310–2.[9]

Proposal

The sole substantive change to the proposed rule language of IM–8310–2 in Amendment No. 4 concerns the conditions under which NASD proposes to release Historic Complaints through BrokerCheck.[10] As provided in Amendment No. 2, NASD proposes to release Historic Complaints only if the most recent Historic Complaint or currently reported customer complaint, arbitration, or litigation is less than ten (10) years old and the person has a total of three (3) or more currently disclosable regulatory actions, currently reported customer complaints, arbitrations, or litigations, or Historic Complaints, or any combination thereof.

In Amendment No. 4, based on concerns from certain commenters,[11] NASD proposes to change the way in which it determines whether an individual's Historic Complaints become eligible for disclosure through BrokerCheck. In response to the Notice, commenters contended that firms and registered persons made certain decisions with respect to customer complaints, arbitrations, or litigations based on the rules under which the Central Registration Depository and BrokerCheck currently operate (for example, electing to enter into a settlement for what they considered to be a nuisance value to maintain good client relationships or avoid expensive litigation).

Accordingly, NASD proposes to amend the proposed rule language to provide that Historic Complaints will be eligible for disclosure only if the matter becomes a Historic Complaint on or after the implementation date of this proposed rule change, *i.e.,* was archived on or after the implementation date of this proposed rule change. NASD believes that it is in the public interest for those items that are available for disclosure through BrokerCheck on or after the implementation date of the proposed rule change to be eligible for disclosure as Historic Complaints.

The proposed modification to this rule would continue to provide that NASD will disclose through BrokerCheck all of an individual's Historic Complaints if: (1) The most recent Historic Complaint or currently reported customer complaint, arbitration, or litigation is less than ten (10) years old, and (2) the person has a total of three (3) or more currently disclosable regulatory actions, currently reported customer complaints, arbitrations, or litigations, or Historic Complaints (subject to the limitation that they became a Historic Complaint on or after the implementation date of the proposed rule change), or any combination thereof.

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the *Notice to Members* announcing Commission approval.[12]

2. Statutory Basis

NASD believes that the proposed rule change, as amended, is consistent with the provisions of section 15A(b)(6) of the Act,[13] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and section 15A(i),[14] which requires that NASD establish and maintain a toll-free telephone listing to receive inquiries regarding disciplinary actions involving its members and their associated persons and promptly respond to such inquiries in writing. NASD states that the proposed rule change, as amended, is designed to accomplish these ends by broadening the types of information released to the investing public through NASD BrokerCheck. At the same time, the proposed rule change, as amended, establishes a principled basis for disclosure that meets NASD's investor protection objectives, while fairly addressing the proprietary interests of firms and the privacy interests of their associated persons.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD has submitted as a separate document its response to comments received by the Commission in response to the publication of the Notice on June 30, 2005.[15]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NASD consents, the Commission will:

(A) By order approve such proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the filing, as amended by Amendment Nos. 4 and 5, including whether the filing is

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[8] *Id.*

[9] *See also* Amendment No. 5, *supra* note 5.

[10] For purposes of IM–8310–2, Historic Complaints are defined as customer complaints that are more than two years old and have not been settled or adjudicated, or customer complaints, arbitrations, or litigations that have been settled for an amount less than $10,000, and which are no longer reported on a registration form.

NASD currently calculates the two-year period for disclosure of a customer complaint as of the date the customer complaint was first reported on Form U4 or Form U5. Under the proposed rule change, and consistent with the current interpretation of Form U4 and Form U5, NASD will consider this two-year period to begin on the date on which the member received the complaint, both for purposes of reportability on Form U4 and Form U5 and for purposes of disclosure pursuant to IM–8310–2. Accordingly, under the proposed rule change, a customer complaint that has not been settled or adjudicated within the two-year period beginning on the date on which the member received the complaint would cease to be reported on Forms U4 and U5 and would also become a Historic Complaint.

[11] *See, e.g.,* ARM Letter, ING Letter and SIA Letter, *supra* note 4.

[12] *See also* note 5, *supra,* clarifying that the implementation date for the proposed rule change would be no later than 90 days following Commission approval.

[13] 15 U.S.C. 78*o*–3(b)(6).

[14] 15 U.S.C. 78*o*–3(i).

[15] *See* Notice and NASD Response to Comments, *supra* notes 3 and 4.

consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2003–168 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2003–168. 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 NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2003–168 and should be submitted on or before July 20, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–10436 Filed 7–3–06; 8:45 am]

BILLING CODE 8010–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54055; File No. SR–NYSE–2006–32]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Relating to the NYSE Retail Trading Product and the NYSE Program Trading Product

June 28, 2006.

I. Introduction

On May 9, 2006, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the NYSE Retail Trading Product and the NYSE Program Trading Product (collectively, the ''NYSE Trading Information Products'').[3] The proposed rule change was published for comment in the **Federal Register** on May 24, 2006.[4] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The NYSE Retail Trading Product consists of: (A) A real-time data feed of certain execution report information that has been recorded as trades for the accounts of ''individual investors;''[5] and (B) an end-of-day summary of the retail trading activity on the Exchange for that day, including total buy and sell retail share volume for each stock traded. The NYSE Program Trading Product consists of: (A) A real-time data feed of certain execution report information that has been recorded as program trades;[6] and (B) an end-of-day summary of program trading activity on the Exchange for that day, including total index arbitrage program trading volume. Each published report of a trade execution that is included in the data feed for either product will indicate such information as the security's symbol, the size of the trade, the time of the trade's execution, and other related information.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A proposal to introduce the NYSE Trading Information Products without charge as a 60-day pilot program was effective upon filing with the Commission. *See* Securities Exchange Act Release No. 53835 (May 18, 2006), 71 FR 30456 (May 26, 2006).

[4] *See* Securities Exchange Act Release No. 53834 (May 18, 2006), 71 FR 30011.

[5] For purposes of the NYSE Retail Trading Product, the account of an ''individual investor'' means an account covered by section 11(a)(1)(E) of the Act. 15 U.S.C. 78k(a)(1)(E).

[6] For purposes of the NYSE Program Trading Product, ''program trading'' refers to program trading as defined in NYSE Rule 80A, Supplementary Material .40(b).

The NYSE proposes to establish fees for these data products. Specifically, NYSE proposes to charge a $1,500 monthly access fee for receipt of the NYSE Retail Trading Product data feed (for receipt of the real-time data feed, the end-of-day summaries, or both); a $1,500 monthly access fee for receipt of the NYSE Program Trading Product data feed (for receipt of the real-time data feed, the end-of-day summaries, or both); a $2.00 monthly display fee for each display device receiving the NYSE Retail Trading Product information and/or the NYSE Program Trading Product information that the vendor makes available from the real-time data feed; and a $250 monthly fee for vendors that only provide end of day summaries of NYSE Trading Information Products.

In addition, the NYSE proposes to provide each vendor of the NYSE Trading Information Products with a monthly credit of $2 for each device that the vendor has entitled to receive displays of the NYSE Trading Information Products, up to a maximum of either $3,000 per month if the vendor pays the monthly access fees for both the NYSE Retail Trading Product data feed and the NYSE Program Trading Product data feed (which total monthly access fees total $3,000); or $1,500 per month if the vendor pays the monthly access fees for either the NYSE Retail Trading Product data feed or the NYSE Program Trading Product data feed, but not both (either of which monthly access fees equals $1,500).

Finally, NYSE proposes to require vendors receiving the NYSE Trading Information Products, to provide subscribers, by link or otherwise, in a manner that is reasonably transparent and accessible to subscribers, a description of the NYSE Retail Trading Product and the NYSE Program Trading Product. The NYSE will require vendors to update their Exhibit A to their contract with NYSE for receipt and redistribution of NYSE Trading Information Products to describe how they will make this description available.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] Specifically, the Commission finds that the proposal is consistent with section 6(b)(4) of the Act,[8] which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. In this regard, the Commission notes that the NYSE has represented that, in arriving at the fees for the NYSE Trading Information Products, the NYSE considered the cost of collecting, processing, and making the products available, and assessed the value of the products relative to other data products that the NYSE makes available, including NYSE OpenBook.[9] Further, the Commission notes that its fees will be uniformly charged to all persons who wish to receive the data.

In addition, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Commission finds that NYSE's proposal to require vendors to provide subscribers with a description of the NYSE Trading Information Products is designed to explain and describe the NYSE Trading Information Products so that users will be better able to understand and use the data.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NYSE–2006–32) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Nancy M. Morris,

Secretary.

[FR Doc. E6–10414 Filed 7–3–06; 8:45 am]

BILLING CODE 8010–01–P

[7] In approving this proposed rule change the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(4).

[9] The Commission recently approved the fees for the real-time OpenBook service. *See* Securities Exchange Act Release No. 53585 (March 31, 2006), 71 FR 17934 (April 7, 2006) (order approving File Nos. SR–NYSE–2004–43 and SR–NYSE–2005–32).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54050; File No. SR–Phlx–2006–37]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program Concerning Split Price Priority in Open Outcry

June 27, 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 8, 2006, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)[4] thereunder, which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to extend, for a one-year period, a pilot program (the ''pilot'') set forth in Phlx Rule 1014(g)(i)(C) relating to priority on split-price transactions in open outcry.

Under the pilot, a member with an order for at least 100 contracts[5] who buys (sells) at least 50 contracts at a particular price has priority over all others in purchasing (selling) up to an equivalent number of contracts of the same order at the next lower (higher) price without being required to yield priority, including to existing customer interest in the limit order book. The pilot also establishes priority for in-crowd participants in split price transactions represented in open outcry over the quotations of participants that are not located in the crowd (*i.e.*, out-of-crowd Streaming Quote Traders (''SQTs'')[6] and Remote Streaming Quote Traders (''RSQTs'')[7]) even where the market has a bid/ask differential of one minimum trading increment.[8] The current pilot is scheduled to expire June 30, 2006. The extended pilot would expire June 30, 2007. The text of the proposed rule change is available on the Phlx Web site (*http://www.phlx.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.[9]

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 Phlx 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 Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot concerning priority in split-price transactions, which by virtue of their size and the need to execute them at multiple prices, may be difficult to execute without a limited exception to current Exchange priority rules, as described below. The pilot is scheduled to expire June 30, 2006.

The pilot was originally adopted in June 2005,[10] and subsequently extended

[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] Orders for a size of less than 100 contracts are not affected by the current pilot and would not be affected by this proposed rule change.

[6] An SQT is an Exchange Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such SQT is assigned. (AUTOM is Phlx's Automated Options Market.) An SQT may submit such quotations only while such SQT is physically present on the floor of the Exchange. *See* Phlx Rule 1014(b)(ii)(A).

[7] An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may submit such quotations electronically only from off the floor of the Exchange. *See* Phlx Rule 1014(b)(ii)(B).

[8] Generally, all options on stocks, indexes, and Exchange Traded Funds quoting in decimals at $3.00 or higher have a minimum increment of $.10, and those quoting in decimals under $3.00 have a minimum increment of $.05. *See* Phlx Rule 1034(a).

[9] The proposed rule change amends the current text of Phlx Rule 1014(g)(i)(C) by changing the expiration date from June 30, 2006 to June 30, 2007.

[10] *See* Securities Exchange Act Release No. 51820 (June 10, 2005), 70 FR 35759 (June 21, 2005) (SR–Phlx–2005–28).

in December 2005.[11] In May 2006, the pilot was expanded to include priority for in-crowd participants in both trades of the split price transaction where there is a minimum trading increment market, but only over RSQTs and out-of-crowd SQTs in such circumstance.[12]

The current pilot, applicable to equity options (including options overlying Exchange Traded Fund Shares (''ETFs'')), permits a member with an order for at least 100 contracts [13] who buys (sells) at least 50 contracts at a particular price to have priority over all others in purchasing (selling) up to an equivalent number of contracts of the same order at the next lower (higher) price without being required to yield priority, including to existing customer interest in the limit order book. Absent this rule, such orders would be required to yield priority.[14]

For example, where the market is $.25—$.35, a Floor Broker representing an order to purchase 100 contracts that executes a purchase of 50 of those contracts at a price of $.30 has priority over all market participants to purchase the remaining 50 contracts in the order at $.25. Two trades would be reported to the tape, one a purchase of 50 contracts at $.30, and the other a purchase of 50 contracts at $.25. The effect to that Floor Broker's customer would be a net purchase price of $.275 for 100 contracts.

The pilot, as recently modified,[15] also affords priority to members physically located in the crowd where the market has a bid/ask differential of one minimum trading increment and the bid and/or ask represent quotations of members located outside of the crowd (*i.e.*, out-of-crowd SQTs and RSQTs).[16] The Exchange believes that this provision should enable it to continue to compete for order flow in situations where Floor Brokers seek split price executions in open outcry when the market consists of RSQT quotations and/or SQT quotations where the SQT is located out of that trading crowd with a bid/ask differential of one minimum trading increment.

For example, assume a Floor Broker represents an order to purchase 100 contracts in a series where the market is $.25—$.30, and both the bid and offer represent quotations submitted by out-of-crowd SQTs [17] or RSQTs. Under the pilot, the Floor Broker and contra-side participant in the trading crowd are afforded priority over the out-of-crowd SQT or RSQT at both $.25 and $.30, even though the bid/ask differential is one minimum trading increment ($.05). This would enable the Floor Broker to execute a split-price order at a net price ($.275) that improves the market. According to Phlx, the effect (and ultimate benefit) to that Floor Broker's customer would be a net purchase price of $.275 for 100 contracts. This provision applies only with respect to quotations submitted by out-of-crowd SQTs and RSQTs, and thus does not operate to afford priority over, for example, customer or broker-dealer orders or in-crowd SQT quotes.

The Exchange believes that, in situations where the market has a bid/ask differential of one minimum trading increment, it is potentially difficult for the Floor Broker to achieve price improvement for the Floor Broker's customer on the Phlx. Instead, the order might trade at another exchange that has no impediments, *i.e.*, rules that afford priority to in-crowd participants over out-of-crowd participants generally, regardless of split price priority.[18] The pilot therefore was modified to include this provision.[19]

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act [20] in general, and furthers the objectives of section 6(b)(5) of the Act [21] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, enabling Floor Brokers representing split price orders in open outcry to provide split-price executions at improved prices on behalf of customers by establishing a limited priority rule regarding split-price transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act,[22] and Rule 19b–4(f)(6) thereunder.[23] 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.

A proposed rule change filed under Rule 19b–4(f)(6) [24] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[25] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day pre-operative delay. The Commission believes that such waiver is consistent with the protection

[11] *See* Securities Exchange Act Release No. 53021 (December 23, 2005), 70 FR 77435 (December 30, 2005) (SR–Phlx–2005–86).

[12] *See* Securities Exchange Act Release No. 53874 (May 25, 2006), 71 FR 32171 (June 2, 2006) (SR–Phlx–2006–18).

[13] Orders for a size of less than 100 contracts are not affected by the current pilot and would not be affected by this proposed rule change.

[14] *See, e.g.*, Phlx Rule 119(a).

[15] *See supra*, note 12.

[16] Clarified in telephone conference on June 21, 2006, among Richard Rudolph, Vice President and Counsel, Phlx; and Ira Brandriss, Special Counsel, and Mitra Mehr, Special Counsel, Division of Market Regulation, Commission.

[17] The specialist and/or SQTs participating in a trading crowd may, in response to a verbal request for a market by a Floor Broker, state a bid or offer that is different than their electronically submitted bid or offer, provided that such stated bid or offer is not inferior to such electronically submitted bid or offer. *See* Phlx Rule 1014, Commentary .05(c).

[18] The Phlx cites to Chicago Board Options Exchange, Incorporated (''CBOE'') Rule 6.45A, which provides that only in-crowd market participants are eligible to participate in open outcry trade allocations. *See* Securities Exchange Act Release No. 51366 (March 14, 2005), 70 FR 13217 (March 18, 2005) (SR–CBOE–2004–75). The Phlx notes that CBOE Rule 6.45A affords priority over out-of-crowd participants even where there is no split price priority situation. CBOE Rule 6.47 contains CBOE's split price provision, which is similar to current Phlx Rule 1014(g)(i)(C).

[19] *See supra*, note 12.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6).

[25] 17 CFR 240.19b–4(f)(6)(iii).

of investors and the public interest because it would allow the Phlx to extend its pilot without interruption.[26] For this reason, the Commission designates the proposed rule change to be effective upon filing with the Commission.[27]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2006–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2006–37. 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 Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2006–37 and should be submitted on or before July 26, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Nancy M. Morris,

Secretary.

[FR Doc. E6–10416 Filed 7–3–06; 8:45 am]

BILLING CODE 8010–01–P

[26] At the Exchange's request, the Commission has waived the five-day pre-notice filing requirement for ''non-controversial'' proposals. *See* 17 CFR 240.19b–4(f)(6)(iii).

[27] For purposes only of accelerating the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[28] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 5.125 (5⅛) percent for the July–September quarter of FY 2006.

James E. Rivera,

Associate Administrator for Financial Assistance.

[FR Doc. E6–10421 Filed 7–3–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5461]

30-Day Notice of Proposed Information Collection: DS–3013, Application Under the Hague Convention on the Civil Aspects of International Child Abduction, OMB Number 1405–0076

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Application Under the Hague Convention on the Civil Aspects of International Child Abduction.
- *OMB Control No:* 1405–0076.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs. CA/OCS/CI.
- *Form Number:* DS–3013.
- *Respondents:* Individuals.
- *Estimated Number of Respondents:* 500 per year.
- *Estimated Number of Responses:* 500 per year.
- *Average Hours Per Response:* 1 hour.
- *Total Estimated Burden:* 500 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 5, 2006.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: kastrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- Mail (paper, disk, or CD–ROM submissions): Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- Fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Mary Sue Conaway, CA/OCS/CI, U.S. Department of State, Washington, DC 20520–4818, who may be reached on 202–736–9131 or via e-mail at *ConawayMS@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of Proposed Collection

The Application Under the Hague Convention on the Civil Aspects of International Child Abduction (DS–3013) is used by parents or legal guardians who are asking the State Department's assistance in seeking the return of, or access to, a child/or children alleged to be wrongfully removed from or retained outside of the child's habitual residence and currently located in another country that is also party to the Hague Convention on the Civil Aspects of International Child Abduction (Contracting State). The application requests information regarding the identities of the applicant, the child or children, and the person alleged to have wrongfully removed or retained the child or children. In addition, the application requires that the applicant provide the circumstances of the alleged wrongful removal or retention and the legal justification for the request for return or access. The State Department, as the U.S. Central Authority, uses this information to establish, if possible, the applicants' claims under the Convention; to advise applicants about available remedies under the Convention; and to provide the information necessary to the foreign Central Authority in its efforts to locate the child or children, and to facilitate return of or access to the child or children pursuant to the Convention.

Methodology

The CA/OCS/CI contact collects the necessary information via mail, fax, or electronic submission.

Dated: June 20, 2006.

Catherine Barry,

Deputy Assistant Secretary, Consular Affairs, Overseas Citizens Services, Department of State.

[FR Doc. E6–10442 Filed 7–3–06; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5460]

Culturally Significant Objects Imported for Exhibition Determinations: "The Arts in Latin America, 1492–1820"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "The Arts in Latin America, 1492–1820," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Philadelphia Museum of Art, Philadelphia, Pennsylvania, from on or about September 17, 2006, until on or about December 31, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Richard Lahne, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8058). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 19, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–10446 Filed 7–3–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Delegation of Authority 293]

Delegation of Authority by the Secretary of State to Officers of the Department of State and the Administrator of the U.S. Agency for International Development of Authorities Under the Foreign Assistance Act of 1961 and Other Related Acts

By virtue of the authority vested in me as Secretary of State by the laws of the United States, including the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2151 et seq.) (the Act), Executive Order 12163 of September 29, 1979, as amended (44 FR 56673) (the Order), the Migration and Refugee Assistance Act of 1962 (22 U.S.C 2601), and section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby delegate the following functions to the extent authorized by law:

Section 1. Functions Delegated to the Director of Foreign Assistance

Exclusive of the functions otherwise reserved to the Secretary of State herein, there are hereby delegated to the Director of Foreign Assistance:

(a) The functions conferred upon the Secretary of State by sections 101(b), 531(b) and 622(c) of the Act, section 2(b) of the Arms Export Control Act, and section 1523 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6593), including the authority to provide for continuous supervision and general direction of development and other economic assistance, military assistance, military education and training, and foreign military financing, designing a U.S. foreign assistance strategy and budgetary approach, determining whether there shall be a program for a country and the amount thereof, and approving the programming of foreign assistance.

(b) The functions conferred upon the Secretary by section 1–100 of the Order and section 1 of Executive Order 11077 of January 22, 1963 (28 FR 629) insofar as such functions are necessary to approve assistance and programs under chapters 3 and 8 of Part I of the Act, Part II of the Act (including chapters 4, 6 and 8 thereof), and the Migration and Refugee Assistance Act of 1962 (22 U.S.C 2601) as part of a coordinated U.S. foreign assistance strategy.

Section 2. Functions Delegated to Other Officers of the Department of State

Exclusive of the functions reserved to the Secretary or delegated by section 1, the following functions are delegated to officers of the Department of State as indicated:

(a) To the Under Secretary for Arms Control and International Security:

(1) The functions conferred on the Secretary by Executive Order 11958 of January 18, 1977 (42 FR 4311) relating to sales and exports under the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(2) The functions conferred upon the Secretary of State by statute or by section 2(b) of the Arms Export Control Act relating to continuous supervision and general direction of military sales and exports, including, but not limited to, whether there shall be a military sale or export for a country and the value thereof, to the end that such sales and exports are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(3) The functions conferred on the Secretary of State by section 374 of Title 10, United States Code and other authorities and responsibilities of the Secretary of State related to the provision of Department of Defense equipment and services for narcotics-related purposes.

(4) The functions conferred upon the Secretary of State by—

(A) Sections 39 and 42(b) of the Arms Export Control Act (22 U.S.C. 2751);

(B) Section 504 of the Foreign Relations Authorization Act, fiscal year 1979 (22 U.S.C. 2656d);

(C) Section 1454(d)(1) of the Department of Defense Authorization

Act, Fiscal Year 1986 (Pub. L. 99–145, 10 U.S.C. 2547(d)(1)), and (to the extent not otherwise expressly delegated or reserved) other authorities and responsibilities of the Secretary of State relating to the provision of Department of Defense equipment or services for humanitarian purposes;

(D) Section 1324(a) of Title XII of the Defense Authorization Act, Fiscal Year 1996 (Pub. L. 104–106); and

(E) Section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1997, as enacted in Public Law 104–208.

(5) The functions conferred on the President by—

(A) Section 8(d) of the act of January 12, 1971 to amend the Foreign Military Sales Act (22 U.S.C. 2321b(d));

(B) Section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a); and

(C) Section 1540(b)(1)(A) of the Department of Defense Authorization Act, Fiscal Year 1985 (Pub. L. 98–525), to be exercised in consultation with the Secretary of Defense.

(6) The function of consultation, pursuant to the Order and Executive Order 11958 of January 18, 1977 (42 FR 4311), with the Secretary of Defense, the Director of the Office of Management and Budget, and the Administrator of the United States Agency for International Development (USAID).

(7) To the extent that such functions were delegated to the Secretary of State pursuant to Executive Order 12851 of June 11, 1993 (58 FR 33181), the functions conferred on the Secretary of State by sections 1701–1703 of the National Defense Authorization Act for Fiscal Year 1991 (NDAA) (Pub. L. 101–510; 50 U.S.C. App. 2402 note, 2405, 2410(b); 22 U.S.C. 2797–2797c), and all functions conferred on the President by sections 1701–1703 of the NDAA; sections 303, 324, and 401–405 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Pub. L. 102–138); sections 305, 306, 308, and all of section 307 with the exception of subsection 307(b)(2)(F)(ii), of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Pub. L. 102–182; 50 U.S.C. App. 2410c; 22 U.S.C. 2798, 5604–5606); sections 241 and 1097 of the National Defense Authorization Act of 1992 and 1993 (Pub. L. 102–190); and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484).

(8) The functions specified in sections 504 and 508(b) of the FREEDOM Support Act (22 U.S.C. 5801 et seq.).

(9) The function specified in section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), relating to the implementation of United Nations arms embargoes, to the extent that such functions were delegated to the Secretary of State pursuant to Executive Order 12918 of May 26, 1994 (59 FR 28205).

(10) The functions specified in the Iran-Iraq Arms Non-Proliferation Act of 1992 (Pub. L. 102–484), to the extent that such functions were delegated to the Secretary of State pursuant to the Presidential Memorandum Delegation of Authority dated September 27, 1994.

(11) The functions conferred on the Secretary of State in Executive Order 12938 of November 14, 1994 (59 FR 59099).

(12) The functions conferred on the Secretary by the Chemical Weapons Convention Implementation Act of 1998 (as contained in Pub. L. 105–277).

(13) The functions that were vested in the United States Arms Control and Disarmament Agency before the effective date described in section 1201 of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in Pub. L. 105–277), including any functions conferred on the Director or any officer or employee of that agency, and that are now conferred on the Secretary pursuant to the provisions of the Act (including amendments made by that Act).

(b) To the Under Secretary for Management:

(1) The function of consultation with the Administrator of USAID under the Order with respect to maximum compatibility in the administration of the Foreign Service personnel system; and

(2) The function conferred on the Secretary of State by section 514 of the Mutual Security Act of 1954 (22 U.S.C. 1766).

(c) To the Under Secretary for Economic, Business and Agricultural Affairs:

The functions conferred upon the Secretary of State by section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Pub. L. 104–107).

(d) To the Assistant Secretary for Economic and Business Affairs:

(1) The functions conferred upon the Secretary of State by sections 5(k) and 6(k) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(k), 2405(k)) and the functions under sections 5(f)(4), 5(i), and 6(g) of such Act conferred upon the Secretary of State by section 1–102(b) of Executive Order 12214 of May 2, 1980 (45 FR 29783), relating to negotiations with other countries, subject to the concurrences required by the Department of State Circular 175 Procedure;

(2) Those functions conferred upon the President by section 601(b)(6) of the Act; and

(3) The function conferred upon the Secretary of State by section 3(b) of Executive Order 10900 of January 5, 1961 (26 FR 143) of ensuring that all functions exercised under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) are consistent with the foreign policy of the United States.

(e) To the Assistant Secretaries:

(1) Principal responsibility consistent with section 1–604 of the Order for concurrence of the Department of State, with the approval of the Legal Adviser and in accordance with the Circular 175 Procedure, in the negotiation, conclusion, and termination of international agreements relevant to their respective areas of responsibility by USAID pursuant to international agreement authorities conferred upon by USAID by statute, Executive Order, delegation of authority, or otherwise;

(2) The functions which may be necessary and appropriate to implement the programs and activities for which they are responsible.

(f) To the Legal Adviser:

(1) The functions conferred upon the President by sections 601(b)(3), 601(b)(4), and 620(e)(2) of the Act.

(2) Responsibility for ensuring compliance with the Case Act (1 U.S.C. 112b) and applicable regulations and procedures, including the Circular 175 Procedure, with respect to international agreements.

(g) To the Assistant Secretary for International Narcotics and Law Enforcement Affairs:

(1) The functions of negotiating, concluding, and terminating international agreements relating to international narcotics control and anticrime programs subject to the concurrences required by the Circular 175 Procedure; and

(2) The functions conferred upon the President by section 487 of the Act, together with all those authorities contained in the Act to the extent necessary or appropriate to accomplish the purpose of the Act.

(h) To the Assistant Secretary for International Organization Affairs:

The functions conferred upon the President by chapter 3 of part 1 of the Act. The functions under sections 301(d) and (e) shall be exercised in consultation with the Administrator of USAID insofar as they relate to international organizations and programs whose purpose is primarily developmental.

(i) To the Coordinator for Counterterrorism:

The functions conferred upon the President by chapter 8 of part II of the Act.

(j) To the Assistant Secretaries for International Organization Affairs, International Narcotics and Law Enforcement Affairs, the Coordinator for Counterterrorism, and the Assistant Secretary for Western Hemisphere Affairs with regard to the functions delegated to them herein:

The functions conferred upon the President by section 4 of Executive Order 11223 of May 12, 1965 (30 FR 6635).

(k) To the Coordinator for East European Assistance and the Special Advisor to the President and the Secretary of State on Assistance to the New Independent States:

(1) The functions conferred upon the President by section 577 of the Foreign Operations Act, Fiscal Year 1999 (as included in Pub. L. 105–277) and section 201 of the Support for East European Democracy (SEED) Act of 1989, insofar as such functions relate to programs within their respective areas of responsibility; and

(2) The functions that may be necessary and appropriate to implement programs and activities for which they are responsible.

(l) To the Global AIDS Coordinator:

(1) The functions conferred upon the President by sections 202(c), 305, and 313 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Pub. L. 108–25), and by section 104A(e) of the Act of 1961, to provide the specified reports to the Congress;

(2) The functions conferred upon the President by section 101 of Public Law 108–25 to establish a comprehensive, integrated, 5-year strategy to combat global HIV/AIDS and to submit to the appropriate congressional committees a report setting forth the strategy; and

(3) The functions conferred upon the Secretary by section 525 of Public Law 108–447 regarding the certification of specified benchmarks for the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund).

Section 3. Functions Delegated to the Administrator of the United States Agency for International Development

(a) Exclusive of the functions otherwise delegated by or reserved to the Secretary of State herein, there are hereby delegated to the Administrator of the United States Agency for International Development (the Administrator):

(1) The functions conferred upon the President by part I of the Act (including chapter 4 of part II thereof);

(2) The functions conferred upon the President by section 653 of the Act insofar as such functions relate to chapters 1, 10, and 11 of part I of the Act and funds appropriated under the heading ''Assistance for Eastern Europe and the Baltic States'';

(3)(A) the functions conferred upon the President by—

(i) Sections 301(a) and 307 of the FREEDOM Support Act (22 U.S.C. 5801), except insofar as provided otherwise in section 2(b) of Executive Order 12884 of December 1, 1993 (58 FR 64099);

(ii) Sections 498 and 498C(b)(2) of the Act;

(iii) Paragraph (3) of section 498A(c) of the Act and the requirement to make reports under that section regarding determinations under that paragraph;

(iv) Subsection (d) under the heading ''Assistance for the New Independent States of the Former Soviet Union'' contained in title II of Public Law 102–391; and

(v) Section 592 of Public Law 102–391, except to the extent otherwise provided in section 5(b) of Executive Order 12884.

(B) Such functions shall be exercised subject to the authority of the Coordinator under section 102(a) of the FREEDOM Support Act or otherwise;

(4) The function conferred upon the President by the third proviso under the heading ''Development Assistance'' contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1999 (as contained in Pub. L. 105–277), insofar as such functions relate to part I (including chapter 4 of part II) of the Act, excluding section 129 thereof relating to technical assistance to foreign governments and chapter 3 thereof;

(5) The functions conferred upon the President by section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1999 (as contained in Pub. L. 105–277), insofar as such functions relate to part I (including chapter 4 of part II) of the Act, excluding section 129 thereof relating to technical assistance to foreign governments and chapter 3 thereof;

(6) The functions conferred upon the President by section 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1999 (as contained in Pub. L. 105–277), insofar as such functions relate to chapters 1 and 10 of part I, and chapter 4 of part II, of the Act;

(7) The functions conferred upon the President by section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1998 (as contained in Pub. L. 105–118), and the provisions of the law referenced therein;

(8) The functions conferred upon the President by section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1989 (as contained in Pub. L. 100–461), which shall be exercised in consultation with the Secretary of State and the Director of the Office of Management and Budget;

(9) Those functions conferred upon the Secretary of State by sections 4 and 7 of Executive Order 11269 of February 14, 1966 (31 FR 2813), relating to the National Advisory Council on International Monetary and Financial Policies; and

(10) The functions of negotiating, concluding, and terminating international agreements under part I of the Act (including chapter 4 of part II thereof), with respect to programs administered by USAID.

(b) The delegated functions under sections 491(b) and 491(c) of the Act shall be exercised in consultation with the Director of Foreign Assistance.

(c) The delegated functions under sections 627, 628, 630(3), and 666 of the Act shall be exercised in consultation with the Under Secretary for Management.

(d) The delegated functions under section 534 of the Act (with the exception of those contained in subsection (b)(3)) shall be exercised in cooperation with the appropriate Assistant Secretaries of State.

Section 4. Functions Delegated to Other Agencies

To the heads of other agencies implementing functions under the Act, those functions contained in the Act that may be necessary or appropriate to carry out such functions.

Section 5. Functions Reserved to the Secretary of State

There are hereby reserved to the Secretary of State:

(a) The functions conferred upon the President by sections 239(f), 451, 462, 502B, 505(b), 533(b), 614(b), 620(c), 620(e)(1), 620(f), 620(g), 620(q), and 620C(c) of the Act.

(b) In keeping with USAID's status as a distinct agency and recognizing that the Administrator is under the Secretary's direct authority and foreign policy guidance, the Secretary shall review USAID's strategic plan and annual performance plan, annual budget submission and appeals, allocations and significant (in terms of policy or money) reprogrammings of development and other economic assistance.

Section 6. Allocation of Funds

There are hereby allocated to the Administrator those funds allocated to the Secretary of State by section 1–800(a) of the Order that are appropriated for the purposes of part I of the Act, except for chapters 3 and 8, and chapter 4 of part II. There are allocated to the Director of Foreign Assistance those funds allocated to the Secretary of State by section 1–800(a) of the Order that are appropriated for purposes of chapters 3 and 8 of part I of the Act and all of part II of the Act, except for chapter 4.

Section 7. General Provisions

(a) Department of State Delegation of Authority No. 145 of February 4, 1980, as amended, is revoked.

(b) As used in this delegation of authority, the word ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, discretion or activity.

(c) Any reference in this delegation of authority to any act, order, determination, delegation of authority, regulation, or procedure shall be deemed to be a reference to such act, order, determination, delegation of authority, regulation or procedure as amended from time to time.

(d) Any officer to whom functions are delegated by this delegation of authority may, to the extent consistent with law:

(1) Redelegate such functions and authorize their successive redelegation,

(2) Promulgate such rules and regulations as may be necessary to carry out such functions, and

(3) Exercise the functions that may be necessary or appropriate to carry out the programs and activities for which authority is delegated to them under this Delegation.

(e) Any officer performing functions under the Act may perform the functions conferred upon the President by section 634B of the Act insofar as they relate to the performance of those functions.

(f) Except to the extent inconsistent with this delegation of authority, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, contracts, agreements, and other actions made, issued or entered into with respect to any function affected by this delegation of authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this delegation of authority, shall continue in full force and effect until modified, amended or terminated by appropriate authority; and

(g) Nothing in this delegation shall be interpreted in a manner inconsistent with the Chief Financial Officers Act.

(h) Any reference in this delegation of authority to any act, order, determination, delegation of authority, regulation, or procedure shall be deemed to apply to any provision of law that is the same or substantially the same as such act, order, determination, delegation of authority, regulation, or procedure.

(i) Notwithstanding any provision of this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function delegated or reserved by this delegation of authority.

Dated: June 2, 2006.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E6–10451 Filed 7–3–06; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

In the Matter of the Trade Name Issued to Hyannis Air Service, Inc. d/b/a Cape Air d/b/a Nantucket Airlines

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2006–6–36), Docket OST–2006–25256.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the registration of the trade name ''Nantucket Shuttle'' issued to Hyannis Air Service, Inc. d/b/a Cape Air d/b/a Nantucket Airlines.

DATES: Persons wishing to file objections should do so no later than July 12, 2006.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–2006–25256 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: William M. Bertram, Chief, 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 28, 2006.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. E6–10460 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Draft Advisory Circulars, Other Policy Documents and Proposed Technical Standard Orders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: This is a recurring Notice of Availability, and request for comments, on the draft advisory circulars (ACs), other policy documents, and proposed technical standard orders (TSOs) currently offered by the Aircraft Certification Service.

SUMMARY: The FAA's Aircraft Certification Service publishes proposed non-regulatory documents that are available for public comment on the Internet at *http://www.faa.gov/aircraft/draft_docs/*.

DATES: We must receive comments on or before the due date for each document as specified on the Web site.

ADDRESSES: Send comments on proposed documents to the Federal Aviation Administration at the address specified on the Web site for the document being commented on, to the attention of the individual and office identified as point of contact for the document.

FOR FURTHER INFORMATION CONTACT: See the individual or FAA office identified on the Web site for the specified document.

SUPPLEMENTARY INFORMATION:

Comments Invited

When commenting on draft ACs, other policy documents or proposed TSOs, you should identify the document by its number. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date before issuing a final document. You can obtain a paper copy of the draft document or proposed TSO by contacting the individual or FAA office responsible for the document as identified on the Web site. You will find the draft ACs, other policy documents and proposed TSOs on the ''Aircraft Certification Draft Documents Open for Comment'' Web site at *http://www.faa.gov/aircraft/draft_docs/*. For Internet retrieval assistance, contact the

AIR Internet Content Program Manager at 202–267–8361.

Background

We do not publish an individual **Federal Register** notice for each document we make available for public comment. Persons wishing to comment on our draft ACs, other policy documents and proposed TSOs can find them by using the FAA's Internet address listed above. This notice of availability and request for comments on documents produced by the Aircraft Certification Service will appear again in 30 days.

Issued in Washington, DC on June 28, 2006.

Terry Allen,

Acting Manager, Production and Airworthiness Division, Aircraft Certification Service.

[FR Doc. 06–5985 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2006–25257]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under Supplementary Information. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by September 5, 2006.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2006–25257 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:* 1–202–493–2251
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *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.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room 401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James March, 202–366–9237, or William Linde, 202–366–9637, Office of Transportation Policy Studies, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: National Evaluation of a Mileage-Based Road User Charge.

Background: Section 1919 of The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005 (SAFETEA–LU) calls for a study and long-term field test of a new mechanism for collecting revenues to fund State and Federal highway programs. This would be an alternative to the fuel tax that currently supports highway construction programs. The legislation specifies that the study include an analysis of a long-term field test of an approach to assessing highway use fees based upon actual mileage driven by a vehicle equipped with an on-board computer for the purpose of calculating highway mileage traversed.

This study and field test build upon an earlier pooled fund study involving 15 States and the Federal Highway Administration that evaluated a range of potential alternatives to the motor fuel tax for financing highway improvement programs. The alternative recommended at the end of that study was a mileage-based tax that: (1) Would utilize Global Positioning System (GPS) and other technologies expected to be deployed for intelligent transportation systems or other purposes; (2) would allow attribution of mileage and tax revenues to different taxing jurisdictions; (3) would be seamless to the user; and (4) would emphasize privacy considerations that were found to be so important to highway users.

During the pooled fund study it was recognized that any new taxing mechanism would require extensive field-testing to evaluate user acceptance. This study will include 200–250 participants per year in each of six geographic regions of the country. Persons selected to participate in the field-testing will have agreed to have the necessary on-board computer technology installed in their personal vehicles for testing the mileage data collection technology. Field-testing will be conducted over two years with a new set of participants in each year—1,200 in the first year and 1,500 in the second. The participants will be asked to provide information every two months over the course of their participation in the field test in order to collect data that provides for an analysis of participant opinion on different aspects of the field test, such as privacy of data, level of detail of data transmitted to collection center, billing transmittal, among others. The participants will have a choice of providing their information by means of telephone, Internet or printed survey.

Respondents: Approximately 1,200 field-test participants in the first year of field-testing and 1,500 in the second year—total of approximately 2,700 over the two year field testing period.

Frequency: Every two months of the field-test period—six collections from each participant.

Estimated Average Burden per Response: Approximately 15 minutes during field-testing and 30 minutes for the final collection as the participant exits field-testing. Approximately 2 hours per participant over a year.

Estimated Total Annual Burden Hours: Approximately 2,400 hours in the first year and 3,000 in the second year.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E6–10470 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Cobb, Fulton, and DeKalb Counties, Georgia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed combined highway and transit project on I–285 in Cobb, Fulton, and DeKalb Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Fedora, P.E., Urban Transportation Engineer, FHWA, 61 Forsyth Street, SW., Suite 17T100, Atlanta, Georgia 30303, Telephone: (404) 562–3651; Mrs. Myra R. Immings, Community Planner, Federal Transit Administration, 61 Forsyth Street, SW., Suite 17T50, Atlanta, Georgia 30303, Telephone (404) 562–3508; Mr. Harvey Keepler, State Environmental/Location Engineer, Georgia Department of Transportation, 3993 Aviation Circle, Atlanta, Georgia 30336, Telephone: (404) 699–4401; or Mr. Marvin Woodward, Director of Projects and Planning, Georgia Regional Transportation Authority, 245 Peachtree Center Avenue, NE., Suite 900, Atlanta, Georgia 30303, Telephone: (404) 463–3099.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Federal Transit Administration (FTA), Georgia Department of Transportation, and the Georgia Regional Transportation Authority, will prepare an EIS on a combined highway and transit proposal along I–285 from I–75 in Cobb County to I–85 in DeKalb County, a length of approximately 17 miles. Alternatives under consideration include (1) No Action or No-Build, (2) transportation systems management (TSM), (3) using alternate modes, and (4) various highway and transit build alternatives including high occupancy vehicle (HOV) lanes, bus rapid transit (BRT), truck only lanes, auxiliary lanes, collector-distributor lanes, and interchange improvements along I–285, as well as various improvements on adjacent and intersecting routes along the corridor.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings and a public hearing will be held. The Draft EIS will be available for public and agencies review and comments prior to the public hearing. To ensure that the full range of issues related to this proposed project is addressed and all significant issues are identified, formal scoping will be initiated. In addition, we invite all interested parties to submit comments and suggestions. Comments or questions concerning this proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Georgia's approved clearinghouse review procedures apply to this program.)

Issued On: June 29, 2006.

Ghasson Shanine,

Transportation Administrator, FHWA, Atlanta, Georgia.

[FR Doc. 06–5974 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; San Bernardino County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS) for the proposed U.S. 395 Realignment Freeway/Expressway project on U.S. 395 from the Interstate 15 (I–15)/U.S. 395 interchange to Farmington Road. Part of the realignment would go through the cities of Oak Hills, Hesperia, Victorville, Adelanto and incorporated areas of San Bernardino County, California.

FOR FURTHER INFORMATION CONTACT: Tay Dam, Senior Project Development Engineer, Federal Highway Administration, 888 South Figueroa, Suite 1850, Los Angeles, CA, 90017. Telephone: (213) 202–3954. Boniface Udotor, California Department of Transportation District 8, 464 W. Fourth Street, San Bernardino, CA 92401. Telephone: (909) 383–1387.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, District 8, will prepare an EIS to realign U.S. 395 from the I–15/U.S. 395 interchange to Farmington Road. The proposed U.S. 395 Realignment Freeway/Expressway corridor to be evaluated is located either on existing U.S. 395 or west of existing U.S. 395, through the cities of Oak Hills, Hesperia, Victorville, Adelanto and incorporated areas of San Bernardino County. The entire proposed project length is approximately 45.0 miles long. A preferred alternative has not been selected at this point. All build alternatives begin at the I–15 U.S. 395 interchange and would extend to Farmington Road.

The viable alternatives in the environmental analysis consist of an existing alignment and two realignments upgrading U.S. 395 from a two-lane highway to a six-lane freeway/ four-lane expressway configuration. The six-lane freeway portion of the proposed existing alignment/realignments would start at the I–15/U.S. 395 junction and ends at Purple Sage Street. The expressway portion for the proposed action would continue from Purple Sage Street to Farmington Road. The build alternatives will include construction of new interchanges. For consideration in the EIS, the following four alternatives will be analyzed:

- *Alternate A: No Build.* This Alternative consists of no change to existing facilities along the proposed project portion of the U.S. 395 corridor.
- *Alternative D: Existing Alignment.* The Existing Alignment Alternative follows the existing alignment or a slightly offset alignment throughout the project limits.
- *Alternative F: Realignment West of Existing Corridor.* This Alternative proposes to realign the corridor from the I–15/U.S. 395 interchange to Farmington Road. This realignment heads northwest in the vicinity of the Oak Hills Community and the Union Pacific Railroad, and then continues in a northerly direction just west of Caughlin Road within San Bernardino County limits and traversing the western portions of the City of Adelanto, where it converges back to paralleling the existing U.S. 395 alignment for the remainder of the project limits.
- *Alternative G: Realignment West of Existing Corridor along Oro Grande Wash.* This alternative consists of a realignment detaching from existing the I–15/U.S. 395 interchange, where immediately crosses the Union Pacific Railroad within the first 1½ miles heading northeast along the Oro Grande Wash. the realignment continues northeasterly throughout the western portions of the Cities of Hesperia and Victorville and follows in a northerly

direction just west of Cuaghlin Road within San Bernardino County limits and traversing the western portions of the City of Adelanto where it converges back to paralleling the existing U.S. 395 alignment for the remainder of the project limits.

The alternatives described above will be further refined through efforts conducted under the National Environmental Policy Act (40 CFR parts 1500–1508, and 23 CFR part 771), the 1990 Clear Air Act Amendments, section 404 of the Clean Water Act, Executive Order 12898 regarding environmental justice, the National Historic Preservation Act, the Endangered Species Act, the section 4(f) of the U.S. Department of Transportation Act, and other Federal environmental protection laws, regulations, policies, and executive orders. The EIS will incorporate comments from the public scoping process as well as analysis in technical studies. Other alternatives suggested during scoping process would be considered during the development of the EIS. The EIS will consider any additional reasonable alternatives identified during scoping process. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, regional and local agencies, and to private organizations and citizens who previously have expressed, or are known to have, an interest in this project. Location and details of the public scoping meeting for the proposed project will be advertised in local newspapers and other media and will be hosted by the California Department of Transportation, District 8.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation Federal programs and activities apply to this program)

Dated: June 27, 2006.

Gene K. Fong,

Division Administrator, California Division, Federal Highway Administration.

[FR Doc. 06–5987 Filed 7–3–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34895]

Knoxville and Holston River Railroad Company, Inc.—Lease and Operation Exemption—CSX Transportation, Inc.

Knoxville and Holston River Railroad Company, Inc. (KHR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate approximately 1.9 miles of rail line owned by CSX Transportation, Inc. The line runs from Third Creek Spur in Knoxville, TN, at approximately V.S. 1+50, to the end of the line at approximately V.S. 101+68.

KHR certifies that its projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

The transaction was scheduled to be consummated on or after June 23, 2006. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34895, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Rose-Michele Nardi, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th Street, 5th Floor, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 26, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 06–5913 Filed 7–3–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34867]

General Railway Corporation, d/b/a Iowa Northwestern Railroad—Exemption for Acquisition of Railroad Line—In Osceola and Dickinson Counties, IA

General Railway Corporation (GRC), d/b/a Iowa Northwestern Railroad, a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Dickinson Osceola Railroad Association (DORA) approximately 37.30 miles of rail line in Osceola and Dickinson Counties, extending from milepost 215.00 at a point west of Superior, IA, to milepost 252.30 at a point west of Allendorf, IA.[1]

GRC certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

By decision served on May 25, 2006, the Board's Chairman issued a ''housekeeping'' stay of the effective date of the notice of exemption in this proceeding to permit full consideration of the issues presented in a petition filed by DORA and Iowa Central Railroad Company to reject or revoke the exemption or to stay its effectiveness.[2] This notice is subject to the housekeeping stay and cannot take effect until further order of the Board.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34867, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Edward J. Fishman, Kirkpatrick & Lockhart Nicholson Graham LLP, 1601 K Street, NW., Washington, DC 20006.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 27, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–10432 Filed 7–3–06; 8:45 am]

BILLING CODE 4915–01–P

[1] Due to an inadvertent oversight, GRC states that it obtained Board authority to operate the subject line in 2001 but did not obtain authority to acquire it. GRC filed this notice of exemption to correct the error. *See General Railway Corporation, d/b/a Iowa Northwestern Railroad Corporation—Operation Exemption—Line of Dickinson Osceola Railroad Association*, STB Finance Docket No. 34037 (STB served and published May 11, 2001).

[2] *See General Railway Corporation, d/b/a Iowa Northwestern Railroad—Exemption for Acquisition of Railroad Line—In Osceola and Dickinson Counties, IA*, STB Finance Docket No. 34867 (STB served May 25, 2006). In this decision, the Chairman also directed GRC to file an amended notice of exemption under 49 CFR 1150.41. This notice was filed pursuant to that directive.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34877]

Iowa River Railroad, Inc.—Acquisition and Operation Exemption—Rail Lines of North Central Railway Association, Inc., and Union Pacific Railroad Company

Iowa River Railroad, Inc. (IRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 [1] to acquire (by purchase) and operate rail lines from: (1) North Central Railway Association, Inc., extending between milepost 201.46 at or near Ackley and milepost 212.0 at or near Steamboat Rock, a distance of 10.54 miles, in Hardin County, IA; and (2) Union Pacific Railroad Company, extending between milepost 212.0 at or near Steamboat Rock and milepost 243.35 at or near Marshalltown, a distance of 31.35 miles, in Hardin and Marshall Counties, IA. The total distance of rail lines to be purchased and operated by IRR is 41.89 miles.

IRR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier.

IRR stated that the transaction would be consummated no sooner than 7 days after June 5, 2006.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34877 must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on: T. Scott Bannister, T. Scott Bannister & Associates, 111—Fifty-Sixth Street, Des Moines, IA 50312.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 27, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–10372 Filed 7–3–06; 8:45 am]

BILLING CODE 4915–01–P

[1] IRR's notice of exemption originally was filed on May 23, 2006, but was amended on June 1 and June 5, 2006. Therefore, the official filing date for the notice of exemption is June 5, 2006.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34850 (Sub-No. 1)]

BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP), pursuant to an amended written trackage rights agreement entered into between UP and BNSF Railway Company (BNSF), has agreed to grant limited temporary overhead trackage rights to BNSF eastbound trains on: (1) UP's Dallas Subdivision from Tower 55 at Ft. Worth, TX (milepost 245.3), to Longview, TX (milepost 89.6); (2) UP's Little Rock Subdivision from Longview (milepost 89.6) to North Little Rock, AR (milepost 343.6); (3) UP's Hoxie Subdivision from North Little Rock (milepost 343.6) to Bald Knob, AR (milepost 287.9); and (4) UP's Memphis Subdivision from Bald Knob (milepost 287.9) to Kentucky Street, Memphis, TN (UP milepost 378.1), a distance of 542.2 miles. UP has also agreed to grant limited overhead trackage rights to BNSF for westbound trains on: (1) UP's Memphis Subdivision from Kentucky Street to Briark, AR (milepost 375.3); (2) UP's Brinkley Subdivision (milepost 4.1) to Brinkley, AR (milepost 70.6); (3) UP's Jonesboro Subdivision (milepost 200.5) to Pine Bluff, AR (milepost 264.2); (4) UP's Pine Bluff Subdivision (milepost 264.2) to Big Sandy, TX (milepost 525.1); and (5) UP's Dallas Subdivision (milepost 114.5) to Tower 55 at Ft. Worth (milepost 245.3), a distance of 526.3 miles.

The original trackage rights granted in *BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company*, STB Finance Docket No. 34850 (STB served Apr. 7, 2006) covered the same lines. The purpose of this transaction is to extend the expiration date of the trackage rights to July 15, 2006.

The transaction was scheduled to be consummated on July 3, 2006. The temporary trackage rights will facilitate a programmed maintenance outage.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34850 (Sub-No. 1), must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Sidney L. Strickland, Jr. 3050 K Street, NW., Suite 101, Washington, DC 20007.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 29, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–10447 Filed 7–3–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub-No. 441X)]

BNSF Railway Company—Abandonment Exemption—in Kootenai County, ID

BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments* to abandon approximately 2.12 miles of rail line, extending from milepost 12.33 to milepost 14.45, in Coeur d'Alene in Kootenai County, ID. The line traverses United States Postal Service Zip Codes 83814 and 83816.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to 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.

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 4, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 17, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 25, 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 BNSF's representative: Sidney L. Strickland, Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 10, 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.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF 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 BNSF's filing of a notice of consummation by July 5, 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 27, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–10374 Filed 7–3–06; 8:45 am]

BILLING CODE 4915–01–P

[1] 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.

[2] Each OFA must be accompanied by the filing fee, which was increased to $1,300 effective on April 19, 2006. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2006 Update,* STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006).

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Community Development Financial Institutions Fund (the "Fund") within the Department of the Treasury is soliciting comments concerning the Fund's Financial Assistance and Technical Assistance Programs of the Fund's Community Development Financial Institutions (CDFI) Program.

DATES: Written comments should be received on or before September 5, 2006 to be assured of consideration.

ADDRESSES: Direct all comments to Margaret Nilson, CDFI Programs Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, Facsimile Number (202) 622–7754.

A draft of the information collection for the FA/TA Application may be obtained from the Fund's Web site at *http://www.cdfifund.gov.* Requests for additional information should be directed to Margaret Nilson, CDFI Program Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, or call (202) 622–8662.

SUPPLEMENTARY INFORMATION:

Title: The Community Development Financial Institutions Fund—Financial Assistance and Technical Assistance Application.

OMB Number: 1559–0021 (FA).

OMB Number: 1559–0022 (TA).

Abstract: The purpose of the Fund's CDFI Program is to promote economic revitalization and community development through investment in and assistance to certified CDFIs. Through the CDFI Program, the Fund provides financial and technical assistance in the form of grants, loans, equity investments, and deposits to competitively selected CDFIs and entities proposing to become CDFIs. The Fund provides such assistance to CDFIs to enhance their capacity to address the community development and capital access needs of their particular target markets, including Native American, Alaska Native, and Native Hawaiian communities. On February 13, 2006, the Community Development Financial Institutions Fund (the Fund) closed the FY 2006 round of the Community Development Financial Institutions (CDFI) Program combining the Financial Assistance (FA) and Technical Assistance (TA) Components. Subsequent to the closing of this round, the Fund re-evaluated all CDFI Program Application materials, made some enhancements and expects to make more enhancements to the Application in the interests of reducing the collection burden for Applicants, clarifying certain questions, and improving the Fund's ability to evaluate Applications. Overall, the Fund reduced the number of questions in the Application from 56 in 2005 to 30 in 2006 and reduced the number of tables from 25 to eight.

Type of Review: Revision.

Affected Public: Not-for-profit institutions, businesses or other for-profit institutions and tribal entities.

Estimated Number of Respondents: 200.

Estimated Annual Time per Respondent: 40.

Estimated Total Annual Burden Hours: 8,000 hours.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Fund, including whether the information shall have practical utility; (b) the accuracy of the Fund's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Authority: 12 U.S.C. 4703, 4703 note, 4707, 4710, 4714, 4717; 31 U.S.C. 321; and 12 CFR part 1805.

Dated: June 22, 2006.

Arthur A. Garcia,

Director, Community Development Financial Institutions Fund.

[FR Doc. E6–10412 Filed 7–3–06; 8:45 am]

BILLING CODE 4810–70–P

Corrections

Federal Register
Vol. 71, No. 128
Wednesday, July 5, 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

RTCA Special Committee 202: Portable Electronic Devices

Correction

In notice document 06–5635 beginning on page 36163 in the issue of Friday, June 23, 2006, make the following correction:

On page 36163, in the third column, under **DATES**, in the last line ''1–14, 2006'' should read ''10–14, 2006''.

[FR Doc. C6–5635 Filed 7–3–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,

July 5, 2006

Part II

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2006; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5074–N–01]

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2006

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on January 1, 2006, and ending on March 31, 2006.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500, telephone 202–708–3055 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the first quarter of calendar year 2006.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from January 1, 2006, through March 31, 2006. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the first quarter of calendar year 2006) before the next report is published (the second quarter of calendar year 2006), HUD will include any additional waivers granted for the first quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: June 24, 2006.

Keith E. Gottfried,

General Counsel.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development January 1, 2006, Through March 31, 2006

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- Regulations: 24 CFR 91.115(c)(2).

Project/Activity: The State of Louisiana request to waive 24 CFR 91.115(c)(2) of the Community Development Block Grant (CDBG) program regulations.

Nature of Requirement: The provisions of 24 CFR 91.115(c)(2) require that a minimum of 30 days be allowed for public comment following an amendment to the state's Consolidated Plan.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: January 20, 2006.

Reason Waived: Given the unexpected nature of the situation, Louisiana's Consolidated Plan does not give the State of Louisiana the flexibility it needs to address the unexpected needs and expenses of businesses and communities as they recover from the hurricanes. In order to quickly address these needs, it is appropriate to give the state the ability to streamline its citizen participation processes by reducing the public comment period from 30 to 10 days while still allowing for adequate public input.

Contact: Steve Johnson, Director, State and Small Cities Division, Office of Block Grant Assistance, Community Planning and Development, Department of Housing and Urban Development, Room 7184, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1322.

- Regulations and Statutes: 24 CFR 91.320(c) and (g)(1), 24 CFR 91.325(b)(2)(v), 24 CFR 570.486(b); and 42 U.S.C. 5304(a)(1), 42 U.S.C. 5306(d)(1), 42 U.S.C. 5306(d)(2), 42 U.S.C. 5306(d)(2)(D).

Project/Activity: The State of Louisiana request to waive 24 CFR 91.320(c) and (g)(1), 24 CFR 91.325(b)(2)(v), 24 CFR 570.486(b) of the Community Development Block Grant (CDBG) program regulations, and suspend 42 U.S.C. 5304(a)(1), 42 U.S.C. 5306(d)(1), 42 U.S.C. 5306(d)(2), and 42 U.S.C. 5306(d)(2)(D) statutory requirements.

Nature of Requirement: The provisions of 42 U.S.C. 5304(a)(1) require that the State's method of fund distribution provide for funds to be distributed to units of general local government. The provisions of 42 U.S.C. 5306(d)(1) require that the State's CDBG funds shall be for use in non-entitlement areas. The provisions of 42 U.S.C. 5306(d)(2) require that State CDBG funds are to be distributed only to units of general local government located in non-entitlement areas of the State. The provisions of 42 U.S.C. 5306(d)(2)(D) require that the State certify that each unit of general local government to be distributed funds will identify its housing and community development needs. The provisions of 24 CFR 91.320(c) and (g)(1) require that the State describe its method of funds distribution, which must describe the criteria used to select applications from local governments for funding, including the relative importance of the criteria, and how all CDBG resources will be allocated among all funding categories and the threshold factors and grant size limits that are to be applied. The provisions of 24 CFR 570.486(b) require that units of general local government determine that the activity is meeting its needs in accordance with 42 U.S.C. 5306(d)(2)(D).

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: January 20, 2006.

Reason Waived: HUD recognizes the critical financial need to assist small firms in the State of Louisiana to remain in business or to reopen. By allowing the State to directly carry out the Bridge Loan Program throughout the thirteen-parish target area (by contracting directly with banks), economies of scale, speed and administrative simplicity can be achieved. Valuable time would be lost if the State were to have to redesign its existing program design in order to funnel this funding through units of general local government. Given that the program, as initially implemented with State funding, is designed to serve businesses throughout the target area, it would present an undue hardship to limit the availability of CDBG assistance only to businesses located in non-entitlement communities.

Contact: Steve Johnson, Director, State and Small Cities Division, Office of Block Grant Assistance, Community Planning and Development, Department of Housing and Urban Development, Room 7184, 451 Seventh Street, SW., Washington, DC 20410, telephone 202–708–1322.

- Regulation: 24 CFR 92.206(d)(5) and 24 CFR 92.502(d)(2).

Project/Activity: The State of Nebraska request to waive 24 CFR 92.206(d)(5) and 24 CFR 92.502(d)(2) of the HOME Program regulations.

Nature of Requirement: The HOME final regulations at 24 CFR 92.502(d)(2) state that, except for the 12 months following project completion, additional HOME assistance may not be provided to a previously assisted HOME project during the period of affordability.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: March 27, 2006.

Reason Waived: In 1994 the State of Nebraska invested HOME funds in the construction of a 30-unit project. This project has been experiencing financial problems which are expected to continue as capital needs over the next 20 years will exceed current reserves and projected revenue will be insufficient to cover the existing debt service. Additional HOME funds would address these anticipated shortfalls and to facilitate the refinancing of the first mortgage. The State, the Housing Authority of the County of Scottsbluff and its partners took necessary steps to correct many of the problems the project experienced and assure the viability of the project. The partners stabilized the vacancy rate, addressed general management issues, and requested a HUD-funded technical assistance workout. The State also agreed to invest state housing trust funds into the project and to reduce the interest rate on the existing HOME loan. The State, the Housing Authority of the County of Scottsbluff, and its partners exercised due diligence in their efforts to save this project.

Contact: Virginia Sardone, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000, telephone (202) 708–2684.

- Regulation: 24 CFR 92.209(h).

Project/Activity: Arlington County, Virginia request to waive 24 CFR 92.209(h) of the HOME regulations.

Nature of Requirement: Section 92.208(h) of the HOME regulations requires participating jurisdictions (PJs) to establish a minimum contribution toward rent for tenants who receive HOME-funded tenant-based rental assistance and that the subsidy paid by the PJ not exceed the difference between the PJ's rent standard and thirty percent of the family's adjusted gross income.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: March 22, 2006.

Reason Waived: Several families displaced by Hurricane Katrina who relocated to Arlington County, Virginia, were receiving insufficient or no assistance from the Federal Emergency Management Agency (FEMA). The county wanted to provide the same level of assistance that would ordinarily be provided under FEMA's Individuals and Households Program, which pays the family's total monthly rent and utility costs. The county needed flexibility with HOME tenant-based rental assistance to best serve the needs of these families.

Contact: Virginia Sardone, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000, telephone (202) 708–2684.

- Regulation: 24 CFR 92.300(a)(1).

Project/Activity: The State of Texas to waive 24 CFR 92.300(a)(1) of the HOME requirements.

Nature of Requirement: Section 92.300(a)(1) of the HOME regulations requires that a participating jurisdiction (PJ) reserve not less than 15 percent of each annual allocation for housing owned, sponsored or developed by Community Housing Development Organizations (CHDOs) within 24 months after HUD notifies the PJ that HUD has executed the jurisdiction's HOME Investment Partnership Agreement.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: March 16, 2006.

Reason Waived: In October 2005, HUD suspended section 231 of the National Affordable Housing Act of 1990 and the corresponding regulations at § 92.300(a)(1) for fiscal years 2005 and 2006 due to Hurricane Rita. Although the State of Texas was released from the requirement to use 15 percent of its HOME allocation for CHDO activities, because fiscal year 2006 HOME allocations had not yet been released, the State could not put funds to immediate use to aid hurricane victims. The State requested permission to use unexpended CHDO funds from years prior to 2005 in an amount equal to 15 percent of its fiscal year 2006 HOME allocation for disaster-related activities that do not qualify as CHDO set-aside activities. Using prior years' unexpended CHDO funds will allow the State to address the affordable housing needs of victims more quickly, as the State will not receive its fiscal year 2006 HOME allocation until at least July 2006.

Contact: Virginia Sardone, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000, telephone (202) 708–2684.

• Regulation and Statute: 24 CFR 570.482(f)(6) and 42 U.S.C. 5305(e)(3).

Project/Activity: The State of Louisiana request to waive 24 CFR 570.482(f)(6) of the CDBG regulations, and suspend 42 U.S.C. 5305(e)(3) statutory requirements.

Nature of Requirement: The provisions of 24 CFR 570.482(f)(6) require that the State and its grant recipients maintain sufficient records to demonstrate the level of public benefit. The provisions of 42 U.S.C. 5305(e)(3) require the State to demonstrate that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with the grant.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: January 20, 2006.

Reason Waived: Louisiana's Bridge Loan Program, as designed, will be funded with currently obligated, but unexpended, FY 2005 and prior year funds. These funds will be used to guarantee small business loans approved by various Louisiana banks. The State intends to reimburse the CDBG funds used to guarantee these loans with supplemental disaster funds (thus freeing up the funds for previously obligated activities). As this is expected to be a short-term interim financing tool, it is extremely unlikely that the CDBG assisted economic development activities will be completed during this time. Verification that the activities meet the public benefit standards cannot be demonstrated until activities are completed. It is more likely that accomplishments achieved by guaranteeing the small business loans will be demonstrated during the reporting process for the supplemental disaster allocation.

Contact: Steve Johnson, Director, State and Small Cities Division, Office of Block Grant Assistance, Community Planning and Development, Department of Housing and Urban Development, Room 7184, 451 Seventh Street, SW., Washington, DC 20410, telephone 202–708–1322, ext. 4548.

• Regulation: 24 CFR 570.483(d).

Project/Activity: The State of Louisiana's request to waive 24 CFR 570.483(d) of the CDBG program requirements.

Nature of Requirement: The provisions of 24 CFR 570.483(d) require certification by a unit of general local government to support the classification of activities as meeting the urgent need national objective.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: January 20, 2006.

Reason Waived: This waiver involves the Louisiana Bridge Loan Program, which the State intends to classify some of its activities as meeting the urgent need national objective. On October 28, 2005, HUD granted a waiver allowing Louisiana to change its certification of compliance with the 70 percent overall low and moderate income benefit requirement from a one year period to a two or three year period. This waiver allowed Louisiana to use a greater percentage of funds for activities that will meet the urgent need (or slum/blight) national objective. To demonstrate compliance with the urgent need national objective, however, the State CDBG program regulations require that ''* * * the unit of general local government certifies, and the state determines, that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the unit of general local government is unable to finance the activity on its own, and that other sources of funding are not available.'' Because the State will implement this program directly, units of general local government will not be involved in the funding process or in the determination of national objective compliance.

Contact: Steve Johnson, Director, State and Small Cities Division, Office of Block Grant Assistance, Community Planning and Development, Department of Housing and Urban Development, Room 7184, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1322.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• Regulation: 24 CFR 206.51 and the portion of 24 CFR 234.1(a) that references the exclusion of 24 CFR 203.43f, insofar as these regulations collectively preclude the eligibility of individual manufactured housing units in condominium projects.

Project/Activity: Lake Padden Estates Condominium, Bellingham, WA.

Nature of Requirement: The Home Equity Conversion Mortgage (HECM) regulations at 24 CFR 206.51 provide that a condominium unit in a project committed to a plan of condominium ownership acceptable to the Secretary can be eligible security for an insured reverse mortgage loan.

Part 234 of title 24 of the Code of Federal Regulations (CFR) sets forth the eligibility requirements for insured mortgages on condominium units. Section 234.19(a) incorporates, by reference, various provisions of Subpart A of part 203 of the regulations, concerning the eligibility requirements of mortgages secured by 1 to 4 family dwellings insured under section 203 of the National Housing Act. Section 234.1(a) of 24 CFR also lists specific provisions that are not applicable to mortgages secured by condominium units and are excluded from the eligibility requirements.

Section 203.43f of 24 CFR establishes the eligibility requirements for mortgages secured by manufactured homes. The eligibility requirements for manufactured homes are specifically excluded in the list of excepted sections contained in 24 CFR 234.1(a). The exclusion of 24 CFR 203.43f in the condominium mortgage insurance regulations precludes FHA from insuring mortgages in condominium projects that are comprised of manufactured housing.

Because the condominium mortgage insurance regulations provide that manufactured home condominiums are not acceptable to HUD, these units are not eligible security under the HECM regulations. Section 206.51 of 24 CFR incorporates HUD's condominium approval requirements, including the exclusion of condominium manufactured homes as eligible HECM security.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing, Federal Housing Commissioner.

Date Granted: March 23, 2006.

Reason Waived: Waiving the exclusionary provision of 24 CFR 234.1(a) pertaining to manufactured housing (*i.e.*, the reference to 24 CFR 203.43f), as a condition of acceptability for HECM mortgage insurance under 24 CFR 206.51, is necessary in order to enable the eligible residents of the Lake Padden Estates Condominium who are 62 years of age or older to realize the equity in their homes using the HECM program as a part of their financial planning.

Contact: Peter Gillispie, Valuation Policy Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9270, Washington, DC 20410; telephone (202) 708–2121.

• Regulation: 24 CFR 236.725.

Project/Activity: Minneapolis, Minnesota (2100 Bloomington Court Apartments—092–007NI). The Minneapolis Multifamily Hub has requested waiver of the regulation to permit the continuation of rental assistance payments (RAP) after the payoff of the non-insured Section 236 mortgage (section 236 of the National Housing Act) under a Section 236(e)(2) decoupling transaction to permit a potential annual distribution based on current equity.

Nature of Requirement: HUD regulations at 24 CFR 236.725 require that the rental assistance contract shall be limited to the term of the mortgage or 40 years from the date of the first payment made under the contract, whichever is the lesser.

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: This waiver was granted on the fact that the decoupling proposal did not request an increase in the Section 236 units, hence the RAP subsidy is not being increased based on this transaction. The RAP increases shall be based on budget driven project operating cost increases that will not include any new debt service costs attributable to the decoupling transaction. Further, this waiver is predicated on the project owner entering into a Decoupling Use Restriction Agreement prescribed in the Section 236(e)(2) Decoupling program. There was good cause to waive the requirement because the project is to be maintained as an affordable housing resource to the maturity date of the non-insured Section 236 mortgage plus an additional 5 years, through the execution and recording of a Decoupling Use Agreement.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410; telephone (202) 708–3730.

• Regulation: 24 CFR 401.461.

Project/Activity: The following project requested a waiver to the simple interest requirement on the second mortgage to allow compound interest at the applicable federal rate. (24 CFR 401.461):

FHA No.	Project	State
10535067	St. Benedict's Manor II.	UT
04335176	Hillside Apartments	OH

Nature of Requirement: Section 401.461 requires that the second mortgages have an interest rate not more than the applicable federal rate. Section 401.461(b)(1) states that interest will accrue but not compound. The intent of simple interest instead of compound interest is to limit the size of the second mortgage accruals to increase the likelihood of long-term financial and physical integrity.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 6, 2006.

Reason Waived: This regulatory restriction would be construed as a form of federal subsidy, thereby creating a loss of tax credit equity. This loss will adversely affect the ability to close the Restructuring Plan and could cause the loss or deterioration of these affordable housing projects. Therefore, compound interest is necessary for the owner to obtain Low Income Housing Tax Credits under favorable terms and in order to maximize the savings to the Federal Government.

Contact: Dennis Manning, Office of Affordable Housing Preservation, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–0614, ext. 8381.

• Regulation: 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project	State
06444093	Haydel Heights Apartments.	LA
03535086	New Sharon Woods.	NJ
11235117	Roxton Arms Apartments.	TX

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 6, 2006.

Reason Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Norman Dailey, Office of Affordable Housing Preservation, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–0614, ext. 8371.

• Regulation: 24 CFR 401.600.

Project/Activity: The following projects requested Housing Assistance Payment (HAP) contract extensions to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project	State
05155005	Fairhills Apartments.	VA
01257193	Felisa Rincon De Gautier Houses.	NY
05435339	Fleetwood Manor ..	SC
00035313	Ivy City	DC
08335243	Madison Avenue Apts.	KY
04535102	Market Manor	WV
13635613	Marymead Park Apartments.	CA
04335148	Northwood Apartments.	OH
04635474	The Terraces	OH
11544037	Villa Madre Apts ...	TX

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 14, 2006.

Reason Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Norman Dailey, Office of Affordable Housing Preservation, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–0614, ext. 8371.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Mohr Place, Wichita, KS, Project Number: 102–HD036/KS16–Q041–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: LaPalma Apartments, Miami, FL, Project Number: 066–EE093/FL29—S021–014.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Dorgan-Weaver Apartments, Branson, MO, Project Number: 084–HD050/MO16–Q041–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Cheyenne Senior Housing Inc., Cheyenne, WY, Project Number: 109–EE012/WY99–S031–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 9, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Barnes School Elderly Housing, Boston, MA, Project Number: 023–EE153/MA06–S021–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 12, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Guadalupe I & II, Austin, TX, Project Number: 115–HD041/TX59–Q031–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 31, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Riordan School Addition, Mattydale, NY, Project Number: 014–EE234/NY06–S041–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 2, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Oakmont Gardens Apartments, Crossville, TN, Project Number: 087–EE054/TN37–S041–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 13, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Dickinson Senior Housing Incorporated, Dickinson, ND, Project Number: 094–EE006/ND99–S041–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 22, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Southern Living Apartments, Savannah, TN, Project Number: 086–EE053/TN43–S041–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 23, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: B'nai B'rith Apartments at Deerfield Beach III, Deerfield Beach, FL, Project Number: 066–EE102/FL29–S041–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 24, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Redbanks Regency Apartments, Henderson, KY, Project Number: 083–EE093/KY36–S041–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 27, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Tikigaqmiut Senior Housing, Point Hope, AK, Project Number: 176–EE029/AK06–S021–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 1, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Green Garden Apartments, Lockport, IL, Project Number: 071–HD129/IL06–Q021–009.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 3, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Sheltering Arms Apartments, St. Joseph, MO, Project Number: 084–HD049/MO16–Q041–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 3, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Edsil's Place Apartments, Louisville, KY, Project Number: 083–HD083/KY36–Q041–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 3, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Aaniyak Senior Housing, Anaktuvuk Pass, AK, Project Number: 176–EE030/AK06–S021–005.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: March 3, 2006.
Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Carlton Avenue Group Homes, Charlottesville, VA, Project Number: 051–HD123/VA36–Q031–005.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: March 8, 2006.
Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Old Middleton Road, Madison, WI, Project Number: 075–HD082/WI39–Q041–001.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: March 8, 2006.
Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Bellpoint Independent Living, Stuttgart, AR, Project Number: 082–HD082/AR37–Q041–004.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: March 8, 2006.
Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Florentz Estates, Conway, AR, Project Number: 082–HD083/AR37–Q041–005.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: March 8, 2006.
Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Grace Manor, Inglewood, CA, Project Number: 122–HD159/CA16–Q031–002.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: March 8, 2006.
Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Wills Manor, Los Angeles, CA, Project Number: 122–HD161/CA16–Q031–004.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: March 9, 2006.
Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Dixieland Garden Senior Housing, Rogers, AR, Project Number: 082–EE168/AR37–S041–008.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: March 10, 2006.
Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Providence Place, Salem, OR, Project Number: 126–EE049/OR16–S031–003.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.
Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 15, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Rendu Terrace West, Mobile, AL, Project Number: 062–EE063/AL09–S031–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 20, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Dunson School Apartments, LaGrange, GA, Project Number: 061–EE145/GA06–S041–016.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 20, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Duluth Supportive Housing, Inc., Duluth, MN, Project Number: 092–HD066/MN46–Q041–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 23, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Forest Ridge Manor, Kingsport, TN, Project Number: 087–EE053/TN37–S041–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 24, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Oaks Terrace Senior Living, Frederick, MO, Project Number: 085–EE078/MO36–S041–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 28, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: St. Cloud Villas II, St. Cloud, FL, Project Number: 067–EE132/FL29–S041–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 29, 2006.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Oak Creek II, East Brunswick, NJ, Project Number: 031–EE062/NJ39–S031–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner required additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Advance Supportive Housing II, New Milford, NJ, Project Number: 031–HD139/NJ39–Q031–007.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner required additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Villa DeLucas, Beaumont, TX, Project Number: 114–HD028/TX24–Q031–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to secure amendment funds.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Hanover Lutheran Retirement Community 2003, Hanover, PA, Project Number: 034–EE135/PA26–S031–007.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 24, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Columbus/Walnut, Boston, MA, Project Number: 023–EE173/MA06–S031–008.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 27, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to secure amendment funds.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Union Apartments Program, Roselle Park, NJ, Project Number: 031–HD127/NJ39–Q011–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 1, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Sunset Gardens Senior Housing, Brooklyn, NY, Project Number: 012–EE321/NY36–S021–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to secure amendment funds.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Glendale Haciendas, Glendale, AZ, Project Number: 123–EE091/AZ20–S031–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 13, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Acadian Heritage Apartments, Scott, LA, Project Number: 064–EE152/LA48–S031–006.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 14, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to secure amendment funds.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Peace Villa Senior Living, St. Louis, MO, Project Number: 085–EE070/MO36–S031–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 8, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to resolve a lien issue on the property.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Beth Abraham Section 811 Development, Harrison, NY, Project Number: 012–HD104/NY36–Q011–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 28, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to locate another site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Northwest Georgia VOA Housing, Inc., Lafayette, GA, Project Number: 061–HD090/GA06–Q031–006.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 28, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Mantua Supported Independent Living, Philadelphia, PA, Project Number: 034–HD078/PA26–Q041–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 29, 2006.

Reason Waived: The project is economically designed and comparable to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. The sponsor/owner required additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.130.

Project/Activity: Wainwright Alaska, Wainwright, AK, Project Number: 176–EE031/AK06–S021–006.

Nature of Requirement: Section 891.130 prohibits officers and board members of the project's sponsor and owner from having any financial interest in any contract with the owner or any firm which has a contract with the owner. It also prohibits an identity of interest between the sponsor or owner with development team members or between development team members until two years after final closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 3, 2006.

Reason Waived: The leasing of the site from the Village Corporation, to which all of the directors of the owner have an interest acquired under the Indian Claims Settlement Act, was approved because it is being leased for $1 and there is a lack of suitable sites in the community. The general contractor, of which the Village Corporation owns 51 percent of the shares, was approved because of the specialized experience of the contractor for constructing in the community and the benefit to the community in providing employment opportunities for the local labor force. A prohibited identity of interest between the general contractor and the Village Corporation, both development team members, was approved because of the isolated location of the community and the fact that all of the directors of the owner as well as all adult members of the community have an interest in both team members by reason of the Indian Claims Settlement Act.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.130.

Project/Activity: Anaktuvuk Pass Alaska, Anaktuvuk Pass, AK, Project Number: 176–EE030/AK06–S021–005.

Nature of Requirement: Section 891.130 prohibits officers and board members of the project's sponsor and owner from having any financial interest in any contract with the owner or any firm which has a contract with the owner. It also prohibits an identity of interest between the sponsor or owner with development team members or between development team members until two years after final closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 3, 2006.

Reason Waived: The leasing of the site from the Village Corporation, to which all of the directors of the owner have an interest acquired under the Indian Claims Settlement Act, was approved because it is being leased for $1 and there is a lack of suitable sites in the community. The general contractor, of which the Village Corporation owns 51 percent of the shares, was approved because of the specialized experience of the contractor for constructing in the community and the benefit to the community in providing employment opportunities for the local labor force. A prohibited identity of interest between the general contractor and the Village Corporation, both development team members, was approved because of the isolated location of the community and the fact that all of the directors of the owner as well as all adult members of the community have an interest in both team members by reason of the Indian Claims Settlement Act.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.130.

Project/Activity: Point Hope Alaska, Point Hope, AK, Project Number: 176–EE029/AK06–S021–004.

Nature of Requirement: Section 891.130 prohibits officers and board members of the project's sponsor and owner from having any financial interest in any contract with the owner or any firm which has a contract with the owner. It also prohibits an identity of interest between the sponsor or owner with development team members or between development team members until two years after final closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 8, 2006.

Reason Waived: The leasing of the site from the Village Corporation, to which all of the directors of the owner have an interest acquired under the Indian Claims Settlement Act, was approved because it is being leased for $1 and there is a lack of suitable sites in the community. The general contractor, of which the Village Corporation owns 51 percent of the shares, was approved because of the specialized experience of the contractor for constructing in the community and the benefit to the community in providing employment opportunities for the local labor force. A prohibited identity of interest between the general contractor and the Village Corporation, both development team members, was approved because of the isolated location of the community and the fact that all of the directors of the owner as well as all adult members of the community have an interest in both team members by reason of the Indian Claims Settlement Act.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.130.

Project/Activity: Kaktovic Alaska, Wainwright, AK, Project Number: 176–EE032/AK06–S021–007.

Nature of Requirement: Section 891.130 prohibits officers and board members of the project's sponsor and owner from having any financial interest in any contract with the owner or any firm which has a contract with the owner. It also prohibits an identity of interest between the sponsor or owner with development team members or between development team members until two years after final closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 24, 2006.

Reason Waived: The leasing of the site from the Village Corporation, to which all of the directors of the owner have an interest acquired under the Indian Claims Settlement Act, was approved because it is being leased for $1 and there is a lack of suitable sites in the community. The general contractor, of which the Village Corporation owns 51 percent of the shares, was approved because of the specialized experience of the contractor for constructing in the community and the benefit to the community in providing employment opportunities for the local labor force. A prohibited identity of interest between the general contractor and the Village Corporation, both development team members, was approved because of the isolated location of the community and the fact that all of the directors of the owner as well as all adult members of the community have an interest in both team members by reason of the Indian Claims Settlement Act.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: New Life Senior Resort, Christiansted, St. Croix, VI, Project Number: 056–EE047/VQ46–S021–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Winfield Good Samaritan Housing, Winfield, KS, Project Number: 102–EE027/KS16–S031–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Howland Housing, Howland Twp, OH, Project Number: 042–EE161/OH12–S031–014.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: NCR of Latrobe, Latrobe, PA, Project Number: 033–EE117/PA28–S031–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Omaha Care Senior Living, Macy, NE, Project Number: 103–EE030/NE26–S031–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The sponsor/owner needed additional time to secure grant from the State of Nebraska and to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Burrell Housing, Springfield, MO, Project Number: 084–HD045/MO16–Q031–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: The sponsor/owner needed additional time for the city to approve the modification to the project's construction plans.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Estancias Presbisterianas del Angel, Hormigueros, PR, Project Number: 056–EE056/RQ46–S031–009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 6, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Victor Hernandez Building, Aguadilla, PR, Project Number: 056–EE045/RQ46–S021–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 6, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 0410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: New Community Independent Living, Marlton, NJ, Project Number: 035–HD056/NJ39–Q031–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 9, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Sherman Apartments, Aurora, IL, Project Number: 071–HD121/IL06–Q011–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 25, 2006.

Reason Waived: Additional time was needed to process the firm commitment application and to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Caring Residential Services II, Pleasantville, NJ, Project Number: 035–EE046/NJ39–S031–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 26, 2006.

Reason Waived: The sponsor/owner needed additional time to redesign the project in order to reduce the cost to develop the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Senior Residence at Kapolei, Kapolei, HI, Project Number: 140–EE024/HI10–S011–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 31, 2006.

Reason Waived: The sponsor/owner needed additional time to secure secondary financing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Goremont, Tabor City, NC, Project Number: 053–HD203/NC19–Q021–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 15, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Marshall Road, Wellesley, MA, Project Number: 023–HD181/MA06–Q011–009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 16, 2006.

Reason Waived: The sponsor/owner needed additional time to secure secondary financing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Volunteers of America—Mora, Mora, MN, Project Number: 092–HD056/MN46–Q021–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 17, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Forest Park Housing, Forest Park, OH, Project Number: 046–HD026/OH10–Q031–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 17, 2006.

Reason Waived: The sponsor/owner needed additional time to locate another general contractor.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Greendale Residence, Needham, MA, Project Number: 023–HD190/MA06–Q021–008.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 27, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: TBD—21st Association Properties, West Springfield, MA, Project Number: 023–HD196/MA06–Q031–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 27, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Palermo Lakes Apartments, Miami, FL, Project Number: 066–EE100/FL29–S031–012.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 28, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Villa Regina, West Palm Beach, FL, Project Number: 066–EE086/FL29–S011–010.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 8, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Nanaikeola Senior Apartments, Waianae, HI, Project Number: 140–EE019/HI10–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 8, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: LaPalma Apartments, Miami, FL, Project Number: 066–EE093/FL29–S021–014.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 10, 2006.

Reason Waived: The sponsor/owner needed additional time to prepare for initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Lewisburg, Ohio (Cherry Arbors '' Project Number 043–EH010). The Ohio Multifamily Hub requested a waiver of the age requirements for the project to alleviate the project's current occupancy problems.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (*i.e.*, households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing '' Deputy Federal Housing Commissioner.

Date Granted: March 23, 2006.

Reason Waived: This waiver was granted to allow the project owner flexibility in renting up vacant units to individuals who meet the definition of non elderly (between the ages of 55 and 62 years). The owner aggressively marketed the property but due to the soft housing market and the surplus of elderly housing in the surrounding area, the property has experienced severe vacancy problems. These efforts allowed the owner to maintain the necessary income to operate the property and prevent foreclosure.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Pittsburgh, Pennsylvania (Sylvania Place—Project Number 033–EE074). The Pittsburgh Multifamily Program Center requested a waiver of the very low-income requirement for the property to alleviate the current occupancy problem.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (*i.e.*, households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: March 20, 2006.

Reason Waived: This waiver was granted an age waiver and income waiver for this project to allow flexibility in renting up this Section 202/8 Supportive Housing for the Elderly project, with a project rental assistance contract (PRAC). The property's location is remote and perceived as being in a high crime area, discouraging many applicants from considering residency there. The waiver allowed the property to admit only lower-income applicants where there are no very low-income applicants to fill vacancies and help cure the cash flow problems the project has been experiencing.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Humacao, Puerto Rico (Colinas De Ryder (a/k/a Ryder Village II—Project Number 056–EE031. The Atlanta Multifamily Hub requested a waiver of the very low-income requirement for this property due to vacancy problems.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (*i.e.*, households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: January 10, 2006.

Reason Waived: This waiver was granted for the very low-income requirement for this Section 202/8 Supportive Housing for the Elderly Program project, in order to permit admission of lower-income elderly applicants when there are no very-low-income elderly applicants to fill vacant units. The property is located in a rural area making it difficult to attract and maintain very low-income elderly applicants. Despite aggressive marketing efforts, the property currently has 24 vacant units. Their waiting list consists of lower-income elderly applicants. Waiver of this regulation allowed the property to operate successfully and achieve full occupancy.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Barranquitas, Puerto Rico. (Casa Barranquitas—Project Number 056–EH346). The Atlanta Multifamily Hub has requested a waiver of the very-low-income requirement for the subject property due to problems renting up vacant units.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (*i.e.*, households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: January 6, 2006.

Reason Waived: This waiver was granted for the age requirement to alleviate the current occupancy problem. Due to the rural location within the municipality of Barranquitas, the owner has been unable to attract and maintain very low-income elderly tenants. The local housing market indicates there is not a sufficient demand for the very low-income elderly. The property currently has 8 vacant units and the waiting list consists of only one very low-income elderly applicant and 11 lower-income elderly applicants. Waiver of the regulation allowed the project to operate successfully and achieve full occupancy.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Ciales, Puerto Rico (Ovidio Lamoso Coira—Project Number 056–EE007). The Atlanta Multifamily Hub requested waiver of the age and income restriction for the subject Section 202/8 Supportive Housing for the Elderly project with a Project Rental Assistance Contract (PRAC).

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (*i.e.*, households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: This waiver was granted for the age/income restriction because the project has experienced occupancy problems due to its remote location and difficulty in attracting and maintaining very low-income elderly tenants. The owner/management agent continues to aggressively market the property with the local housing authorities and various religious, social and community organizations within the municipality, neighboring municipalities and the mainland. The property currently has 16 vacant units with no waiting list. Waiver of the regulation allowed the project to operate successfully and achieve full occupancy.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Carlisle, Kentucky (Shepherd Place Apartments—Project Number 083–EH268). The Atlanta Multifamily Hub requested waiver of the very low-income limit and reduction of the age limit for the subject project due to severe vacancy problems.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (*i.e.*, households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Date Granted: February 9, 2006.

Reason Waived: This waiver was granted to allow the property to rent up vacant units and achieve full occupancy. The property is located in rural Nicholas County, which consists of farmland and has 7 vacant units and no waiting list. Providing this waiver allowed the owner/management agent to stabilize the project's current financial status and prevent foreclosure.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Lewisburg, Ohio (Cherry Arbors— Project Number 043–EH010). The Ohio Multifamily Hub requested a waiver of the age requirements for the project to alleviate the project's current occupancy problems.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (i.e., households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: March 23, 2006.

Reason Waived: This waiver was granted to allow the project owner flexibility in renting up vacant units to individuals who meet the definition of non elderly (between the ages of 55 and 62 years). The owner aggressively marketed the property but due to the soft housing market and the surplus of elderly housing in the surrounding area, the property has experienced severe vacancy problems. These efforts allowed the owner to maintain the necessary income to operate the property and prevent foreclosure.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Pittsburgh, Pennsylvania (Sylvania Place ‘‘ Project Number 033–EE074). The Pittsburgh Multifamily Program Center requested a waiver of the very low-income requirement for the property to alleviate the current occupancy problem.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (i.e., households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: March 20, 2006.

Reason Waived: This waiver was granted to allow an age and income waiver for this project to allow flexibility in renting up this Section 202/8 Supportive Housing for the Elderly project, with a Project Rental Assistance Contract (PRAC). The property's location is remote and perceived as being in a high crime area, discouraging many applicants from considering residency there. This waiver allowed the property to admit only lower-income applicants where there are no very low-income applicants to fill vacancies and help cure the cash flow problems the project has been experiencing.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Barranquitas, Puerto Rico. (Casa Barranquitas— Project Number 056–EH346). The Atlanta Multifamily Hub has requested a waiver of the very low-income requirement for the subject property due to problems renting up vacant units.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (i.e., households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: January 6, 2006.

Reason Waived: This waiver was granted for age requirement to alleviate the current occupancy problem. Due to the rural location within the municipality of Barranquitas, the owner has been unable to attract and maintain very low-income elderly tenants. The local housing market indicates there is not a sufficient demand for the very low-income elderly. The property currently has 8 vacant units and the waiting list consists of only one very low-income elderly applicant and 11 lower-income elderly applicants. Waiver of the regulation allowed the project to operate successfully and achieve full occupancy.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410; telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Ciales, Puerto Rico (Ovidio Lamoso Coira—Project Number 056–EE007). The Atlanta Multifamily Hub requested waiver of the age and income restriction for the subject Section 202/8 Supportive Housing for the Elderly project with a Project Rental Assistance Contract (PRAC).

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (*i.e.*, households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 4, 2006.

Reason Waived: This waiver was granted for the age/income restriction because the project has experienced occupancy problems due to its remote location and difficulty in attracting and maintaining very low-income elderly tenants. The owner/management agent continues to aggressively market the property with the local housing authorities and various religious, social and community organizations within the municipality, neighboring municipalities and the mainland. The property currently has 16 vacant units with no waiting list. Waiver of the regulation allowed the project to operate successfully and achieve full occupancy.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• Regulation: 24 CFR 891.410(c).

Project/Activity: Carlisle, Kentucky (Shepherd Place Apartments—Project Number 083–EH268). The Atlanta Multifamily Hub requested waiver of the very low-income limit and reduction of the age limit for the subject project due to severe vacancy problems.

Nature of Requirement: Section 891.410 requires admission of families to projects for the elderly or handicapped that receive reservations under Section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income (VLI) elderly persons (*i.e.*, households composed of one or more persons at least one of whom is 62 years of age at the time of initial occupancy).

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Date Granted: February 9, 2006.

Reason Waived: This waiver was granted to allow the property to rent up vacant units and achieve fully occupancy. The property is located in rural Nicholas County, which consists of farmland and has 7 vacant units and no waiting list. Providing this waiver allowed the owner/management agent to stabilize the project's current financial status and prevent foreclosure.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• Regulation: 24 CFR Part 5.

Project/Activity: Covington Housing Authority (LA238), Covington, LA.

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 27, 2006.

Reason Waived: The HA requested a waiver from submitting its audited financial information for FYE March 31, 2005. The HA was unable to complete the audit process due to extensive damage to its administrative office and loss of the financial records caused by Hurricane Katrina. The audited financial reporting requirements under the Financial Assessment Subsystem (FASS) were waived for FYE March 31, 2005 because the circumstances surrounding the waiver request were unusual and beyond the HA's control.

Contact: David R. Ziaya, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8574.

• Regulations: 24 CFR part 5 and 24 CFR Chapter IX

Project/Activity: The PHAs identified in Table 1, are all located within a presidentially declared disaster area as a result of damages caused by Hurricanes Katrina and/or Rita or Hurricane Wilma, and each PHA notified HUD of the need for one or more regulatory waivers made available to PHAs in Hurricanes Katrina, Rita and Wilma disaster areas by three **Federal Register** notices. The first notice is Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Katrina Disaster Areas, signed September 27, 2005, and published in the **Federal Register** on October 3, 2005 (70 FR 57716), the second notice is Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Rita Disaster Areas; and Additional Administrative Relief for Hurricane Katrina, signed October 25, 2005, and published in the **Federal Register** on November 1, 2005 (70 FR 66222), and the third notice is Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs To Assist With Recovery and Relief in Hurricane Wilma Disaster Areas, signed on March 7, 2006, and published in the **Federal Register** on March 13, 2006 (71 FR 12988).

Nature of Requirements: The three **Federal Register** notices provided for waiver of the following regulations, in 24 CFR part 5 and 24 CFR Chapter IX for those PHAs in the disaster areas that notified HUD through a special waiver request process designed to expedite both the submission of regulatory requests to HUD and HUD's response to the request.

1. 24 CFR 5.216(g)(5) (Disclosure and Verification of Social Security and Employer Identification Numbers);
2. 24 CFR 5.512(c) (Verification of Eligible Immigration Status; Secondary Verification);
3. 24 CFR 5.801(c) and 5.801(d) (Uniform Financial Reporting Standards (UFRS));
4. 24 CFR 902 (Public Housing Assessment System (PHAS));
5. 24 CFR 903.5 (Annual Plan Submission Deadline);
6. 24 CFR 905.10(i) (Capital Fund Formula; Limitation of Replacement Housing Funds to New Development);
7. 24 CFR 941.306 (Maximum Project);
8. 24 CFR 965.302 (Requirement for Energy Audits);
9. 24 CFR 982.54 (Administrative Plan);
10. 24 CFR 982.206 (Waiting List; Opening and Public Notice);
11. 24 CFR 982.401(d) (Housing Quality Standards; Space Requirements);
12. 24 CFR 982.503(b) (Waiver of payment standard; Establishing Payment Standard; Amounts);
13. 24 CFR 984.303 (Contract of Participation; Family Self-Sufficiency (FSS) Program; Extension of Contract) and 24 CFR 984.105 (Minimum Payment Size);
14. 24 CFR part 985 (Section 8 Management Assessment Program (SEMAP)); and
15. 24 CFR 990.145 (Dwelling Units with Approved Vacancies).
16. 24 CFR 1000.156 and 1000.158 (IHBG Moderate Design Requirements for Housing Development).
17. 24 CFR 1000.214 (Indian Housing Plan (IHP) Submission Deadline).
18. 24 CFR 1003.400(c) and Section I.C. of FY 2005 Indian Community Development Block Grants (ICDBG) Program Notice of Funding Availability (NOFA) (Grant Ceilings for ICDBG Imminent Threat Applications).
19. 24 CFR 1003.401 and Section I.C. of FY 2005 ICDBG NOFA (Application Requirements for ICDBG Imminent Threat Funds).
20. 24 CFR 1003.604 (ICDBG Citizen Participation Requirements).

Both **Federal Register** notices described the regulatory requirement in detail and the period of suspension or alternative compliance date.

Granted By: Roy A. Bernardi, Deputy Secretary by the October 3, 2005 notice and the November 1, 2005 notice, both in the **Federal Register**. The March 13, 2006 notice was granted by Orlando J. Cabrera, Assistant Secretary, Public and Indian Housing, published in the **Federal Register**.

Date Granted: Please refer to Table 1. Table 1 identifies Public Housing Agencies (PHAs) that have requested and were granted the regulatory waivers made available through the three **Federal Register** notices. The table identity's by number (as listed in the **Federal Register** notices) the regulatory waivers granted to each housing entity and identifies whether the housing entity was located in a Hurricane Katrina, Hurricane Rita or Hurricane Wilma disaster area.

Reason waived: The regulations waived in the October 3, 2005, and the November 1, 2005, and the March 13, 2006, **Federal Register** notices were waived to facilitate the delivery of safe and decent housing under HUD's Public Housing programs to families and individuals that were displaced from their housing as a result of the hurricanes.

Contacts: Reference the item numbers with the items identified in the aforementioned ''Nature of Requirements'' section for the following contacts: For requirements 1, 2 and 8—Patricia S. Arnaudo, Director, Public Housing Management and Occupancy Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4222, Washington, DC 20410–5000, telephone (202) 708–0744; For requirements 3, 4 and 15—Wanda F. Funk, Senior Advisor, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8736; For requirement 5—Merrie Nichols-Dixon, Division Director, Compliance and Coordination Division, Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4112, Washington, DC 20410–5000, telephone (202) 708–4016. For requirements 6 and 7—William C. Thorson, Director, Capital Fund Division, Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4146, Washington, DC 20410–5000, telephone (202) 708–1640; For requirements 9–14—Alfred C. Jurison, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477; For requirements 16–20—Deborah M. Lalancette, Director, Office of Grants Management, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 1670 Broadway Denver, CO 80202, telephone (303) 675–1600.

TABLE 1.

Housing authority code	Housing authority name and hurricane disaster area*	Regulatory waivers granted	Date acceptable notification received
AL165	Foley Housing Authority (K)	1–4, 8, 10,14,15	1/13/06
FL013	Housing Authority City of Key West (W)	1–5, 9,14,15	3/22/06
FL017	Housing Authority City of Miami Beach (W)	4	3/23/06
FL021	Pahokee Housing Authority (W)	4,13,14	3/30/06
FL025	Housing Authority of the City of Titusville (W)	4	3/14/06
FL066	Hialeah Housing Authority (W)	1–5, 8, 13,14,15	3/21/06
FL076	Riviera Beach Housing Authority	4,5,6,8,9	3/27/06
FL136	Hollywood Housing Authority (W)	4	3/24/06
FL144	Monroe County Housing Authority (W)	1–5, 9,14,15	3/22/06
LA003	East Baton Rouge Housing Authority (K)	4	1/4/06
LA043	Donaldson Housing Authority (K)	3,4,6,7,10,11	1/4/06
LA063	Sulphur Housing Authority (K)	3,4,12,14	2/12/06
LA065	Housing Authority of the town of Delcambre (R)	1,5,8,15	3/6/06
LA084	Parks Housing Authority (R)	2–5, 8,10	3/21/06
LA221	Morgan City Housing Authority (K)	11,14,15	1/13/06
LA238	Covington Housing Authority (K)	3,4,14,15	1/19/06
LA261	Fenton Housing Authority (R)	4,8,10	3/16/06
MS067	Richton Housing Authority (K)	6	3/29/06
MS109	Long Beach Housing Authority (K)	1–5, 8–15	2/17/06
TX223	Newton Housing Authority (R)	4,8	3/9/06
TX225	Woodville Housing Authority (R)	4,8	3/10/06
TX492	Jasper Housing Authority	1–3,5,8,10	2/15/06

* (K), (R) and (W) indicate whether the Housing Authority was located in Hurricane Katrina, Rita, or Wilma disaster area.

• Regulation: 24 CFR 902.20.

Project/Activity: Fort Walton Beach Housing Authority (FL069), Fort Walton Beach, FL.

Nature of Requirement: The objective of this regulation is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 30, 2006.

Reason Waived: Four hurricanes caused extensive damage to HA's properties in 2004. The HA requested a waiver from physical inspections because it still has 33 units remaining to be repaired as a result of the hurricanes. Initially, a lack of funds caused a delay in completing the necessary renovations. Additionally, the aftermath of Hurricane Katrina has slowed the available manpower, supplies and materials needed to complete the work. The HA requested and received approval waiving physical inspections for fiscal year ending June 30, 2006. It was determined that no physical inspections will be conducted for fiscal year 2006, but will resume for the FYE June 30, 2007, assessment cycle.

Contact: David R. Ziaya, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8574.

• Regulation: 24 CFR 902.30.

Project/Activity: Archer City Housing Authority (TX094), Archer City, TX.

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 10, 2006.

Reason Waived: The HA requested a waiver of the audited financial submission due date of December 31, 2005, for FYE March 31, 2005 because it received less than $500,000 in federal grants. As such, the HA requested a change to its submission type to "No Audit Required." The HA should have requested a change prior to the submission due date to avoid receiving a Late Presumptive Failure (LPF) score of zero under the Financial Assessment Subsystem (FASS) Indicator. Because the HA was not required to have an audit because it was under the threshold of $500,000, the HA will not be penalized with a financial score of zero. The waiver allowed the HA to change its submission type to "Unaudited/No Audit."

Contact: David R. Ziaya, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8574.

• Regulation: 24 CFR 902.30.

Project/Activity: City of Newark Housing Authority (NJ002), Newark, NJ.

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 24, 2006.

Reason Waived: The HA requested a six-month waiver extension of the audited financial submission due date of December 31, 2005, for FYE March 31, 2005. The reason for the waiver request is because the audit report submitted for FYE March 31, 2004, was not in accordance with Generally Accepted Accounting Principles (GAAP) as verified by a Public Housing Assessment System (PHAS) Certification review. The HA was advised to select a new firm to re-perform the audit. This action directly impacted on the submission of the unaudited financial submission for FY 2005. The six-month extension to June 30, 2006 was approved with the condition that the HA must have both an approved audit submission for FY 2004, and an approved unaudited submission for FY 2005 when the FY 2005 audit is submitted to the Real Estate Assessment Center.

Contact: David R. Ziaya, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8574.

• Regulation: 24 CFR 902.20.

Project/Activity: Housing Authority of the City of New Orleans (LA001), New Orleans, LA.

Nature of Requirement: The objective of this regulation is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 8, 2006.

Reason Waived: The HA requested and was granted a waiver from having to correct identified Exigent Health and Safety (EHS) deficiencies in unoccupied units and properties. The HA asserted that due to Hurricane Katrina, it did not have the resources to correct the EHS deficiencies in occupied and in unoccupied units that may or may not be demolished. The correction of EHS deficiencies in unoccupied units and properties was therefore waived. However, because of the life-threatening nature and hazardous situations caused by the EHS deficiencies, those deficiencies in occupied units were directed to be corrected or mitigated within 24 hours of the inspection, and the HA must certify to the correction or mitigation of the EHS deficiencies within three business days of the inspection. The HA also was required to correct the EHS deficiencies in occupied units and properties during the time of the commencement of the work in order to bring the units and properties back on line and available for occupancy.

Contact: David R. Ziaya, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8574.

• Regulation: 24 CFR 941.606(n)(l)(ii)(B).

Project/Activity: Chicago Housing Authority's Stateway Gardens Phase 1 B aka Park Boulevard 1B, Chicago, IL.

Nature of Requirement: The provision requires that if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as a general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest submitted in response to a public request for bids.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 11, 2006.

Reason Waived: The Chicago Housing Authority (CHA) and Daniel E. Levin and the Habitat Company LLC, jointly as Receiver for the CHA, procured Stateway Associates LLC as the master developer for the Stateway Gardens site. Stateway Associates is a joint venture between affiliates of Mesa Development LLC, Neighborhood Rejuvenation Partners LP, Kimball Hill Development Company, and Walsh Construction Company of Illinois. CHA requested the waiver to use Walsh Construction Company as the general contractor for Phase 1B. Park Boulevard Phase 1B consists of 311 units, of which 100 will be public housing replacement units and 211 will be for-sale units. CHA and the Receiver have entered into three separate construction contracts with Walsh Construction for residential construction, site work and environmental remediation. Rise Group and Weston Solutions, Inc provided independent cost estimates, reviewed the plans and construction costs and certified that the costs for the three contracts are reasonable for the market area. The total of the three estimates is $71,617,363 and the total of the three Walsh contracts is $71,151,616, which is $465,747 less than the estimates. As Walsh Construction Company's cost was below that of the independent cost estimates, HUD's condition was satisfied.

Contact: Dominique Blom, Acting Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20010–5000, telephone (202) 401–8812.

• Regulation: 24 CFR 941.606(n)(l)(ii)(B).

Project/Activity: Charlotte Housing Authority's Prosperity Creek Fairview Homes HOPE VI Grant: NC19URD003I198, Charlotte, NC.

Nature of Requirement: The provision requires that if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as a general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest submitted in response to a public request for bids.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 24, 2006.

Reason Waived: The Charlotte Housing Authority (CHA) requested the waiver to use Wood Partners as the general contractor for Prosperity Creek, which is a phase of the Fairview Homes HOPE VI Project. The Housing Authority has partnered with Wood Partners, the owner of the Prosperity Creek site to include 24 public housing units in the new development. CHA submitted an independent cost estimate prepared by Construction Cost, Inc. for the work to be performed by Wood Partners at Prosperity Creek and the estimate totaled $12, 350,762. CHA also submitted the proposed construction contract with Wood Partners, which totaled $12,041,500 for the work included in the cost estimate. As Wood

Partners' cost was below that of the independent cost estimate, HUD's condition was satisfied.

Contact: Dominique Blom, Acting Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20010–5000, telephone (202) 401–8812.

- Regulation: 24 CFR 941.606(n)(l)(ii)(B).

Project/Activity: Charlotte Housing Authority's Montgomery Gardens Fairview Homes HOPE VI Grant: NC19URD003I198, Charlotte, NC.

Nature of Requirement: The provision requires that if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as a general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest submitted in response to a public request for bids.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 7, 2006.

Reason Waived: The Charlotte Housing Authority (CHA) requested the waiver to use Crosland Contracting as the general contractor for Montgomery Gardens, which is a phase of the Fairview Homes HOPE VI Project. Crosland Contracting is an affiliate of Crosland, Inc., the master developer for the Fairview Homes HOPE VI site. Crosland Inc. will be developing a 76-unit affordable housing development, of which 20 will be public housing units. CHA submitted an independent cost estimate prepared by Construction Cost, Inc. for the work to be performed and the estimate totaled $6,304,013. CHA also submitted the proposed construction contract with Crosland Contracting, which totaled $6,159,582 for construction of Montgomery Gardens. As Crosland Contracting's cost was below that of the independent cost estimate, HUD's condition was satisfied.

Contact: Dominique Blom, Acting Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20010, telephone (202) 401–8812.

- Regulation: 24 CFR 970.9(b).

Project/Activity: Mankato Economic Development Agency (EDA) Housing Authority's Disposition of 0.18 Acre of Vacant Land at Orness Plaza and Scattered Family Site, MN063001, PIC Application DDA0001765.

Nature of Requirement: Under section 18 (a)(5) of the Housing Act of 1937, the Secretary may waive the requirement for the application of proceeds of sale for the repayment of outstanding debt used to finance the development and/or modernization of the development. The proceeds must be used for the provision of low-income housing or to benefit the residents of the public housing agency (PHA), or for leveraging amounts for securing commercial enterprises, on-site, in public housing projects of the PHA, that are appropriate to serve the needs of the residents.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 16, 2006.

Reason Waived: Mankato EDA Housing Authority proposes the disposition of 0.18 of an acre of vacant land at Orness Plaza and Scattered Site, MN063001. The Chief Financial Office record indicates that the development's outstanding debt is $88,252.27. The development was financed by HUD held project notes and the issue of new housing authority bonds. The HUD held project notes has been forgiven. The bonds are dated February 1, 1971 and mature February 1, 2012. The original issue was $2,405,675 at a rate of five percent. The Special Applications Center (SAC) recommended that the requirement to repay the debt for the development be waived. The Department waived the requirement for the repayment of debt with any proceeds that are generated from this sale, with the understanding that net proceeds will be used in accordance with the statute.

Contact: Dominique Blom, Acting Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20010, telephone (202) 401–8812.

- Regulation: 24 CFR 970.9(b).

Project/Activity: Dayton Metropolitan Housing Authority's Disposition of 2 Buildings containing 12 units at Scattered Sites, OH005013, PIC Application DDA000958.

Nature of Requirement: Under Section 18 (a)(5) of the U.S. Housing Act of 1937, the Secretary may waive the requirement for the application of proceeds of sale for the repayment of outstanding debt used to finance the development and/or modernization of the development. The proceeds must be used for the provision of low-income housing or to benefit the residents of the public housing agency (PHA), or for leveraging amounts for securing commercial enterprises, on-site, in public housing projects of the PHA, that are appropriate to serve the needs of the residents.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 16, 2006

Reason Waived: The Dayton Metropolitan Housing Authority (DMHA) proposes disposition of two buildings containing 12 units at Scattered Sites, OH0055013. According to the Office of Finance and Accounting, the development's outstanding debt is $1,128,563. The DMHA proposes to dispose of this site at fair market value via public bid for $144,000. In the application, the DMHA proposes to use the proceeds of sale from Scattered Sites, OH005013, towards modernization of Scattered Sites (Woodview), OH005015. The SAC has determined that the use of proceeds meets the requirements of the statute and the disposition application is approvable. The Department waives for good cause, pursuant to 24 CFR, Section 5.1000, the requirement for the repayment of debt with any proceeds that are generated from this sale, with the understanding that net proceeds will be used in accordance with the statute.

Contact: Dominique Blom, Acting Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20010–5000, telephone (202) 401–8812.

- Regulation: 24 CFR 970.9 (b)

Project/Activity: Las Vegas Housing Authority's Disposition of 8.13 Acres of Vacant Land at Ernie Cragin Terrace, NV002011, PIC Application DDA0001614.

Nature of Requirement: Under Section 18 (a)(5) of the U.S. Housing Act of 1937, the Secretary may waive the requirement for the application of proceeds of sale for the repayment of outstanding debt used to finance the development and/or modernization of the development. The proceeds must be used for the provision of low-income housing or to benefit the residents of the public housing agency (PHA), or for leveraging amounts for securing commercial enterprises, on-site, in public housing projects of the PHA, that are appropriate to serve the needs of the residents.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 16, 2006.

Reason Waived: The Las Vegas Housing Authority proposes the disposition of 8.13 acres of vacant land at Ernie Cragin Terrace, NV 002011. The Chief Financial Office record indicates that the development's outstanding debt is $330,409.61. The development was financed by HUD held project notes and the issue of new housing authority bonds. The HUD held project notes are forgiven. The bonds are dated January 1, 1971 and mature January 1, 2012. The original issue was $1,024,522 at a rate of 5 percent. The SAC recommended that the requirement to repay the debt for the development be waived. The Department waived the requirement for the repayment of debt with any proceeds that are generated from this sale, with understanding that net proceeds will be used in accordance with the statute.

Contact: Dominique Blom, Acting Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20010–5000, telephone (202) 401–8812.

- Regulation: 24 CFR 970.9(b).

Project/Activity: Biloxi Housing Authority's Demolition of 112 Units and 1 Non-Residential Building and the Disposition of 6.5 Acres of Land at Back Bay Place, MS005008–2, PIC Application DDA0001776.

Nature of Requirement: Under section 18 (a)(5) of the U.S. Housing Act of 1937, the Secretary may waive the requirement for the application of proceeds of sale for the repayment of outstanding debt used to finance the development and/or modernization of the development. The proceeds must be used for the provision of low-income housing or to benefit the residents of the public housing agency (PHA), or for leveraging amounts for securing commercial enterprises, on-site, in public housing projects of the PHA, that are appropriate to serve the needs of the residents.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 16, 2006.

Reason Waived: The Biloxi Housing Authority (BHA) proposes the disposition of 6.5 acres of vacant land at the fair market value of $3,500,000 via a public bid. The BHA proposes to use the proceeds of sale for the acquisition of land, in a less flood-prone area in Biloxi, in order to reconstruct the affordable housing units that were destroyed as a result of Hurricane Katrina. According to the Office of Finance and Accounting, the development's outstanding debt is $934,003.27 for project MS005008–2. The SAC recommended that the requirement to repay the debt for the development be waived. The Department waived the requirement for the repayment of debt with any proceeds that are generated from this sale, with the understanding that net proceeds will be used in accordance with the statute.

Contact: Dominique Blom, Acting Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20010–5000, telephone (202) 401–8812.

- Regulation: 24 CFR 970.9(b).

Project/Activity: Warwick Housing Authority's Disposition of 2 Buildings, Housing 26 Units at Father Olsen Terrace, RI011007.

Nature of Requirement: Under Section 18 (a)(5) of U.S. Housing Act of 1937, the Secretary may waive the requirement for the application of proceeds of sale for the repayment of outstanding debt used to finance the development and/or modernization of the development. The proceeds must be used for the provision of low-income housing or to benefit the residents of the public housing agency (PHA), or for leveraging amounts for securing commercial enterprises, on-site, in public housing projects of the PHA, that are appropriate to serve the needs of the residents.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 29, 2006.

Reason Waived: The Warwick Housing Authority (WHA) proposes the disposition of two residential buildings housing 26 units at Father Olsen Terrace, RI0011007 to the New England School of Technology (NEST), via a negotiated sale, at the Fair Market Value of $1,510,000. WHA plans on using the proceeds generate from this disposition to construct new housing units for low-income housing families in the community. According to the Chief Financial Office, the development's outstanding debt is $315,415.90 for project notes to the Federal Financing Bank. The note is dated October 8, 1982, and will mature November 1, 2014. The original issue was for $576,718.45 at a rate of 6.600 percent. The SAC recommended that the requirement to repay the dept for the development be waived. The Department waived the requirement for the repayment of debt with any proceeds that are generated from this sale, with the understanding that net proceeds will be used in accordance with the statute.

Contact: Dominique Blom, Acting Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20010–5000, telephone (202) 401–8812.

- Regulation: 24 CFR 982.505(c)(4).

Project/Activity: Wayne Metropolitan Housing Authority (WMHA), Wooster, OH. WMHA requested a waiver of this regulation so that it could apply increased payment standards immediately rather than wait for the family's next regular annual reexamination.

Nature of Requirement: Section 982.505(c)(4) provides that if the payment standard amount is increased during the term of the housing assistance payments (HAP) contract, the increased payment standard amount shall be used to calculate the monthly HAP for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.

Granted By: Orlando Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 10, 2006.

Reason Waived: Since the WMHA's HAP costs stabilized, it intended to increase its payment standards to 100 percent of the current published fair market rents for all bedroom sizes. A waiver quickly alleviated the rent burden on families that were affected by paying a greater share toward their gross rent.

Contact: Alfred C. Jurison, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

- Regulation: 24 CFR 983.55(b) of the old project-based voucher (PBV) regulations and the same section of the PBV final rule published in the **Federal Register** on October 13, 2005.

Project/Activity: Housing Authority of Americus (HAA), Americus, GA. The HAA requested a waiver of this regulation so that it could attach PBV to units at East Oak Apartments.

Nature of Requirement: Section 983.55(b) of both rules states that the appropriate subsidy layering review be completed prior to the execution of an agreement to enter into a housing assistance payments contract (AHAP).

Granted By: Orlando Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 4, 2006.

Reason Waived: The waiver was granted because the HAA subsequently submitted this project to HUD Headquarters for the appropriate subsidy layering review on October 11, 2005, and the AHAP was executed in good faith pursuant to a subsidy layering review, albeit one that was not originally conducted by the proper entity.

Contact: Alfred C. Jurison, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• Regulation: 24 CFR 1000.312.

Project/Activity: The Gila River Indian Community's (the Tribe) units built with funding provided under the U.S. Housing Act of 1937 (1937 Act). The Tribe is located in Sacaton, Arizona.

Nature of Requirement: The regulation at 24 CFR 1000.312 requires that only units owned or operated pursuant to an Annual Contributions Contract (ACC) may be included as Formula Current Assisted Stock (FCAS).

Granted By: Orlando Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 8, 2006.

Reason Waived: Ten units built in 1986 with 1937 Act funding are uninhabitable due to extreme foundation problems and will need to be demolished and rebuilt. The Tribe and a structural engineering consulting firm determined that the deficiencies are extreme and pose a serious threat to the health and safety of the residents. The Tribe is seeking continued FCAS funding for seven of the affected units that have current homebuyer agreements. The units will be rebuilt with Indian Housing Block Grant (IHBG) funds and will remain under management of the housing authority.

Contact: Deborah Lalancette, Director, Grants Management, Headquarters Office of Native American Programs (ONAP) Denver, Department of Housing and Urban Development, 1670 Broadway, 23rd Floor, Denver, CO 80202; telephone (303) 675–1625.

[FR Doc. 06–5932 Filed 7–3–06; 8:45 am]

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Federal Register

Wednesday,
July 5, 2006

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1, Parts 2, 27, 24, et. al.

Federal Acquisition Regulations; Federal Acquisition Circular 2005–11; FAR Case 2004–019, Earned Value Management System (EVMS); FAR Case 2005–038, Emergency Acquisitions; Federal Acquisition Circular 2005–11; Small Entity Compliance Guide; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR—2006–0023]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–11; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2005–11. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.acquisition.gov/far*.

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 2005–11 and specific FAR case number(s). Interested parties may also visit our Web site at *http://www.acquisition.gov/far*. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

Item	Subject	FAR case	Analyst
....	Earned Value Management System (EVMS)	2004–019	Parnell.
II	Emergency Acquisitions	2005–038	Sochon.

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2005–11 amends the FAR as specified below:

Item I—Earned Value Management System (EVMS) (FAR Case 2004–019)

This final rule amends the Federal Acquisition Regulation to implement Earned Value Management System (EVMS) policy in accordance with OMB Circular A–11, Part 7 and the supplement to Part 7, the Capital Planning Guide. The FAR will require the use of an EVM System that complies with the guidelines of ANSI/EIA Standard - 748, in major acquisitions for development, and in other acquisitions in accordance with agency procedures. An agency shall conduct an Integrated Baseline Review (IBR) when EVMS is required. Offerors shall not be eliminated from consideration for contract award because they do not have an EVMS that is compliant with the ANSI/EIA standards, provided they submit an EVMS implementation plan with their proposal.

Item II—Emergency Acquisitions (FAR Case 2005–038)

This interim rule revises FAR Part 18 to provide a single reference to acquisition flexibilities that may be used during emergency situations. This change is expected to improve the Government's ability to expedite acquisition of supplies and services during emergency situations. The FAR Part 18 makes no change to existing contracting policy.

Dated: June 28, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-11 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-11 is effective July 5, 2006.

Dated: June 26, 2006.

Shay D. Assad,

Director, Defense Procurement and Acquisition Policy.

Dated: June 27, 2006.

Roger D. Waldron,

Acting Senior Procurement Executive, General Services Administration.

Dated: June 27, 2006.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 7, 34, and 52

[FAC 2005–11; FAR Case 2004–019; Item I;Docket 2006–0020, Sequence 13]

RIN 9000–AK16

Federal Acquisition Regulation; FAR Case 2004–019, Earned Value Management System (EVMS)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement earned value management system (EVMS) policy. FAR coverage is necessary to help standardize the use of EVMS across the Government. The final rule specifically impacts contracting officers, program managers, and offerors/contractors required to manage contracts by utilizing earned value management systems for major acquisitions.

DATES: *Effective Date*: July 5, 2006.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jeritta Parnell, Procurement Analyst, at (202) 501–4082. Please cite FAC 2005–11, FAR case 2004–019. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the Federal Acquisition Regulation to implement Earned Value Management System (EVMS) policy in accordance with OMB Circular A–11, Part 7 and the supplement to Part 7, the Capital Planning Guide. The Circular sets forth policy, budget justification, and reporting requirements that apply to all agencies of the Executive Branch of the Government that are subject to Executive Branch review for major capital acquisitions. Performance based acquisition management requires the use of EVMS on those parts of the acquisition where developmental effort is required. This includes prototypes and tests to select the most cost effective alternative during the planning phase, acquisition phase, and any developmental, modification or upgrade effort(s) performed during the operational/steady state phase. Currently, the FAR does not include standard EVMS policy, provisions, or clauses available for Governmentwide use.

The Office of Federal Procurement Policy (OFPP) formally submitted proposed FAR changes to the General Services Administration in June 2004. DoD, GSA, and NASA published a proposed rule, implementing standard EVMS policy for Governmentwide use, in the **Federal Register** at 70 FR 17945, April 8, 2005 and the public comment period closed on June 7, 2005.

Twenty-five respondents submitted 109 comments. The 109 comments received were grouped into ten categories. A discussion of these public comments by category is provided below. The Councils considered all comments and concluded that the proposed rule should be converted to a final rule, with changes to the proposed rule. Differences between the proposed rule and final rule are identified in the summary of changes below following the discussion in the responses to the public comments below.

Public comments. A summary of the ten categories is as follows:

- Allowability.
- EVM Applicability, Thresholds and Exclusions.
- Pre-award Integrated Baseline Reviews (IBRs).
- Post-award IBRs.
- Modified IBRs.
- Reporting.
- EVMS Compliance, System Surveillance and Approval of Changes.
- Training.
- Miscellaneous Comments.
- Unrelated to Proposed Rule.

Allowability

Comment: A number of commenters requested a change to the FAR cost principles (FAR Part 31) to make EVMS explicitly allowable. One commenter further stated that the ‘‘EVMS rule should explicitly state that contracts must permit recovery of EVMS Costs Allocable to the contract.’’

Response: The Councils do not believe FAR Part 31 should be revised. Cost allocability is only one of several requirements for allowability specified at FAR 31.201–2(a). The costs must also be reasonable, in accordance with the terms of the contract, and compliant with the provisions set forth in Part 31. Agencies have the flexibility of paying for pre-award IBRs.

EVM Applicability, Thresholds and Exclusions

Comment: A number of commenters expressed concern over the contract dollar thresholds for which EVMS would apply. Some commenters recommended specific dollar thresholds for EVMS applicability and approval.

Response: The Councils believe EVMS application should be based on the particular agency facts and circumstances rather than specifying a threshold in the FAR. In accordance with OMB Circular A–11, Part 7, agencies have the authority to establish dollar thresholds and EVMS applicability criteria.

Comment: A number of commenters recommended that certain contract types be excluded from the requirements of EVMS, *i.e.*, firm fixed price, time and materials, level of effort, and commercial item contracts under FAR Part 12.

Response: The Councils believe it is not appropriate to exclude certain contract types from EVMS requirements in the FAR. In accordance with OMB Circular A–11, Part 7, EVMS is required for major acquisitions for development regardless of contract type.

Comment: A commenter stated that any decision to use EVMS should be part of a formal documented acquisition strategy.

Response: The Councils agree that the use of EVMS should be part of a formal documented acquisition strategy. This requirement is addressed at 7.105(b)(10) of the final rule.

Comment: A number of commenters stated that the requirement for EVMS for contractors will impact the overall cost to the government of acquisitions.

Response: EVMS is required for major acquisitions for development, in accordance with OMB Circular A–11. The Councils further note that agencies have significant discretion in determining the size and complexity of projects that meet the criteria for a major acquisition set by the agency.

Comment: The commenter stated that the methodology the Government will employ to analyze and use the EVM data to assess and monitor performance should be included in Acquisition Plans. This oversight shall not extend beyond the intent or requirements of the ANSI/EIA - 748 standard or a contract’s terms and conditions and statement of work (SOW).

Response: The Councils agree that acquisition plans must discuss the methodology the Government will employ to analyze and use EVM data to assess and monitor contract performance (See FAR 7.105(b)(10)). The FAR addresses the assessment and monitoring of performance; the ANSI standard does not address oversight and specific reporting.

Comment: The commenter stated that adding levels of IBRs and Agency Head review will lengthen front-end planning and approval process timeliness.

Response: The Councils acknowledge that pre-award IBR’s, which are optional, could possibly lengthen the pre-award process. However, any such delays are expected to be offset by anticipated savings gained through improved management of the program. The coverage does not add any Agency Head reviews.

Comment: A number of commenters state that the rule should clarify that EVMS applies to developmental efforts, not steady state or operational acquisitions, or for the procurement of commercial items.

Response: The Councils agree that the application of EVMS should be clarified. The final rule has been revised in FAR 34.201(a) to require EVM for major acquisitions for development in accordance with OMB Circular A–11, Part 7. The Circular does not require the use of EVM for steady-state or operational acquisitions, or for the procurement of commercial items. However, an Agency or requiring activity may elect to require EVMS for other than development efforts based on the costs/benefits involved.

Comment: The commenter states that a $50 million threshold should be established for the application of EVMS for prime contracts. In addition, any small business awarded a prime contract that exceeds this threshold should be subject to the same EVMS requirements.

Response: The Councils believe that the FAR should not establish EVMS thresholds. The final rule provides individual agencies the authority to establish appropriate thresholds for major acquisitions and EVMS applicability criteria in accordance with OMB Circular A–11, based on their particular facts and circumstances.

Comment: The commenter states that EVMS requirements should not flow-down to subcontractors, regardless of dollar value. There is no privity of contract between the government and any subcontractor.

Response: The Councils believe that EVMS requirements should apply to subcontracts when the cost/benefits support such application. However, the Councils also recognize that clarification of this requirement is necessary. As such, the rule has been revised to clarify language at FAR 52.234–4(g) and 34.201(d) to require application of EVMS to subcontractors using the same rules as applied to the prime contractor. The Councils note that the Government often requires contractors to flow certain clauses down to subcontractors. Such flow-downs do not require privity of contract between the Government and the subcontractor, *i.e.*, the flow-down requirement in the clause is between the Government and the contractor.

Comment: The commenter recommends that EVMS thresholds should be indexed to inflation.

Response: The Councils believe that it is preferable to provide individual agencies with the authority to establish appropriate thresholds for major acquisitions and EVMS applicability criteria in accordance with OMB Circular A–11 based on their particular facts and circumstances, rather than indexing the thresholds to inflation.

Comment: The commenter stated that EVMS is not simple to implement. Small businesses may find it difficult and costly to implement EVMS. Flowing down EVMS requirements to several tiers of subcontractors compounds these difficulties.

Response: The Councils believe that application of EVMS should be done only when the cost/benefits of such application is warranted. The Councils also recognize that some businesses may not have an operational EVMS when they submit their offer. As such, the language in FAR 34.201(b) has been revised to make it clear that offerors who do not have an operational EVMS shall not be disqualified from contract award if they submit an EVMS implementation plan with their proposals.

Comment: The commenter submitted the following recommendations to mitigate the impact that EVMS requirements will have on small business:

- No validation on contracts less than $50M.
- No EVM on contracts less than $20M without authorization by agency's senior acquisition executive.
- Costs of complying with EVMS requirements should be directly chargeable to that contract.

Response: The Councils believe it is preferable to provide individual agencies with the authority to establish appropriate thresholds for major acquisitions and EVMS applicability criteria in accordance with OMB Circular A–11, based on their particular facts and circumstances rather than specifying a threshold in the FAR. It is also not appropriate for the EVMS clause to specify whether the costs of complying with EVMS requirements should be a direct or indirect cost. The charging of costs as direct or indirect costs (including the cost of complying with EVMS requirements) is determined by the Cost Accounting Standards and/or the requirements of FAR Part 31. Furthermore, EVMS costs, like other costs, must meet the allowability criteria in FAR 31.201–2(a).

Comment: The commenter stated that the flow-down requirements of EVMS to small business could have a negative effect. This commenter asserted that the statistical value in assessing the impact to small business is understated.

Response: The Councils note that an Initial Regulatory Flexibility Analysis was performed and comments were solicited as to the effect of this rule on small business. Some comments were received that indicated that small businesses may be affected. Therefore, to alleviate the possible burden on small businesses that do not have an EVM system, the rule is revised to make it clear that offerors shall not be eliminated from consideration for contract award because they do not have an operational EVM system, provided they submit an EVMS implementation plan with their proposal. Likewise, agencies have the flexibility of paying for initial baseline reviews in accordance with agency procedures.

Comment: The commenter recommended that the rule provide for an exception to allow the Government to manage the EVMS while the contractor is responsible for reporting status.

Response: The Councils believe that management of the EVMS is the contractor's responsibility. The contractor is responsible for managing contract work. EVMS is one method used to manage that work.

Pre-award IBRs

Comment: A number of commenters state that the pre-award IBR process may cause undue cost and manpower burdens on offerors and the Government, and could result in delay of award, excessive B&P costs, decreased competition, risks of technical leveling, increased protest potential and the necessity for a follow-up IBR after award.

Response: Pre-award IBRs are not mandatory; however, if agencies determine that establishing a firm baseline prior to award is beneficial, the rule allows this flexibility. The Councils acknowledge that pre-award IBRs may increase B&P costs and source selection resources; however, EVM is designed to save money in the long run. Agencies have the flexibility of paying for pre-award IBRs within the source selection process. As with any source selection process, the Government must take all necessary steps to protect against disclosure of proprietary information or technical leveling during the proposal evaluation. The Government has flexibility for source-selection procedures as currently prescribed in FAR Subpart 15.3.

Comment: A number of commenters expressed concern that a pre-award budget baseline may not add value to the source selection process since there is insufficient information to establish a technical or cost baseline and it is too difficult to properly assess risk prior to award.

Response: The Councils believe that pre-award IBRs are designed to verify and establish the technical and cost baseline. If an Agency determines that a pre-award IBR is appropriate for that procurement, then the proposal should serve as a sufficient baseline to conduct an IBR prior to contract award.

Comment: A number of commenters stated that the only reason to conduct a pre-award IBR for sole source acquisitions is to establish a performance measurement baseline (PMB). However, this PMB will not be valid because pre-award IBR budget values will change from the PMB after award, and the contractor will be reluctant to disclose management reserve before negotiations are concluded.

Response: The Councils agree that the purpose of a pre-award IBR is to verify the technical content and the realism of the related performance budgets, resources and schedules. However, the Councils do not agree that such technical and cost baselines will substantially change after award. A pre-award IBR will help to verify the realism of the proposal and therefore facilitate negotiations. Additionally, disclosure of cost information is subject to and available under the Truth in Negotiations Act (41 U.S.C. 254b and 10 U.S.C. 2306a).

Comment: The commenter states that performance of a pre-award IBR would fall under FAR Subpart 15.3 Source Selection. Specifically, pre-award IBRs would fall under FAR 15.306(d), exchanges with offerors after establishment of the competitive range. The proposed rule does not refer to Part 15.

Response: The Councils do not believe that it is necessary to address pre-award IBRs in FAR Part 15. However, FAR 7.105(b)(3) is revised to include source selection procedures when a pre-award IBR is contemplated. While a pre-award IBR is not mandated, when one will be performed, the acquisition plan should address how the IBR results will be considered in source selection.

Comment: The commenter states that any company with an approved EVM System should not be subjected to a pre-award IBR. For those companies without an existing or approved EVMS, this should be considered as part of management risk of the source selection evaluation based on their proposed system implementation described in their proposal. It would be resource and schedule prohibitive to perform an IBR or sequential IBRs prior to award.

Response: The Councils disagree. The determination that an offeror's EVM System is compliant with the ANSI/EAI - 748 standard is an independent assessment and is not related to the timing of an IBR. Pre-award IBRs are designed to verify and establish the technical and cost baseline. If an agency determines it is beneficial to establish the IBR prior to award, they have the flexibility to conduct an IBR. The language in FAR 34.201(b) has been revised to make it clear that offerors who do not have an operational EVMS shall not be disqualified from contract award if they submit an EVMS implementation plan with their proposals. In such case, a pre-award IBR would utilize data from the offeror's current cost/schedule control system.

Comment: The commenter states that if the requirement for a pre-award IBR is retained in the final rule, the requirement for a post-award IBR should be deleted.

Response: The Councils believe that the rule allows the flexibility for the timing and conduct of the IBR. Pre-award IBRs are not mandatory. An agency may choose to perform a post-award IBR.

Comment: The commenter does not agree that ''IBRs will normally be scheduled before award'' as stated in 52.234–X3(c). In certain agency acquisitions, M&O contractors are responsible for design and planning activities necessary to establish the PMB, which must be in place prior to IBR. The commenter suggests a tiered approach for the performance of IBRs.

Response: The Councils believe that the rule allows the flexibility for the timing and conduct of the IBR. Pre-award IBRs are not mandatory. An agency may choose to perform a post-award IBR. If an Agency determines that a pre-award IBR is appropriate for that procurement, then the proposal should serve as a sufficient baseline to conduct an IBR prior to contract award. The Councils do not believe a tiered approach is necessary or beneficial.

Comment: The Commenter stated that the only way an independent baseline could exist prior to award would be if it were developed either privately or under a prior contract. Therefore, there is no need for provision 52.234–X2.

Response: The Councils believe that the pre-award IBR provision is necessary. If an agency determines that establishing a firm baseline prior to award is beneficial, the rule allows the flexibility of requiring a pre-award IBR. The IBR is meant to verify the technical content and the realism of the related performance budgets, resources and schedules. FAR 52.234–X2 does not address an independent baseline, but rather an integrated baseline conducted as a joint effort between the offeror and the Government.

Comment: A number of commenters stated that it often takes a number of weeks, after award, for the contractor to develop and refine their understanding of the project and their work plans so as to have the detailed information available necessary for a comprehensive IBR. If the ''first IBR'' is conducted prior to award ''there is little likelihood that the level of information available to the contractor will be sufficient to allow a meaningful IBR...''

Response: The Councils believe that the technical proposal should reflect the offerors' understanding of the requirements at time of proposal submission. Thus the proposal should serve as a sufficient baseline to conduct an IBR prior to contract award.

Comment: The commenter cautions that a pre-award IBR may undermine the normal source selection process of technical evaluation. The IBR should be considered as one aspect of the evaluation process. The IBR should be structured to guard against undermining an offeror's commitment or a contractor's obligation to perform–especially under a fixed-price, performance-based type arrangement.

Response: The Councils believe that pre-award IBRs do not undermine the source selection process. Pre-award IBRs are not required; however, if performed, the pre-award IBR would be considered in the evaluation process. FAR 7.105(b)(3) has been added to address how the results of the pre-award IBR will be considered in the source selection.

Comment: A number of commenters requested a revision to 52.234–X2(d) to define the procedures for determining the competitive range and/or determining the number of offerors that remain in a competitive range prior to conducting a pre-award IBR.

Response: The Councils do not believe that language is necessary to specify what constitutes the competitive range for the conducting of pre-award IBRs. Pre-award IBRs will be conducted in accordance with the source selection plan set forth for that acquisition.

Comment: A number of commenters stated that the regulations should not encourage the imposition of pre-award IBRs on smaller acquisitions or those contractors with minimal EVMS experience.

Response: Agencies have the authority to establish thresholds and EVMS applicability criteria. The Councils have agreed to revise the language in FAR 34.201(a) to make it clear that offerors who do not have an operational EVMS shall not be disqualified from contract award if they submit an EVMS implementation plan with their proposals.

Post-award IBRs

Comment: The commenter noted that when a post-award IBR may be required, 34.X03 prescribes a solicitation provision (52.234–X1) that does not mention IBR.

Response: The Councils agree that the proposed rule should be clarified to address the responder's concern. As a result, FAR 34.202 in the final rule specifically states that when an EVMS is required, the Government will conduct an Integrated Baseline Review (IBR). No change to the provision at FAR 52.234–3 is therefore necessary since IBRs shall always be required when the post-award IBR language is in the contract in accordance with the clause at 52.234–4.

Comment: The commenter recommended revising 52.234–X3(c) to state ''If a pre-award IBR has not been conducted, such a review shall be scheduled [and initiated] as early as practicable after contract award...'' since it is important to indicate that the IBR should commence during the allotted timeframe.

Response: The Councils do not agree that the timing of post award IBRs should be specified in the FAR. The clause at FAR 52.234–4(c) has been revised to state that a post award IBR shall be conducted as early as practicable after contract award. Agencies have the flexibility to establish the timing and conduct of the post award IBRs.

Comment: The commenter recommended that Post-award IBRs for options or major modifications should have a numerical threshold - 50% of prior contract value.

Response: The Councils believe it is preferable to provide flexibility in regard to whether there is a change to the contract in terms of exercise of significant option(s) or incorporation of major modification(s), rather than applying a predetermined dollar or percentage threshold.

Comment: The Commenter recommended changing the language in FAR 52.234–X3 from ''not later than 180 days after award'' to ''in accordance with agency procedures.''

Response: The Councils agree that the timing of post award IBRs should not be specified in the FAR. The clause at FAR 52.234–4(c) has been revised to state that a post award IBR shall be conducted as early as practicable after contract award. Agencies have the flexibility to establish the timing and conduct of the post award IBRs.

Comment: A number of commenters requested clarification of 34.X03(a) as to whether post-award IBRs are optional, ''may require'', while Paragraph (b) pre-award is less optional, ''will require''.

Response: The Councils have revised the language at FAR 34.202 to explicitly state that an IBR is required regardless of whether it is performed pre-award or post-award. The requirement for the timing of an IBR will be determined by the agency.

Comment: A number of commenters suggested the language at 52.234–X3(c) be revised to change Agencies ''may conduct IBRs'' to ''shall conduct IBRs.''

Response: The Councils agree that agencies are required to conduct the IBR's. As such, the Councils have revised the language at FAR 52.234–4(c) to state that the Government ''will conduct an IBR.''

Modified IBRs

Comment: A number of commenters recommend utilizing a tiered or modified IBR approach based on the size of the program, with smaller programs requiring only scaled back IBRs. Task order contracts and other contract types where scope is not well defined should be excluded from IBRs.

Response: The Councils have provided that agencies have the flexibility to determine the application and extent of IBRs.

Reporting

Comment: The commenter is concerned that FAR 42.1106, Reporting Requirements, will result in EVM reports without the EVM System requirement.

Response: The Councils agree that the language should be revised to clarify the applicability of EVMS reporting. The language is moved to FAR 34.201(c), and revised to specifically state that contractors shall ''submit EVMS reports monthly for those contracts for which an EVMS applies.''

Comment: The commenter believes that EIA - 748 should govern reporting requirements, and any additional reporting requirements should require specific approval by the head of the contracting activity.

Response: The Councils do not agree that reporting requirements outside of ANSI/EIA - 748, which does not mandate specific reports, formats, or timing, should be subject to mandatory head of contracting activity approval, but instead should be subject to Agency procedures.

Comment: The commenter suggested that agencies should be required to submit written comments within 10 days of monthly reports or waive the right to require corrective action or to take adverse action. In addition, the commenter stated that variances of less than 10% should not be grounds for corrective action.

Response: The Councils believe that time allotted for review will be determined on a case-by-case basis. Failure to respond does not equate to acceptance. The Councils further believe that variances should be subject to review based on the particular facts and circumstances rather than a specified minimum percentage.

EVMS Compliance, System Surveillance and Approval of Changes

Comment: The commenter believes that third-party system certification or self assessment, as the basis for acceptance of an EVMS system, does not provide sufficient Government oversight.

Response: The Councils note that regardless of who conducts the review, the Cognizant Federal Agency (CFA) is responsible for determining if a contractor's EVM system is compliant with the contractual requirements.

Comment: The commenter believes that allowing contractors an unlimited amount of time to demonstrate compliance to the EVMS requirements is counterproductive. Demonstration of compliance should precede award fee determination or should happen within 90 days after award.

Response: The Councils believe that EVMS compliance is related to the overall EVMS review and is not necessarily related to a contract award fee determination. The contractor should take the necessary actions to meet the negotiated milestones in their EVMS plan. Whether these milestones are tied to an award fee determination will be a subject for negotiation on an individual contract basis.

Comment: The commenter suggested that in addition to specifying EIA Standard 748, the Government should require that the evaluation process be based on either the EMIR or the NADIA EVM Intent Guide.

Response: The Councils believe that the FAR coverage is appropriate. Agencies have the flexibility to develop implementation procedures to meet their requirements.

Comment: A number of commenters stated that EVMS oversight should be clarified. In general, EVMS oversight should be performed for the contractor's entire company or facility, surveillance should be performed jointly by the contractor and a single cognizant Federal Agent for all contracts, and that certification resources and procedures should be established.

Response: The Councils agree that EVMS surveillance should be performed on a business segment basis rather than on a contract-by-contract basis. Therefore, the Councils have provided in the final rule that the Cognizant Federal Agency (CFA) will determine if a contractor's EVMS is compliant with the guidelines in ANSI/EIA Standard - 748.

Comment: A number of commenters questioned the effective date of the EVMS rule. One commenter questioned whether modification of existing contracts will be required to comply with the new FAR EVMS requirements. Another commenter suggested that the rule should provide a suitable phase-in for the EVMS requirements.

Response: The Councils have determined that the rule will be implemented within the standard procedures and timing of the effective date after issuance of the final rule, and will apply the new coverage prospectively to new solicitations and future awards. Agencies may modify existing contracts by mutual agreement on a case-by-case basis.

Comment: The commenter states that the proposed rule uses the term ''responsible Federal department or agency'' but does not provide a definition. The commenter requests that the rule be clarified to clearly delineate roles and responsibilities for approval and oversight of Contractor's EVMS.

Response: The Councils have revised the language in the provisions at FAR 52.234–2 and 52.234–3, and clause at 52.234–4 to clarify that the Cognizant Federal Agency (CFA) (definition in FAR 2.101 and 42.003) is responsible for determining if a contractor's EVMS is compliant with the contractual requirements, *i.e.*, the guidelines in ANSI/EIA Standard - 748.

Comment: A number of commenters stated that the rule needed to be clarified regarding the use of the term ''recognized,'' *i.e.*, which agency has cognizance, who within an agency is qualified, what constitutes a ''recognized'' system, what documentation is required to ''recognize'', and is ''recognition'' by one agency binding on another agency?

Response: The Councils have clarified the rule by changing the term ''recognize'' to ''determined to be in compliance with the ANSI/EIA Standard - 748.'' The Cognizant Federal Agency (CFA) will determine if a contractor's EVMS is compliant with the guidelines in ANSI/EIA Standard - 748 on a contractor business segment basis, not an individual contract basis.

Comment: A number of commenters suggested that FAR 34.005–2(b)(6) be revised to change the terminology ''meets'' to ''complies with.''

Response: The Councils agree with the recommendation and have revised the language in FAR 34.005–2(b)(6) to require the use of an EVM System that ''complies with'' the guidelines of ANSI/EIA Standard – 748.

Comment: The commenter suggested substituting the term ''EVMS criteria'' for ''EVMS guidelines''.

Response: The Councils believe the use of the term ''EVMS Guidelines'' is more appropriate because that term is used in ANSI/EIA - 748.

Comment: The commenter recommends that the proposed clause be revised to remove the requirements that the contractor obtain approval of proposed changes to their EVMS from the Government prior to implementation of the proposed change. The commenter recommends that surveillance be performed only every six months, after seven calendar days notice, and that changes to their EVMS be reviewed during those periodic reviews.

Response: The Councils believe that the rule provides the necessary Government oversight of a contractor's EVMS, and that approval of changes, done on a case-by-case basis, should be obtained prior to their implementation in a contractor's EVMS, not as a retroactive action.

Comment: A number of commenters have stated that the Government's access to records, including audit rights, are too broad. 52.234–X3 requires the Contractor to provide access to: ''...all pertinent records and data... to permit Government surveillance to ensure that the EVMS conforms... with the performance criteria....'' The commenters request that this language be removed from the clause.

Response: The Councils believe that governmental oversight for EVMS compliance is provided at FAR 52.234–4(f) and is necessary. Audit rights are provided via FAR 52.215–2, Audit and Records-Negotiation. FAR 52.234–4 does not expand upon these audit rights. If third party proprietary rights are marked with proper legends, the Government is prohibited from disclosure.

Training

Comment: A number of commenters stated that sufficient training must be received by program managers and contracting officers. In addition, the numbers of program managers and contracting officers sufficiently trained will be significant.

Response: The Councils recognize that the use of EVM will require resources and training. As such the Councils are working with Federal Acquisition Institute and Defense Acquisition University to provide EVMS training.

Miscellaneous Comments

Comment: For construction of buildings and facilities, the commenter suggests revising FAR Part 7 to require that a notice to proceed should be contingent on approved EVMS WBS, approved S Curve Baseline, and schedule.

Response: The Councils believe that the proposed revision is not appropriate for FAR Part 7 Acquisition Planning. If a contractor does not have an EVM system that complies with ANSI/EIA standard – 748, FAR 52.234–4 requires the contractor to take necessary actions to meet the negotiated milestones in their EVMS plan. Whether these milestones are tied to the notice to proceed will be a subject for negotiation on an individual contract basis.

Comment: The commenter refers to a sentence in the Background Section of the **Federal Register** notice of this proposed rule, noting that the intent of the Clinger-Cohen Act of 1996 was to include Construction of Building and Facilities, not just information systems.

Response: The Councils believe that no change to the text is necessary because the proposed language addresses all types of capital investments, including construction of buildings.

Comment: Some commenters suggest removing references to OMB Circular A–109 in FAR Part 34.000. No reason was provided.

Response: The Councils believe that OMB Circular A–109 continues to apply. OMB Circular A–11, Part 7 supplements OMB Circular A–109, which has not been rescinded by OMB, and is still available. Therefore, a reference to OMB Circular A–11 has been added to FAR 34.000.

Comment: The commenter suggested that the definition in Paragraph 2.101 which states ''Earned value management system means a project management tool...'' implies that EVMS is a single tool and not a methodology that can successfully be accomplished with a variety of existing tools.

Response: The Councils believe that the proposed language in the definition is consistent with the Capital Planning Guide and therefore should remain as stated.

Comment: The commenter suggested including additional references to sites where authoritative guidance and policy on EVMS may be found.

Response: The Councils do not believe that a change to the proposed language is appropriate. The Councils believe that implementing guidance and instructions provided by the agencies will be sufficient.

Comment: A number of commenters recommended a public meeting prior to publication of a final rule, and/or a second proposed rule.

Response: The Councils believe that based on comments received, no substantial changes were necessary in formation of the final rule. Therefore no public meeting is necessary, and it is appropriate to issue this final rule.

Comment: For a joint venture, the commenter suggests that the joint venture should use a single, mutually agreed on EVMS. The commenter also suggests that for teaming arrangements, the prime contractor should be responsible for meeting the EVMS requirements.

Response: The Councils believe that use of a single EVMS system is not, and should not be, required for prime contractors and their subcontractors. Likewise, it is not appropriate to require a single EVMS for joint ventures or team members in a teaming agreement. While EVMS systems may differ, the reporting elements remain constant, and that is what's needed for management and oversight purposes.

Unrelated to the Proposed Rule

Comment: The responder submitted a comment concerning an application for a Federal job.

Response: The Councils believe the comment is not applicable to this rule.

Summary of Changes. As a result of the comments, changes to the proposed rule include the following:

1. FAR 7.105(b)(3) is revised to clarify source-selection procedures, related to the Acquisition Plan, when an agency decides to perform a pre-award Integrated Baseline Review (IBR).

2. FAR 34.X01(a) is designated as 34.201(a) and is revised to require EVMS in major acquisitions for development and in other acquisitions in accordance with agency procedures.

3. FAR 34.X02(a) is designated as 34.202(a)and is revised to clarify that an agency shall conduct an IBR when EVMS is required.

4. FAR 34.X03 is designated as 34.203 and is revised to provide prescriptive language to clearly state pre-award and post-award EVMS IBR requirements.

5. FAR 52.234–X1, 52.234–X2 and 52.234–X3 are designated as 52.234–3, 52.234–2, and 52.234–4 respectively. The clause and provisions are clarified to provide that the Cognizant Federal Agency (CFA) is responsible for the approval and oversight of contractor's EVMS.

6. FAR 34.X01(b) is designated as 34.201(b) and is revised to clearly state that offerors shall not be eliminated from consideration for contract award because they do not have an EVMS that is compliant with the ANSI/EIA standards, provided they submit an EVMS implementation plan with their proposal.

7. The provisions at FAR 52.234–2(b)(4) and 52.234–3(b)(4) are revised to provide for negotiated milestones in offerors' EVMS plans that indicate when an offeror anticipates its EVMS system will be compliant.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA), and it is summarized as follows:

Final Regulatory Flexibility AnalysisEarned Value Management Systems, (EVMS)

This Final Regulatory Flexibility Analysis has been prepared consistent with 5 U.S.C. 604.

1. Succinct statement of the need for, and the objectives of, the rule.

Title V of the Federal Acquisition Streamlining Act of 1994 (FASA) requires agency heads to approve or define the cost, performance, and schedule goals for major acquisitions and achieve, on average, 90% of the cost, performance and schedule goals established. The Clinger-Cohen Act of 1996 requires the Director of OMB to develop, as part of the budget process, a process for analyzing, tracking, and evaluating the risks and results of all major capital investments for information systems for the life of the system. OMB Circular A–11, Part 7, Planning, Budgeting, Acquisition, and Management of Capital Assets and its supplement, Capital Programming Guide, were written to meet the requirements of FASA and the Clinger-Cohen Act. OMB Circular A–11, Part 7, sets forth the policy, budget justification, and reporting requirements that apply to all agencies of the Executive Branch of the government that are subject to Executive Branch review, for major capital acquisitions. The proposed FAR changes are necessary to implement Earned Value Management Systems (EVMS) requirements in OMB Circular A–11, Part 7, Planning, Budgeting, Acquisition, and Management of Capital Assets, and the supplement to Part 7, the Capital Programming Guide.

2. Summary of the significant issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.

Some comments were received that indicated that small businesses were affected. The comments received covered the following issues: Many small businesses do not have compliant EVMS systems. It will cost them money to set up an EVMS, and if the small business is a subcontractor, it may cost the prime money to coordinate the EVMS systems. If the small business delays setting up an EVMS system until a desirable business opportunity occurs, the time delay may discourage contracting officers from selecting them as prime contractors, or discourage prime contractors from selecting them as subcontractors. It will cost money for a small business to perform a pre-award IBR; these would be part of the business's bid and proposal costs. It is harder on small businesses than large businesses to absorb bid and proposal costs on contracts they do not win.

The assessment of these issues is as follows:

• The Councils anticipate that EVMS will be required mainly for development contracts above $20 million. The qualification of ''development'' was added to the final rule at 34.201. The FAR could have made fewer contracts subject to EVMS by setting a Governmentwide threshold, and by setting it high. But this would be contrary to OMB's purpose in initiating the EVMS rule, which is to allow OMB flexibility to require EVMS when OMB feels the stricter budgetary discipline is necessary for a particular acquisition.

• Small businesses may avoid all EVMS costs by choosing not to participate in EVMS solicitations, or may offset such costs to implement a compliant EVM System through cost reimbursement on resulting Government contracts.

• *EVMS system*. The cost for a small business setting up an EVMS compliant system should be a one-time cost. No public commenter gave specifics about the actual costs. In adopting the industry standard, contractors are already moving to set up EVMS systems. The construction industry is familiar with the concept of EVMS. The IT industry is rapidly adapting this industry standard.

• The FAR rule provides that agencies should not eliminate a contractor's proposal because that business does not have a compliant EVMS. This was added to the final rule at 34.201.In such a case, agencies can offset costs for a small business to implement a compliant EVM System through the resulting contract. Agencies can also help by restricting flow-down of the EVMS clause only to certain named subcontractors.

• *Pre-award IBR's*. We anticipate un-reimbursed pre-award IBR's will be unusual. OMB wants the flexibility of having the pre-award IBR tool available to agencies, and would be responsible for giving extra money to the agencies to pay for pre-award IBRs. Although the FAR is not forcing agencies to reimburse pre-award IBR costs either for large or small businesses; we anticipate agencies that want pre-award IBR's will pay for them, for example as separately funded cost reimbursement contracts. This was added to the final rule at 34.202. We also expect the agencies to reduce the number of proposals in the competitive range to avoid unnecessarily imposing costs on more than a few offerors. Small businesses may avoid these IBR costs entirely by choosing not to bid on solicitations with non-reimbursed pre-award IBR costs. Small businesses can partially recover un-reimbursed pre-award IBR costs by bidding only on cost-reimbursement contracts, which would allow the recovery as overhead on this and later contracts if the business wins these contracts.

3. Description of and an estimate of the number of small entities to which the rule will apply.

An analysis of data in the Federal Procurement Data System (FPDS) on actions and dollars on contracts above $20 million for supplies and equipments, IT services and construction, areas where EVMS is likely to be applied, indicated that small business only received 3.8 percent of the $36.8 billion and 5.8 percent of the 345 actions. Because FPDS does not collect data on EVMS use, the data above is only an approximation of the effect on small business. These numbers include more than just IT development contracts.

4. Description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The net effect of the rule is unknown at this time. The rule is expected to have some effect on small business concerns that do not have EVM systems. The final rule only affects those small businesses that receive a contract designated as a major acquisition. To alleviate burden on those small businesses that do not have an EVM system, the rule was revised to make it clear that offerors shall not be eliminated from consideration for contract award because they do not have an operational EVMS, provided they submit an EVMS implementation plan with their proposal.Other compliance requirements of the rule are covered in paragraph 2.

5. Description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The FAR rule provides that agencies should not eliminate a contractor's proposal because of that business not having a compliant EVMS. This was added to the final rule at 34.201. Agencies can also help by restricting flow-down of the EVMS clause only to certain named subcontractors. Agencies can reimburse pre-award IBR costs if OMB requires them and furnishes the money for them. Other alternatives suggested by public commenters were discussed in the preamble, such as having a Governmentwide threshold of $50,000,000. This alternative is not feasible as the purpose of the EVMS rule is to give OMB the tool to require stricter budgetary discipline where it sees fit, even in a lower dollar contract. Alternatives of excluding small businesses entirely from EVMS, or to give them a lower threshold Governmentwide, will not meet the purpose of the rule.

Interested parties may obtain a copy of the FRFA from the FAR Secretariat. The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 7, 34, and 52

Government procurement.

Dated: June 28, 2006

Ralph De Stefano,

Director,Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 7, 34, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 7, 34, and 52 are revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b) by adding, in alphabetical order, the definition ''Earned value management system'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Earned value management system means a project management tool that effectively integrates the project scope of work with cost, schedule and performance elements for optimum project planning and control. The qualities and operating characteristics of an earned value management system are described in American National Standards Institute/Electronics Industries Alliance (ANSI/EIA) Standard–748, Earned Value Management Systems. (See OMB Circular A–11, Part 7.)

* * * * *

PART 7—ACQUISITION PLANS

■ 3. Amend section 7.105 by revising paragraph (b)(3) and amending paragraph (b)(10) by adding two sentences to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(3) *Source-selection procedures.* Discuss the source-selection procedures for the acquisition, including the timing for submission and evaluation of proposals, and the relationship of evaluation factors to the attainment of the acquisition objectives (see Subpart 15.3). When an EVMS is required (see FAR 34.202(a)) and a pre-award IBR is contemplated, the acquisition plan must discuss—

(i) How the pre-award IBR will be considered in the source selection decision;

(ii) How it will be conducted in the source selection process (see FAR 15.306); and

(iii) Whether offerors will be directly compensated for the costs of participating in a pre-award IBR.

* * * * *

(10) * * * If an Earned Value Management System is to be used, discuss the methodology the Government will employ to analyze and use the earned value data to assess and monitor contract performance. In addition, discuss how the offeror's/contractor's EVMS will be verified for compliance with the American National Standards Institute/Electronics Industries Alliance (ANSI/EIA) Standard–748, Earned Value Management Systems, and the timing and conduct of integrated baseline reviews (whether prior to or post award). (See 34.202.)

* * * * *

PART 34—MAJOR SYSTEM ACQUISITION

■ 4. Revise section 34.000 to read as follows:

34.000 Scope of part.

This part describes acquisition policies and procedures for use in acquiring major systems consistent with OMB Circular No. A–109; and the use of an Earned Value Management System in acquisitions designated as major acquisitions consistent with OMB Circular A–11, Part 7.

■ 5. Amend section 34.005–2 by adding paragraph (b)(6) to read as follows:

34.005–2 Mission-oriented solicitation.

* * * * *

(b) * * *

(6) Require the use of an Earned Value Management System that complies with the guidelines of ANSI/EIA Standard–748 (current version at time of solicitation). See 34.201 for earned value management systems and reporting requirements.

* * * * *

■ 6. Add subpart 34.2 to read as follows:

Subpart 34.2—Earned Value Management System

Sec.

34.201 Policy.

(a) An Earned Value Management System (EVMS) is required for major acquisitions for development, in accordance with OMB Circular A–11. The Government may also require an EVMS for other acquisitions, in accordance with agency procedures.

(b) If the offeror proposes to use a system that has not been determined to be in compliance with the American National Standards Institute/Electronics Industries Alliance (ANSI/EIA) Standard–748, Earned Value Management Systems, the offeror shall submit a comprehensive plan for compliance with these EVMS standards. Offerors shall not be eliminated from consideration for contract award because they do not have an EVMS that complies with these standards.

(c) As a minimum, contracting officers shall require contractors to submit EVMS monthly reports for those contracts for which an EVMS applies.

(d) EVMS requirements will be applied to subcontractors using the same rules as applied to the prime contractor.

(e) When an offeror is required to provide an EVMS plan as part of its proposal, the contracting officer will determine the adequacy of the proposed EVMS plan prior to contract award.

34.202 Integrated Baseline Reviews.

(a) When an EVMS is required, the Government will conduct an Integrated Baseline Review (IBR).

(b) The purpose of the IBR is to verify the technical content and the realism of the related performance budgets, resources, and schedules. It should provide a mutual understanding of the inherent risks in offerors'/contractors' performance plans and the underlying management control systems, and it should formulate a plan to handle these risks.

(c) The IBR is a joint assessment by the offeror or contractor, and the Government, of the—

(1) Ability of the project's technical plan to achieve the objectives of the scope of work;

(2) Adequacy of the time allocated for performing the defined tasks to successfully achieve the project schedule objectives;

(3) Ability of the Performance Measurement Baseline (PMB) to successfully execute the project and attain cost objectives, recognizing the relationship between budget resources, funding, schedule, and scope of work;

(4) Availability of personnel, facilities, and equipment when required, to perform the defined tasks needed to execute the program successfully; and

(5) The degree to which the management process provides effective and integrated technical/schedule/cost planning and baseline control.

(d) The timing and conduct of the IBR shall be in accordance with agency procedures. If a pre-award IBR will be conducted, the solicitation must include the procedures for conducting the IBR and address whether offerors will be reimbursed for the associated costs. If permitted, reimbursement of offerors' pre-award IBR costs is governed by the provisions of FAR Part 31.

34.203 Solicitation provisions and contract clause.

(a) The contracting officer shall insert a provision that is substantially the same as the provision at FAR 52.234–2, Notice of Earned Value Management System – Pre-Award IBR, in solicitations for contracts that require the contractor to use an Earned Value Management System (EVMS) and for which the Government requires an Integrated Baseline Review (IBR) prior to award.

(b) The contracting officer shall insert a provision that is substantially the same as the provision at 52.234–3, Notice of Earned Value Management System – Post Award IBR, in solicitations for contracts that require the contractor to use an Earned Value Management System (EVMS) and for which the Government requires an Integrated Baseline Review (IBR) after contract award.

(c) The contracting officer shall insert a clause that is substantially the same as the clause at FAR 52.234–4, Earned Value Management System, in solicitations and contracts that require a contractor to use an EVMS.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Add sections 52.234–2, 52.234–3, and 52.234–4 to read as follows:

52.234–2 Notice of Earned Value Management System –Pre-Award IBR.

As prescribed in 34.203(a) use the following provision:

NOTICE OF EARNED VALUE MANAGEMENT SYSTEM – PRE-AWARD IBR (JUl 2006)

(a) The offeror shall provide documentation that the Cognizant Federal Agency has determined that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard – 748 (current version at time of solicitation).

(b) If the offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS guidelines.

(1) The plan shall—

(i) Describe the EVMS the offeror intends to use in performance of the contracts;

(ii) Distinguish between the offeror's existing management system and modifications proposed to meet the guidelines;

(iii) Describe the management system and its application in terms of the EVMS guidelines;

(iv) Describe the proposed procedure for administration of the guidelines, as applied to subcontractors; and

(v) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with the EVMS guidelines.

(2) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

(3) The Government will review and approve the offeror's plan for an EVMS before contract award.

(4) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVM system will be compliant with the ANSI/EIA Standard - 748 guidelines.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontractors have not been selected subject to the guidelines. The prime Contractor and the Government shall agree to subcontractors selected for application of the EVMS guidelines.

(d) The Government will conduct an Integrated Baseline Review (IBR), as designated by the agency, prior to contract award. The objective of the IBR is for the Government and the Contractor to jointly assess technical areas, such as the Contractor's planning, to ensure complete coverage of the contract requirements, logical scheduling of the work activities, adequate resources, methodologies for earned value (budgeted cost for work performed (BCWP)), and identification of inherent risks.

(End of provision)

52.234–3 Notice of Earned Value Management System – Post Award IBR.

As prescribed in 34.203(b) use the following provision:

NOTICE OF EARNED VALUE MANAGEMENT SYSTEM –POST AWARD IBR (JUl 2006)

(a) The offeror shall provide documentation that the Cognizant Federal Agency has determined that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard –748 (current version at time of solicitation).

(b) If the offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS guidelines.

(1) The plan shall—

(i) Describe the EVMS the offeror intends to use in performance of the contracts;

(ii) Distinguish between the offeror's existing management system and modifications proposed to meet the guidelines;

(iii) Describe the management system and its application in terms of the EVMS guidelines;

(iv) Describe the proposed procedure for administration of the guidelines, as applied to subcontractors; and

(v) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with the EVMS guidelines.

(2) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

(3) The Government will review and approve the offeror's plan for an EVMS before contract award.

(4) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVM system will be compliant with the ANSI/EIA Standard -748 guidelines.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontractors have not been selected, planned for application of the guidelines. The prime Contractor and the Government shall agree to subcontractors selected for application of the EVMS guidelines.

(End of provision)

52.234–4 Earned Value Management System.

As prescribed in 34.203(c), insert the following clause:

EARNED VALUE MANAGEMENT SYSTEM (JUl 2006)

(a) The Contractor shall use an earned value management system (EVMS) that has been determined by the Cognizant Federal Agency (CFA) to be compliant with the guidelines in ANSI/EIA Standard - 748 (current version at the time of award) to manage this contract. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.

(b) If, at the time of award, the Contractor's EVM System has not been determined by the CFA as complying with EVMS guidelines or the Contractor does not have an existing cost/schedule control system that is compliant with the guidelines in ANSI/EIA Standard – 748 (current version at time of award), the Contractor shall—

(1) Apply the current system to the contract; and

(2) Take necessary actions to meet the milestones in the Contractor's EVMS plan approved by the Contracting Officer.

(c) The Government will conduct an Integrated Baseline Review (IBR). If a pre-award IBR has not been conducted, a post award IBR shall be conducted as early as practicable after contract award.

(d) The Contracting Officer may require an IBR at—

(1) Exercise of significant options; or

(2) Incorporation of major modifications.

(e) Unless a waiver is granted by the CFA, Contractor proposed EVMS changes require approval of the CFA prior to implementation. The CFA will advise the Contractor of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the CFA, the Contractor shall disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.

(f) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or a duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS conforms, and continues to conform, with the performance criteria referenced in paragraph (a) of this clause.

(g) The Contractor shall require the subcontractors specified below to comply with the requirements of this clause: [*Insert list of applicable subcontractors.*]

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(End of clause)

[FR Doc. 06–5966 Filed 7–3–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 18

[FAC 2005–11; FAR Case 2005–038; Item II;Docket 2006–0020, Sequence 5]

RIN 9000–AK50

Federal Acquisition Regulation; FAR Case 2005–038, Emergency Acquisitions

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to provide a single reference to acquisition flexibilities that may be used to facilitate and expedite acquisitions of supplies and services during emergency situations.

DATES: *Effective Date:* July 5, 2006.

Comment Date: Interested parties should submit written comments to the FAR Secretariat on or before September 5, 2006 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–11, FAR case 2005–038, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov/far.* Follow the instructions for submitting comments.
- Agency Web Site: http://www.acquisition.gov/comp/far/ProposedRules/comments.htm. Click on the FAR case number to submit comments.
- E-mail: *farcase.2005–038@gsa.gov.* Include FAC 2005–11, FAR case 2005–038 in the subject line of the message.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–11, FAR case 2005–038, in all correspondence related to this case. All comments received will be posted without change to *http://www.acquisition.gov/comp/far/ProposedRules/comments.htm*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Gloria Sochon, Procurement Analyst, at (202) 219–0311. Please cite FAC 2005–11, FAR case 2005–038. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The 2005 Atlantic hurricane season was a record one in terms of the number of hurricanes and their strength. The size and strength of Hurricane Katrina resulted in one of the largest natural disasters to strike the United States. As a result of last year's hurricane season, Federal agencies are looking for methods to expedite their responses during an emergency. Emergency situations, however, go beyond natural disasters and include contingency operations as defined in FAR 2.101 and actions to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack against the United States.

This rule revises FAR Part 18 to provide a single reference to the acquisition flexibilities already available in the FAR to facilitate and expedite acquisitions of supplies and services during all types of emergencies. For clarity and ease of use, the flexibilities are divided into two main groups. The first group titled ''Available Acquisition Flexibilities'' identifies the flexibilities that may be used anytime and do not require an emergency declaration. The second group titled ''Emergency acquisition flexibilities'' identifies the flexibilities that may be used only after an emergency declaration or designation has been made by the appropriate official. The second group is further divided into three subgroups: contingency operation; defense or recovery from certain attacks; and incidents of national significance, emergency declaration, or major disaster declarations.

In May 2003, the Office of Federal Procurement Policy (OFPP) published guidance on the use of emergency procurement flexibilities to help ensure agencies were well positioned to effectively meet the demands associated with fighting terrorism. The OFPP is currently updating its guidance to also address flexibilities that can be used in other emergency situations such as national emergencies. The final rule will include a reference to the updated OFPP guidance. The Councils would like to hear the views of interested parties on the sufficiency of these provisions.

In particular, the Councils are interested in input on whether the provisions sufficiently clarify the existing FAR flexibilities that can be used in emergency situations or whether more detailed, comprehensive coverage is needed.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act,5 U.S.C. 601, *et seq.*, because the rule makes no change to contracting policy. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Part 18 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 2005–11, FAR case 2005–038), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to improve the Government's ability to expedite acquisitions of supplies and services during emergency situations. However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Part 18

Government procurement.

Dated: June 28, 2006.

Ralph De Stefano,

Director,Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 18 as set forth below:

■ 1. The authority citation for 48 CFR part 18 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Add Part 18 to read as follows:

PART 18–EMERGENCY ACQUISITIONS

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

18.000 Scope of part.

(a) This part identifies acquisition flexibilities that are available for emergency acquisitions. These flexibilities are specific techniques or procedures that may be used to streamline the standard acquisition process. This part includes—

(1) Generally available flexibilities; and

(2) Emergency acquisition flexibilities that are available only under prescribed circumstances.

(b) The acquisition flexibilities in this part are not exempt from the requirements and limitations set forth in FAR Part 3, Improper Business Practices and Personal Conflicts of Interest.

18.001 Definition.

Emergency acquisition flexibilities, as used in this part, means flexibilities provided with respect to any acquisition of supplies or services by or for an executive agency that, as determined by the head of an executive agency, may be used—

(a) In support of a contingency operation as defined in 2.101;

(b) To facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack against the United States; or

(c) When the President declares an incident of national significance, emergency declaration, or a major disaster declaration.

Subpart 18.1— Available Acquisition Flexibilities

18.101 General.

The FAR includes many acquisition flexibilities that are available to the contracting officer when certain conditions are met. These acquisition flexibilities do not require an emergency declaration or designation of contingency operation.

18.102 Central contractor registration.

Contracts awarded to support unusual and compelling needs or emergency acquisitions are exempt from the requirements pertaining to Central Contractor Registration. (See 4.1102.)

18.103 Synopses of proposed contract actions.

Contracting officers need not submit a synopsis notice when there is an unusual and compelling urgency and the Government would be seriously injured if the agency complied with the notice time periods. (See 5.202(a)(2).)

18.104 Unusual and compelling urgency.

Agencies may limit the number of sources and full and open competition need not be provided for contracting actions involving urgent requirements. (See 6.302–2.)

18.105 Federal Supply Schedules (FSSs), multi-agency blanket purchase agreements (BPAs), and multi-agency indefinite delivery contracts.

Streamlined procedures and a broad range of goods and services may be available under Federal Supply Schedule contracts (see Subpart 8.4), multi-agency BPAs (See 8.405–3(a)(4)), or multi-agency, indefinite-delivery contracts (see 16.505(a)(7)). These contracting methods may offer agency advance planning, pre-negotiated line items, and special terms and conditions that permit rapid response.

18.106 Javits-Wagner-O'Day (JWOD) specification changes.

Contracting officers are not held to the notification required when changes in JWOD specifications or descriptions are required to meet emergency needs. (See 8.712(d).)

18.107 Qualifications requirements.

Agencies may determine not to enforce qualification requirements when an emergency exists. (See 9.206–1.)

18.108 Priorities and allocations.

The Defense Priorities and Allocations System (DPAS) supports authorized national defense programs and was established to facilitate rapid industrial mobilization in case of a national emergency. (See 11.6.)

18.109 Soliciting from a single source.

For purchases not exceeding the simplified acquisition threshold, contracting officers may solicit from one source under certain circumstances. (See 13.106–1(b).)

18.110 Oral requests for proposals.

Oral requests for proposals are authorized under certain conditions. (See 15.203(f).)

18.111 Letter contracts.

Letter contracts may be used when contract performance must begin immediately. (See 16.603.)

18.112 Interagency acquisitions under the Economy Act.

Interagency acquisitions are authorized under certain conditions. (See Subpart 17.5.)

18.113 Contracting with the Small Business Administration (The 8(a) Program).

Contracts may be awarded to the Small Business Administration (SBA) for performance by eligible 8(a) firms on either a sole source or competitive basis. (See Subpart 19.8.)

18.114 HUBZone sole source awards.

Contracts may be awarded to Historically Underutilized Business Zone (HUBZone) small business concerns on a sole source basis. (See 19.1306.)

18.115 Service-disabled Veteran-owned Small Business (SDVOSB) sole source awards.

Contracts may be awarded to Service-disabled Veteran-owned Small Business (SDVOSB) concerns on a sole source basis. (See 19.1406.)

18.116 Overtime approvals.

Overtime approvals may be retroactive if justified by emergency circumstances. (See 22.103–4(i).)

18.117 Use of patented technology under the North American Free Trade Agreement.

Requirement to obtain authorization prior to use of patented technology may be waived in circumstances of extreme urgency or national emergency. (See 27.208.)

18.118 Bid guarantees.

The chief of the contracting office may waive the requirement to obtain a bid guarantee for emergency acquisitions when a performance bond or a performance bond and payment bond is required. (See 28.101–1(c).)

18.119 Advance payments.

Agencies may authorize advance payments to facilitate the national defense for actions taken under Public Law 85–804 (see Part 50, Extraordinary Contractual Actions). These advance payments may be made at or after award of sealed bid contracts, as well as negotiated contracts. (See 32.405.)

18.120 Assignment of claims.

The use of the no-setoff provision may be appropriate to facilitate the national defense in the event of a national emergency or natural disaster. (See 32.803(d).)

18.121 Electronic funds transfer.

Electronic funds transfer payments may be waived for acquisitions to support unusual and compelling needs or emergency acquisitions. (See 32.1103(e).)

18.122 Protest to GAO.

When urgent and compelling circumstances exist, agency protest override procedures allow the head of the contracting activity to determine that the contracting process may continue after GAO has received a protest. (See 33.104(b) and (c).)

18.123 Contractor rent-free use of Government property.

Rental requirements do not apply to items of Government production and research property that are part of a general program approved by the Federal Emergency Management Agency and meet certain criteria. (See 45.404(a)(3) and (4).)

18.124 Extraordinary contractual actions.

Part 50 prescribes policies and procedures for entering into, amending, or modifying contracts in order to facilitate the national defense under the extraordinary emergency authority granted by Public Law 85–804 (50 U.S.C. 1431–1434). This includes—

(a) Amending contracts without consideration (see 50.302–1);

(b) Correcting or mitigating mistakes in a contract (see 50.302–2); and

(c) Formalizing informal commitments (See 50.302–3).

Subpart 18.2—Emergency Acquisition Flexibilities

18.201 Contingency operation.

(a) *Contingency operation* is defined in 2.101.

(b) *Micro-purchase threshold.* The threshold increases when the head of the agency determines the supplies or services are to be used to support a contingency operation. (See 2.101 and 13.201(g).)

(c) *Simplified acquisition threshold.* The threshold increases when the head of the agency determines the supplies or services are to be used to support a contingency operation. (See 2.101.)

(d) *SF 44, Purchase Order–Invoice–Voucher.* The normal threshold for the use of the SF 44 is at or below the micro-purchase threshold. Agencies may, however, establish higher dollar limitations for purchases made to support a contingency operation. (See 13.306.)

(e) *Test program for certain commercial items.* The threshold limits authorized for use of the test program may be increased for acquisitions to support a contingency operation. (See 13.500(e).)

18.202 Defense or recovery from certain attacks.

(a) *Micro-purchase threshold.* The threshold increases when the head of the agency determines the supplies or services are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. (See 2.101.)

(b) *Simplified acquisition threshold.* The threshold increases when the head of the agency determines the supplies or services are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. (See 2.101.)

(c) *Commercial items to facilitate defense and recovery.* Contracting officers may treat any acquisition of supplies or services as an acquisition of commercial items if the head of the agency determines the acquisition is to be used to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack. (See 12.102(f)(1) and 13.500(e).)

(d) *Test program for certain commercial items.* The threshold limits authorized for use of the test program may be increased when it is determined the acquisition is to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. (See 13.500(e).)

18.203 Incidents of national significance, emergency declaration, or major disaster declaration.

(a) *Authorized or required by statute.* Agencies may limit the use of full and open competition when statutes authorize or require that the acquisition be made through another agency or from a specified source. This includes the Robert T. Stafford Disaster Relief and Emergency Assistance Act. (See 6.302–5 and Subpart 26.2.)

(b) *Disaster or emergency assistance activities.* Preference will be given to local organizations, firms, and individuals when contracting for major disaster or emergency assistance activities when the President has made a declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. (See Subpart 26.2 and 6.302–5(b)(5).)

(c) *Ocean transportation by U.S. flag vessels.* The provisions of the Cargo Preference Act of 1954 may be waived in emergency situations. (See 47.502(c).)

18.204 Resources.

(a) *National Response Plan.* The National Response Plan (NRP) provides a single, comprehensive framework for the management of domestic incidents where Federal involvement is necessary as required by the Homeland Security Act of 2002 (Public Law 107–296). The NRP only applies to incidents of national significance, defined as an actual or potential high-impact event that requires a coordinated and effective response by an appropriate combination of Federal, State, local, tribal, nongovernmental, and/or private-sector entities in order to save lives, minimize damage, and provide for long-term community recovery and mitigation activities. The Department of Homeland Security is responsible for the NRP. The NRP is available at *http://www.dhs.gov/dhspublic/interapp/editorial/editorial__0566.xml*.

(b) [Reserved]

[FR Doc. 06–5964 Filed 7–3–06; 8:45 am]
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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR—2006—0023]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–11; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This Small Entity Compliance Guide has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005–11 which amend the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–11 which precedes this document. These documents are also available via the Internet at *http://www.acquisition.gov/far*.

FOR FURTHER INFORMATION CONTACT: Laurieann Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2005–11

Item	Subject	FAR case	Analyst
*I	Earned Value Management System (EVMS)	2004–019	Parnell.
II	Emergency Acquisitions	2005–038	Sochon.

FAC 2005–11 amends the FAR as specified below:

Item I—Earned Value Management System (EVMS) (FAR Case 2004–019)

This final rule amends the Federal Acquisition Regulation to implement Earned Value Management System (EVMS) policy in accordance with OMB Circular A–11, Part 7 and the supplement to Part 7, the Capital Planning Guide. The FAR will require the use of an EVM System that complies with the guidelines of ANSI/EIA Standard - 748, in major acquisitions for development, and in other acquisitions in accordance with agency procedures. An agency shall conduct an Integrated Baseline Review (IBR) when EVMS is required. Offerors shall not be eliminated from consideration for contract award because they do not have an EVMS that is compliant with the ANSI/EIA standards, provided they submit an EVMS implementation plan with their proposal.

Item II—Emergency Acquisitions (FAR Case 2005–038)

This interim rule revises FAR Part 18 to provide a single reference to acquisition flexibilities that may be used during emergency situations. This change is expected to improve the Government's ability to expedite acquisition of supplies and services during emergency situations. The FAR Part 18 makes no change to existing contracting policy.

Dated: June 28, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

[FR Doc. 06–5965 Filed 7–3–06; 8:45 am]

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Federal Register

Wednesday,
July 5, 2006

Part IV

The President

Proclamation 8033—To Modify Duty-Free Treatment Under the Generalized System of Preferences

Federal Register
Vol. 71, No. 128
Wednesday, July 5, 2006

Presidential Documents

Title 3—

The President

Proclamation 8033 of June 30, 2006

To Modify Duty-Free Treatment Under the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to section 503(c)(2)(A) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2463(c)(2)(A)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries or beneficiary sub-Saharan African countries as provided in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D)), are subject to competitive need limitations on the preferential treatment afforded under the Generalized System of Preferences (GSP) to eligible articles.

2. Section 503(c)(2)(C) of the 1974 Act (19 U.S.C. 2463(c)(2)(C)) provides that a country that is no longer treated as a beneficiary developing country with respect to an eligible article may be redesignated as a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the competitive need limitations in section 503(c)(2)(A) of the 1974 Act during the preceding calendar year.

3. Section 503(c)(2)(F)(i) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(i)) provides that the President may disregard the competitive need limitation provided in section 503(c)(2)(A)(i)(II) (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed an amount set forth in section 503(c)(2)(F)(ii) (19 U.S.C. 2463(c)(2)(F)(ii)).

4. Pursuant to section 503(c)(2)(A) of the 1974 Act, I have determined that certain beneficiary developing countries have exported certain eligible articles in quantities exceeding the applicable competitive need limitation in 2005, and I therefore terminate the duty-free treatment for such articles from such beneficiary developing countries.

5. Pursuant to section 503(c)(2)(C) of the 1974 Act, and subject to the considerations set forth in sections 501 and 502 of the 1974 Act, I have determined to redesignate certain countries as beneficiary developing countries with respect to certain eligible articles that previously had been imported in quantities exceeding the competitive need limitations of section 503(c)(2)(A) of the 1974 Act.

6. Pursuant to section 503(c)(2)(F) of the 1974 Act, I have determined that the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act should be disregarded with respect to certain eligible articles from certain beneficiary developing countries, as set forth in Annex II to this proclamation.

7. In Proclamation 7758 of March 1, 2004, I determined that Barbados had become a ''high income'' country, and terminated the designation of Barbados as a beneficiary developing country for purposes of the GSP, effective January 1, 2006. I have determined that an additional change should be made to general note 4(d) of the Harmonized Tariff Schedule of the United States (HTS) to reflect that determination.

8. Section 604 of the 1974 Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions

of that Act, and of other Acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including title V and section 604 of the 1974 Act, do hereby proclaim:

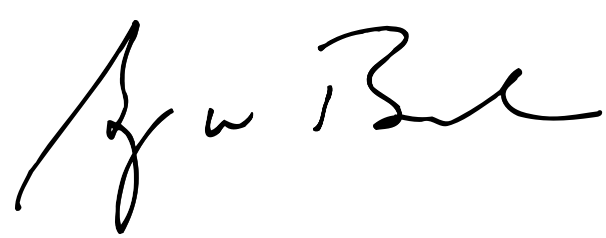
(1) In order to provide that one or more countries that have not been treated as beneficiary developing countries with respect to one or more eligible articles should be redesignated as beneficiary developing countries with respect to such article or articles for purposes of the GSP, and, in order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to one or more eligible articles for purposes of the GSP, general note 4(d) to the HTS is modified as provided in section A of Annex I to this proclamation.

(2) In order to designate certain articles as eligible articles for purposes of the GSP when imported from any beneficiary developing country, the Rates of Duty 1-Special subcolumn for such HTS subheadings is modified as provided in section B(1) of Annex I to this proclamation.

(3) In order to provide that one or more countries should not be treated as beneficiary developing countries with respect to certain eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for such HTS subheadings is modified as provided for in section B(2) of Annex I to this proclamation.

(4) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

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



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Annex I
Modifications to the Harmonized Tariff
Schedule of the United States (HTS)

Section A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2006, general note 4(d) to the HTS is modified by:

(i). deleting the following subheadings and the countries set out opposite such subheading:

2207.10.30	Barbados
2804.29.00	Ukraine

(ii). adding, in numerical sequence, the following subheadings and countries set out opposite them:

0306.24.20	Venezuela	3201.90.50	Peru
0713.90.80	India	3923.21.00	Thailand
0904.20.20	Peru	6406.10.85	Dominican Republic
0904.20.76	India	7010.90.30	Panama
1102.90.30	Thailand	7307.21.10	India
1703.90.30	India	7413.00.90	Turkey
1806.90.05	Colombia	7606.12.30	Russia
2008.99.35	Thailand	7615.19.30	Thailand
2305.00.00	Argentina	8402.12.00	Indonesia
2515.12.20	Turkey	8402.20.00	Romania
2843.90.00	Russia	8503.00.95	Brazil
2930.90.44	India	8536.20.00	Dominican Republic
2933.39.21	Brazil	9613.80.40	Brazil

(iii). adding, in alphabetical order, the countries set out opposite the following subheadings:

1701.12.05	Bosnia	1806.10.65	Colombia
1702.90.10	Brazil	2202.90.36	Panama
1702.90.35	Brazil	2805.40.00	Peru

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2006, each enumerated article's preferential tariff treatment under the Generalized System of Preferences (GSP) in the HTS is modified as provided in this section.

(1). For the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof:

2207.10.30
2804.29.00

(2). For the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A" and inserting an "A*" in lieu thereof:

0306.24.20	0904.20.20	1102.90.30
0713.90.80	0904.20.76	1703.90.30
1806.90.05	3201.90.50	7615.19.30
2008.99.35	3923.21.00	8402.12.00
2305.00.00	6406.10.85	8402.20.00
2515.12.20	7010.90.30	8503.00.95
2843.90.00	7307.21.10	8536.20.00
2930.90.44	7413.00.90	9613.80.40
2933.39.21	7606.12.30	

Annex II

HTS subheadings and countries for which the competitive need limitation provided in section 503(c)(2)(A)(i)(II) is disregarded:

0202.30.02	Uruguay
0302.69.10	Indonesia
0410.00.00	Indonesia
0711.20.18	Turkey
0711.30.00	Turkey
0711.40.00	India
0712.90.70	Egypt
0713.90.60	India
0802.50.20	Turkey
0804.10.60	Pakistan
0810.60.00	Thailand
0813.40.10	Thailand
0813.40.80	Thailand
1102.30.00	Thailand
1401.90.40	Argentina
1602.50.09	Argentina
1806.10.43	Venezuela
1901.20.45	Argentina
2001.90.45	India
2006.00.70	Thailand
2008.30.10	Brazil
2008.99.50	Thailand
2009.39.20	Brazil
2306.50.00	Thailand
2516.22.00	India
2804.29.00	Russia
2830.30.00	Russia
2831.90.00	India
2834.29.05	India
2840.11.00	Turkey
2840.19.00	Turkey
2841.50.10	Kazakhstan
2850.00.20	Russia
2903.19.10	India
2909.50.40	Indonesia
2912.49.10	India
2913.00.50	India
2915.35.00	Brazil
2917.14.10	Brazil
2918.21.50	Brazil
2921.22.05	Brazil

2921.42.15	India
2921.42.21	India
2921.42.55	India
2934.20.35	India
2935.00.06	India
3301.24.00	India
3703.10.30	Brazil
3808.40.10	Argentina
4012.12.40	Turkey
4101.20.40	Serbia and Montenegro
4101.90.35	Uruguay
4104.11.50	Argentina
4106.21.90	India
4107.11.40	India
4107.11.60	Brazil
4107.12.40	India
4107.19.40	Pakistan
4107.91.40	India
4202.92.04	Philippines
5007.10.30	India
5102.19.60	Argentina
5208.31.20	India
5208.41.20	India
5208.42.10	India
5209.31.30	India
5209.41.30	India
6302.99.10	India
6304.99.25	India
7113.20.21	India
7202.99.20	Argentina
7403.22.00	Kazakhstan
8112.12.00	Kazakhstan
8112.59.00	Russia
8506.30.50	Indonesia
8528.12.44	Thailand
8528.12.80	India
8528.30.50	India
9016.00.40	Thailand
9027.40.00	Philippines
9507.20.40	Philippines
9614.20.60	Turkey

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Federal Register

Vol. 71, No. 128

Wednesday, July 5, 2006

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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 5, 2006

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Bering Sea and Aleutian Islands king and tanner crabs; published 7-5-06

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Earned Value Management System; published 7-5-06
Emergency acquisitions; published 7-5-06

EDUCATION DEPARTMENT
Special education and rehabilitative services:
Individuals with Disabilities Education Act (IDEA)—
Children with disabilities programs; assistance to States; published 6-5-06

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural gas companies (Natural Gas Act):
Uniform system of accounts, forms, statements, and reporting requirements; revisions; correction; published 7-5-06

ENVIRONMENTAL PROTECTION AGENCY
Air programs; State authority delegations:
Washington; published 6-5-06
Air quality implementation plans; approval and promulgation; various States:
Minnesota; published 6-5-06

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Earned Value Management System; published 7-5-06

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
Copper naphthenate solution; published 7-5-06
Griseofulvin; published 7-5-06
Ivermectin liquid; published 7-5-06
Oxytetracycline hydrochloride soluble powder; published 7-5-06
Color additives:
Mica-based pearlescent pigments; published 6-2-06

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Government National Mortgage Association (Ginnie Mae):
Excess yield securities; published 6-5-06

JUSTICE DEPARTMENT
Bankruptcy Abuse and Consumer Protection Act:
Nonprofit budget and credit counseling agencies and personal financial management instructional course providers; United States Trustees approval; published 7-5-06

LABOR DEPARTMENT
Occupational Safety and Health Administration
Safety and health standards, etc.:
Hexavalent chromium; occupational exposure; published 7-5-06

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Earned Value Management System; published 7-5-06
Emergency acquisitions; published 7-5-06

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Gulfstream; published 5-31-06
Honeywell; published 5-31-06
Standard instrument approach procedures; published 7-5-06

TREASURY DEPARTMENT
Internal Revenue Service

RULES GOING INTO EFFECT JULY 05, 2006

Income taxes:
Multi-step transactions; effect of elections; published 7-5-06

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]
Prunes (fresh) grown in Oregon and Washington; comments due by 7-10-06; published 5-9-06 [FR 06-04315]
Research and promotion programs:
Hass Avocado Promotion, Research, and Information Order; board representation adjustment; comments due by 7-10-06; published 5-9-06 [FR 06-04316]
Watermelon research and promotion plan; redistricting; comments due by 7-14-06; published 6-14-06 [FR E6-09234]

AGRICULTURE DEPARTMENT
Commodity Credit Corporation
Export programs:
Commodities procurement for foreign donation; Open for comments until further notice; published 12-16-05 [FR E5-07460]

AGRICULTURE DEPARTMENT
Farm Service Agency
Special programs:
Guaranteed farm loans; fees; comments due by 7-14-06; published 5-15-06 [FR E6-07326]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Gulf of Alaska groundfish; comments due by 7-14-06; published 5-15-06 [FR E6-07352]
Northeastern United States fisheries—
Small-mesh multispecies; comments due by 7-12-06; published 6-12-06 [FR E6-09125]

DEFENSE DEPARTMENT
Defense Acquisition Regulations System
Acquisition regulations:
Contracting officers' representatives; comments due by 7-11-06; published 5-12-06 [FR E6-07286]

ENVIRONMENTAL PROTECTION AGENCY
Air programs:
Ambient air quality standards, national—
Particulate matter; comments due by 7-10-06; published 3-27-06 [FR E6-04369]
Air quality implementation plans; approval and promulgation; various States:
Indiana; comments due by 7-12-06; published 6-12-06 [FR 06-05252]
Missouri; comments due by 7-12-06; published 6-12-06 [FR 06-05250]
Nevada; comments due by 7-10-06; published 6-9-06 [FR E6-09000]
Pennsylvania; comments due by 7-13-06; published 6-13-06 [FR 06-05295]
Virginia; comments due by 7-12-06; published 6-12-06 [FR E6-09081]
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Phosphorous acid; comments due by 7-13-06; published 6-28-06 [FR E6-10031]
Potassium permanganate, etc.; comments due by 7-10-06; published 6-9-06 [FR E6-08928]

FEDERAL HOUSING FINANCE BOARD
Federal home loan bank system:
Excess stock restrictions and retained earnings requirements; comments due by 7-13-06; published 3-15-06 [FR E6-03689]

GOVERNMENT ETHICS OFFICE
Executive branch employees; ethical conduct standards:
Intergovernmental Personnel Act detailees; clarification; comments due by 7-10-06; published 5-11-06 [FR E6-07222]

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Human drugs:

Prescription Drug Marketing Act pedigree requirements; effective date and compliance policy guide; comments due by 7-14-06; published 6-14-06 [FR 06-05362]

Medical devices:

Gas containers and closures—

Current good manufacturing practice requirements; comments due by 7-10-06; published 4-10-06 [FR 06-03370]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Yellowstone grizzly bear; comments due by 7-14-06; published 6-30-06 [FR 06-05830]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Mississippi; comments due by 7-10-06; published 6-8-06 [FR E6-08925]

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:

Smoking/no smoking areas; comments due by 7-11-06; published 5-12-06 [FR E6-07237]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 7-10-06; published 6-8-06 [FR E6-08900]

Boeing; comments due by 7-10-06; published 5-25-06 [FR E6-08007]

Bombardier; comments due by 7-10-06; published 6-8-06 [FR E6-08898]

Cirrus Design Corp.; comments due by 7-10-06; published 5-8-06 [FR E6-06905]

Eurocopter France; comments due by 7-10-06; published 5-10-06 [FR E6-07096]

Fokker; comments due by 7-10-06; published 6-8-06 [FR E6-08897]

Hamilton Sundstrand; comments due by 7-11-06; published 5-12-06 [FR 06-04390]

McDonnell Douglas; comments due by 7-10-06; published 5-25-06 [FR E6-08010]

MD Helicopters, Inc.; comments due by 7-10-06; published 5-10-06 [FR E6-07092]

Raytheon; comments due by 7-14-06; published 5-19-06 [FR E6-07636]

Airworthiness standards:

Special conditions—

Aero Propulsion, Inc., Piper Model PA28-236 airplanes with Societe de Motorisation Aeronautiques Model SR305-230 aircraft diesel engines; comments due by 7-14-06; published 6-14-06 [FR E6-09227]

Thielert Aircraft Engines installed diesel cycle engines utilizing turbine (jet) fuel in Piper PA 28-161 Cadet, Warrior II, and Warrior III series airplanes; comments due by 7-14-06; published 6-14-06 [FR E6-09242]

Thielert Aircraft Engines modified Piper PA 28-161 Cadet, Warrior II, and Warrior III series airplanes; comments due by 7-14-06; published 6-14-06 [FR E6-09228]

Class E airspace; comments due by 7-12-06; published 6-12-06 [FR 06-05306]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Insurance companies; sale or acquisition of assets under section 338; comments due by 7-10-06; published 4-10-06 [FR 06-03321]

TREASURY DEPARTMENT

Currency and foreign transactions; financial reporting and recordkeeping requirements:

Bank Secrecy Act; implementation—

Money services businesses; banking services provision; comments due by 7-10-06; published 5-15-06 [FR E6-07327]

LIST OF PUBLIC LAWS

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H.R. 5603/P.L. 109–238

Second Higher Education Extension Act of 2006 (June 30, 2006; 120 Stat. 507)

Last List June 26, 2006

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