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

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Presidential Documents

Title 3—

The President

Presidential Determination No. 2006–18 of August 2, 2006

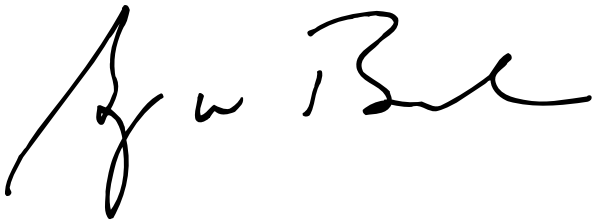
Waiving Prohibition on United States Military Assistance With Respect to Lesotho

Memorandum for the Secretary of State

Consistent with the authority vested in me by section 2007 of the American Servicemembers' Protection Act of 2002 (the ''Act''), title II of Public Law 107–206 (22 U.S.C. 7421 *et seq.*), I hereby:

- Determine that Lesotho has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against U.S. personnel present in such country; and
- Waive the prohibition of section 2007(a) of the Act with respect to this country for as long as such agreement remains in force.

You are authorized and directed to report this determination to the Congress, and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
August 2, 2006.

[FR Doc. 06–6839
Filed 8–8–06; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 71, No. 153
Wednesday, August 9, 2006

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24695; Directorate Identifier 2006–NM–035–AD; Amendment 39–14710; AD 2006–16–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200B, 747–200C, 747–200F, 747–300, and 747SR 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 Boeing Model 747–200B, 747–200C, 747–200F, 747–300, and 747SR series airplanes. This AD requires doing repetitive inspections of engine struts 1 through 4, as applicable, for heat discoloration, cracking, buckling, or wrinkling. This AD also requires doing a conductivity test to detect the extent of the heat damage and an inspection to detect cracking of the heat-discolored, buckled, or wrinkled area; and repair; if necessary. This AD results from reports of heat damage and cracking of the skin and internal structure adjacent to and aft of the precooler exhaust vent on several engine struts. We are issuing this AD to detect and correct cracking, buckling, wrinkling, or heat damage of the skin and internal structure of the engine struts, which could result in extensive damage to the engine struts and consequent possible separation of an engine from the airplane during flight.

DATES: This AD becomes effective September 13, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 13, 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, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

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 Boeing Model 747–200B, 747–200C, 747–200F, 747–300, and 747SR series airplanes. That NPRM was published in the **Federal Register** on May 9, 2006 (71 FR 26888). That NPRM proposed to require doing repetitive inspections of engine struts 1 through 4, as applicable, for heat discoloration, cracking, buckling, or wrinkling. That NPRM also proposed to require a conductivity test to detect the extent of the heat damage and an inspection to detect cracking of the heat-discolored, buckled, or wrinkled area; and repair; if necessary.

Comment

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment received. The commenter, Boeing, supports the NPRM.

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 as proposed.

Costs of Compliance

There are about 112 airplanes of the affected design in the worldwide fleet. This AD will affect about 33 airplanes of U.S. registry. The required detailed inspections will take about 4 or 8 work hours per airplane (depending on the airplane configuration), at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of this AD for U.S. operators is $10,560 or $21,120, or $320 or $640 per airplane, per inspection cycle (depending on the airplane configuration).

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

2006–16–10 Boeing: Amendment 39–14710. Docket No. FAA–2006–24695; Directorate Identifier 2006–NM–035–AD.

Effective Date

(a) This AD becomes effective September 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–200B, 747–200C, 747–200F, 747–300, and 747SR series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 747–54–2223, dated January 26, 2006.

Unsafe Condition

(d) This AD results from reports of heat damage and cracking of the skin and internal structure adjacent to and aft of the precooler exhaust vent on several engine struts on in-service airplanes. We are issuing this AD to detect and correct cracking, buckling, wrinkling, or heat damage of the skin and internal structure of the engine struts, which could result in extensive damage to the engine struts and consequent possible separation of an engine from the airplane during flight.

Compliance

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

Service Bulletin

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–54–2223, dated January 26, 2006.

Repetitive Detailed Inspections

(g) Within 18 months after the effective date of this AD, do a detailed inspection of engine struts 1 through 4, as applicable, for heat discoloration, cracking, buckling, or wrinkling, in accordance with the service bulletin. Repeat the detailed inspection thereafter at intervals not to exceed 18 months.

Corrective Actions

(h) If any heat discoloration, buckling, or wrinkling is found during any detailed inspection required by paragraph (g) of this AD, before further flight, do a conductivity test to detect the extent of the heat damage and a penetrant inspection or high frequency eddy current inspection to detect cracking of the heat-discolored, buckled, or wrinkled area, in accordance with the service bulletin.

(1) If the conductivity test results are within the limits specified in the service bulletin and no cracking is detected, before further flight, repair any buckled or wrinkled area using a method approved in accordance with the procedures specified in paragraph (j) of this AD. Heat discoloration does not need to be repaired if the conductivity test results of the heat-discolored area are within the specified limits in the service bulletin.

(2) If the conductivity test results are outside the limits specified in the service bulletin or if any cracking is detected, before further flight, repair any cracking, heat discoloration, or buckled or wrinkled area using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) If any cracking is found during any detailed inspection required by paragraph (g) of this AD, before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

Alternative Methods of Compliance (AMOCs)

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

(2) 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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(k) You must use Boeing Special Attention Service Bulletin 747–54–2223, dated January 26, 2006, 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, P.O. Box 3707, Seattle, Washington 98124–2207, 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 July 27, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12826 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25536; Directorate Identifier 2006–NM–158–AD; Amendment 39–14707; AD 2006–16–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD requires inspecting contactors 1K4XD, 2K4XD, and K4XA to determine the type of terminal base plate, and applying sealant on the terminal base plates, if necessary. This AD results from incidents of short circuit failures of certain alternating current (AC) contactors located in the avionics bay. We are issuing this AD to prevent short circuit failures of certain AC contactors, which could result in arcing and consequent smoke or fire.

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.

We must receive comments on this AD by October 10, 2006.

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

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

Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. TCCA advises that there have been eight incidents of short circuit failures of Tyco Hartman alternating current (AC) contactors 1K4XD and K4XA, located in the avionics bay on Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. All of the failed AC contactors had a terminal base plate made from Ultem 2200 material. In several cases, arcing, which initiated due to the presence of contaminants between the power studs, resulted in a fire, which continued until power to the AC contactor was interrupted, either by the wire being burned through or by the generator falling off-line. Short circuit failures of AC contactors, if not prevented, could result in arcing, which could result in smoke or fire.

Relevant Service Information

Bombardier has issued Service Bulletin 601R–24–122, Revision A, dated July 13, 2006. The service bulletin describes procedures for inspecting contactors 1K4XD, 2K4XD, and K4XA to determine which contactors have an Ultem 2200 terminal base plate (the plate is made from a black molded thermal plastic material), and applying RTV 732 sealant or RTV 3145 sealant, if necessary. TCCA mandated the service bulletin and issued Canadian airworthiness directive CF–2006–17, dated July 11, 2006, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of this AD

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. As described in this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are issuing this AD to prevent short circuit failures of certain AC contactors, which could result in arcing and consequent smoke or fire. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Among the AD, Service Bulletin, and Canadian Airworthiness Directive.''

Difference Among the AD, Service Bulletin, and Canadian Airworthiness Directive

The service bulletin specifies to determine if the terminal base plate is made of a black molded thermal plastic material. The Canadian airworthiness directive specifies doing a visual inspection of the contactors to determine which contactors have an Ultem 2200 terminal base plate. However, operators should note that we have determined that the inspection should be described as a ''general visual inspection'' to determine which contactors have an Ultem 2200 terminal base plate (i.e., a plate made from a black molded thermal plastic material). Note 1 has been included in this AD to define this type of inspection.

Interim Action

We consider this AD interim action. If final action is later identified, we may consider further rulemaking then.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days. The compliance time for doing the required actions is within 800 flight hours or four months. Based on the large number of affected U.S. registered airplanes (739) and the amount of time required to accomplish the required actions, including corrective actions (27 hours), we consider that this compliance time is necessary to avoid unnecessarily disrupting flight schedules.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2006–25536; Directorate Identifier 2006–NM–158–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

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

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

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 the regulation:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this 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):

2006–16–07 Bombardier, Inc. (Formerly Canadair): Amendment 39–14707. Docket No. FAA–2006–25536; Directorate Identifier 2006–NM–158–AD.

Effective Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 through 7990 inclusive and 8000 and subsequent.

Unsafe Condition

(d) This AD results from incidents of short circuit failures of certain alternating current (AC) contactors located in the avionics bay. We are issuing this AD to prevent short circuit failures of certain AC contactors, which could result in arcing and consequent smoke or fire.

Compliance

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

Inspection and Corrective Action

(f) Within 800 flight hours or four months after the effective date of this AD, whichever occurs first: Do a general visual inspection of AC service bus contactors 1K4XD and 2K4XD, part number (P/N) D–18ZZA, and the utility bus contactor K4XA, P/N D–7GRZ, to determine which contactors have an Ultem 2200 terminal base plate (i.e., the plate is made from a black molded thermal plastic material), and apply RTV sealant to the terminal base plate, as applicable, by doing all the actions specified in the Accomplishment Instructions of Bombardier Service Bulletin 601R–24–122, Revision A, dated July 13, 2006. Do all applicable applications of sealant before further flight.

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.''

Previous Actions Accomplished According to Other Service Information

(g) Actions accomplished before the effective date of this AD in accordance with Bombardier Drawing Number K601R50180, dated June 2, 2006; or Bombardier Service Bulletin 601R–24–122, dated June 27, 2006; are considered acceptable for compliance with the actions specified in paragraph (f) of this AD.

Parts Installation

(h) As of the effective date of this AD, no person may install AC contactor 1K4XD, 2K4XD, or K4XA, having an Ultem 2200 terminal base plate, on any airplane, unless RTV sealant has been applied to the terminal base plate in accordance with Bombardier Service Bulletin 601R–24–122, Revision A, dated July 13, 2006.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, New York 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.

Related Information

(j) Canadian airworthiness directive CF–2006–17, dated July 11, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Bombardier Service Bulletin 601R–24–122, Revision A, dated July 13, 2006, 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 Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, 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 July 31, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12829 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24698; Directorate Identifier 2006–NM–026–AD; Amendment 39–14711; AD 2006–16–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–700 and 737–800 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 Boeing Model 737–700 and 737–800 series airplanes. This AD requires performing a one-time high frequency eddy current inspection for cracking of the backup intercostals located above the cutout for the forward airstair door; doing related investigative and corrective actions if any crack is found; and doing other specified corrective actions if no crack is found. This AD results from a report of fatigue cracks discovered during a full-scale fatigue test conducted by the manufacturer. We are issuing this AD to detect and correct such cracking, which could result in more extensive fatigue cracking and lead to possible loss of cabin pressure.

DATES: This AD becomes effective September 13, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 13, 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, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Howard Hall, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6430; fax (425) 917–6590.

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 Boeing Model 737–700 and 737–800 series airplanes. That NPRM was published in the **Federal Register** on May 9, 2006 (71 FR 26873). That NPRM proposed to require performing a one-time high frequency eddy current (HFEC) inspection for cracking of the backup intercostals located above the cutout for the forward airstair door; doing related investigative and corrective actions if any crack is found; and doing other specified corrective actions if no crack is found.

Comment

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment received. The commenter, Boeing, supports the NPRM.

Clarification to NPRM

The first reference to Boeing Special Attention Service Bulletin 737–53–1236, Revision 1, dated November 10, 2005, in paragraph (f) of the NPRM was unintentionally omitted, and has been added to that paragraph 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

There are about 146 airplanes of the affected design in the worldwide fleet. This AD will affect about 54 airplanes of U.S. registry. The required HFEC inspection will take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $8,640, or $160 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):

2006–16–11 Boeing: Amendment 39–14711. Docket No. FAA–2006–24698; Directorate Identifier 2006–NM–026–AD.

Effective Date

(a) This AD becomes effective September 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–700 and 737–800 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 737–53–1236, Revision 1, dated November 10, 2005.

Unsafe Condition

(d) This AD results from a report of fatigue cracks discovered during a full-scale fatigue test conducted by the manufacturer. We are issuing this AD to detect and correct such cracking, which could result in more extensive fatigue cracking and lead to possible loss of cabin pressure.

Compliance

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

Inspection of Backup Intercostals

(f) Before the accumulation of 24,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever comes later: Perform a high frequency eddy current (HFEC) inspection for cracking of the backup intercostals located above the cutout for the forward airstair door, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1236, Revision 1, dated November 10, 2005; and, before further flight, do related investigative actions and applicable corrective actions if any crack is found, and other specified corrective actions if no crack is found. Related investigative actions, applicable corrective actions, and other specified corrective actions must be done in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1236, Revision 1, dated November 10, 2005; except where the service bulletin specifies to contact Boeing for repair instructions, repair all cracks using a method approved in accordance with the procedures specified in paragraph (h) of this AD.

Actions Accomplished Using Original Issue of Service Bulletin

(g) Actions accomplished before the effective date of this AD in accordance with Boeing Service Bulletin 737–53–1236, dated July 11, 2002, are considered acceptable for compliance with the corresponding requirements of this AD.

Alternative Methods of Compliance (AMOCs)

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

(2) 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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(i) You must use Boeing Special Attention Service Bulletin 737–53–1236, Revision 1, dated November 10, 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, P.O. Box 3707, Seattle, Washington 98124–2207, 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 July 31, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12825 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24864; Directorate Identifier 2006–NM–072–AD; Amendment 39–14712; AD 2006–16–12]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F (KDC–10), DC–10–40, and DC–10–40F 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 McDonnell Douglas airplanes, identified above. This AD requires reducing the length of the sump drain collar and replacing the fuel tank sump drain lockring for fuel tanks 1, 2, and 3; and reducing the length of the drain outlet barrel for the auxiliary fuel tank, if applicable. For airplanes with an auxiliary fuel tank, this AD also requires relocating the sump drain outlet to allow draining the sumps without opening the doors of the main landing gear wheel well. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks in the event of a lightning strike, which, in combination with flammable fuel vapors, could result in arcing in the fuel tank, fuel tank explosions, and consequent loss of the airplane.

DATES: This AD becomes effective September 13, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of September 13, 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 Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F (KDC–10), DC–10–40, and DC–10–40F airplanes. That NPRM was published in the **Federal Register** on May 25, 2006 (71 FR 30086). That NPRM proposed to require reducing the length of the sump drain collar and replacing the fuel tank sump drain lockring for fuel tanks 1, 2, and 3; and reducing the length of the drain outlet barrel for the auxiliary fuel tank, if applicable. For airplanes with an auxiliary fuel tank, that NPRM also proposed to require relocating the sump drain outlet to allow draining the sumps without opening the doors of the main landing gear wheel well.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the two comments received. The commenters, FedEx and Biman Bangladesh Airlines, stated that their airplanes are not affected by the NPRM.

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 as proposed.

Costs of Compliance

There are about 135 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD. The labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
For all airplanes: Reduce the length of the sump drain collar and replace the fuel tank sump drain for fuel tanks 1, 2, and 3.	3 to 15	$720 to $4,858	$960 to $6,058	109	$104,640 to $660,322.
For airplanes with an auxiliary fuel tank: Reduce the length of the drain outlet barrel for the auxiliary fuel tank.	6 to 15	$0 to $720	$480 to $1,920	Up to 109	$52,320 to $209,280.
Prior requirement for certain airplanes.	1 to 6	The manufacturer states that it will supply required parts to the operators at no cost.	$80 to $480	Up to 109	$8,720 to $52,320.

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):

2006–16–12 McDonnell Douglas: Amendment 39–14712. Docket No. FAA–2006–24864; Directorate Identifier 2006–NM–072–AD.

Effective Date

(a) This AD becomes effective September 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F (KDC–10), DC–10–40, and DC–10–40F airplanes, certificated in any category; as identified in McDonnell Douglas DC–10 Service Bulletin 28–61, dated January 17, 1978.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks in the event of a lightning strike, which, in combination with flammable fuel vapors, could result in arcing in the fuel tank, fuel tank explosions, 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.

Corrective Actions

(f) Within 60 months after the effective date of this AD: Reduce the length of the sump drain collar and replace the fuel tank sump drain lockring for fuel tanks 1, 2, and 3; and reduce the length of the drain outlet barrel for the auxiliary fuel tank, as applicable; by doing all the applicable actions in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 28–61, dated January 17, 1978.

Prior Requirement

(g) For airplanes identified as Group II airplanes in McDonnell Douglas DC–10 Service Bulletin 28–61, dated January 17, 1978, that are also contained in the effectivity of McDonnell Douglas DC–10 Service Bulletin 28–19, Revision 1, dated October 15, 1973: Before accomplishing the actions in paragraph (f) of this AD, relocate the sump drain outlet for the auxiliary tank in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 28–19, Revision 1, dated October 15, 1973.

Alternative Methods of Compliance (AMOCs)

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

(2) 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

(i) You must use McDonnell Douglas DC–10 Service Bulletin 28–61, dated January 17, 1978; and McDonnell Douglas DC–10 Service Bulletin 28–19, Revision 1, dated October 15, 1973; as applicable, 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 these documents 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 July 31, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12827 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24866; Directorate Identifier 2006–NM–105–AD; Amendment 39–14709; AD 2006–16–09]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all McDonnell Douglas Model MD–90–30 airplanes. This AD requires installing a clamp, bonding jumper assembly, and attaching hardware to the refueling manifold in the right wing refueling station area. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent arcing on the in-tank side of the fueling valve during a lightning strike, which could result in an ignition source that could ignite fuel vapor and cause a fuel tank explosion.

DATES: This AD becomes effective September 13, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 13, 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: William Bond, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5253; 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 all McDonnell Douglas Model MD–90–30 airplanes. That NPRM was published in the **Federal Register** on May 25, 2006 (71 FR 30089). That NPRM proposed to require installing a clamp, bonding jumper assembly, and attaching hardware to the refueling manifold in the right wing refueling station area.

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 116 airplanes of the affected design in the worldwide fleet. This AD will affect about 21 airplanes of U.S. registry. The required actions will take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Required parts will cost about $8 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $3,528, or $168 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):

2006–16–09 McDonnell Douglas: Amendment 39–14709. Docket No. FAA–2006–24866; Directorate Identifier 2006–NM–105–AD.

Effective Date

(a) This AD becomes effective September 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all McDonnell Douglas Model MD–90–30 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent arcing on the in-tank side of the fueling valve during a lightning strike, which could result in an ignition source that could ignite fuel vapor and cause a fuel tank explosion.

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 clamp, bonding jumper assembly, and attaching hardware to the refueling manifold in the right wing refueling station area, by doing all of the actions specified in the Accomplishment Instructions of Boeing Service Bulletin MD90–28–011, dated May 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 MD90–28–011, dated May 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 July 27, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12828 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') is amending the Appliance Labeling Rule (''Rule'') by publishing new ranges of comparability for room air conditioners. The Commission also announces that the current ranges of comparability required by the Rule for water heaters, furnaces, boilers, dishwashers, and pool heaters will remain in effect until further notice.

DATES: The amendments published in this notice are effective November 7, 2006.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, 202–326–2889, Division of Enforcement, Bureau

of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Commission issued the Appliance Labeling Rule (''Rule'') in 1979, 44 FR 66466 (November 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 (''EPCA'').[1] The Rule covers several categories of major household appliances including water heaters, room air conditioners, furnaces, boilers, dishwashers, and pool heaters.

I. Background

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information derived from Department of Energy (''DOE'') test procedures at the point of sale in the form of an ''EnergyGuide'' label, in fact sheets (for some appliances), and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a ''range of comparability.'' This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of similar models. The Rule also requires manufacturers to include on labels for some products a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the energy the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission.[2] These reports, which assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and discontinue others, the data base from which the ranges of comparability are calculated changes constantly. To keep the information on labels up-to-date, the Commission, therefore, publishes new ranges if the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission publishes a statement that the prior ranges remain in effect for the next year.

II. New Ranges for Room Air Conditioners

The 2006 manufacturer data for room air conditioners indicates that ranges of comparability for room air conditioners have changed significantly since the Commission last amended the ranges in 1995. Accordingly, the Commission is amending the range for room air conditioners in Appendix E of the Rule. The new ranges of comparability for room air conditioners supersede the current ranges, which were published on November 13, 1995 (60 FR 56945). Room air conditioner manufacturers must base the disclosures of estimated annual operating cost required at the bottom of EnergyGuide labels for these products on the 2006 Representative Average Unit Costs of Energy for electricity (9.81 cents per kiloWatt-hour) that were published by DOE on March 11, 2005 (71 FR 9806).[3]

III. Review of 2005 Data Submissions for Water Heaters, Dishwashers, Furnaces, Boilers, and Pool Heaters

Manufacturers have also submitted data for water heaters (including storage-type, gas-fired instantaneous, and heat pump water heaters), dishwashers, furnaces (including boilers), and pool heaters. The ranges of comparability for these products have not changed significantly. Therefore, the current ranges will remain in effect until further notice. Manufacturers should continue to base their cost disclosures on estimated annual operating costs specified in the applicable Appendices to the Rule.

IV. Administrative Procedure Act

The amendments published in this notice involve routine, technical and minor, or conforming changes to the labeling requirements in the Rule. These technical amendments merely provide a routine change to the range and cost information required on EnergyGuide labels. Accordingly, the Commission finds for good cause that public comment for these technical, procedural amendments is impractical and unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

V. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. These technical amendments merely provide a routine change to the range information required on EnergyGuide labels. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

In a June 13, 1988 notice (53 FR 22106), the Commission stated that the Rule contains disclosure and reporting requirements that constitute ''information collection requirements'' as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act.[4] The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget (''OMB'') and assigned OMB Control No. 3084–0068. OMB has reviewed the Rule and extended its approval for its recordkeeping and reporting requirements until December 31, 2007. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

■ Accordingly, 16 CFR part 305 is amended as follows:

PART 305—[AMENDED]

■ 1. The authority citation for part 305 continues to read:

Authority: 42 U.S.C. 6294.

[1] 42 U.S.C. 6294. The statute also requires the Department of Energy (''DOE'') to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

[2] Annual reports for water heaters, room air conditioners, furnaces, boilers, and pool heaters are due May 1. Annual reports for dishwashers are due June 1.

[3] Unlike DOE requirements (see 10 CFR 430.32), FTC labeling rules do not have separate room air conditioner categories for casement-only and casement-slider models. Accordingly, the FTC ranges of comparability for many room air conditioner categories are based on data that include the efficiency ratings of these specialized model types. In some cases, the minimum DOE efficiency standards for casement models are lower than that allowed for other room air conditioner models.

[4] 44 U.S.C. 3501–3520.

2. Appendix E to part 305 is revised to read as follows:

APPENDIX E TO PART 305.—ROOM AIR CONDITIONERS

[Range Information]

Manufacturer's rated cooling capacity in Btu's/yr	Range of energy efficiency ratios (EERs)	
	Low	High
Without Reverse Cycle and with Louvered Sides:		
Less than 6,000 Btu	9.7	11.2
6,000 to 7,999 Btu	8.7	11.5
8,000 to 13,999 Btu	8.5	12.0
14,000 to 19,999 Btu	8.5	11.5
20,000 and more Btu	8.5	9.9
Without Reverse Cycle and without Louvered Sides:		
Less than 6,000 Btu	(*)	(*)
6,000 to 7,999	9.0	10.0
8,000 to 13,999 Btu	8.5	10.5
14,000 to 19,999 Btu	9.0	9.0
20,000 and more Btu	(*)	(*)
With Reverse Cycle and with Louvered Sides	9.0	12.0
With Reverse Cycle, without Louvered Sides	8.5	10.0

* No data submitted for units meeting Federal Minimum Efficiency Standards effective October 1, 2000.

Cost Information for Appendix E

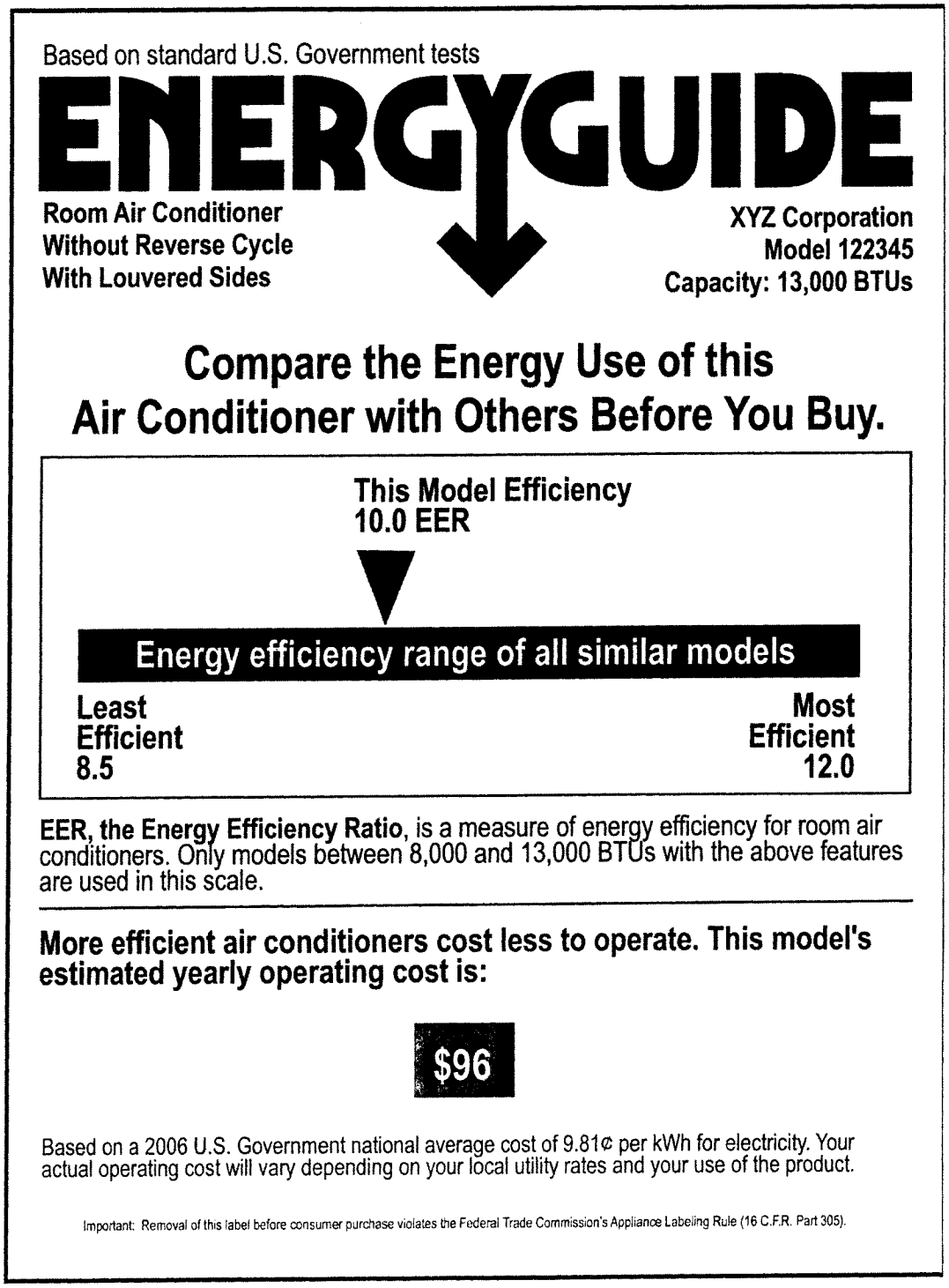
When the ranges of comparability in Appendix E are used on EnergyGuide labels for room air conditioners, the estimated annual operating cost disclosure appearing in the box at the bottom of the labels must be derived using the 2006 Representative Average Unit Costs for electricity (9.81¢ per kiloWatt-hour) and the text below the box must identify the costs as such

■ 3. Sample Label 6 of Appendix L to Part 305 is revised to read as follows:

Appendix L to Part 305—Sample Labels

* * * * *

BILLING CODE 6750–01–P



Sample Label 6

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 06–6814 Filed 8–8–06; 8:45 am]

BILLING CODE 6750–01–C

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

RIN 0960–AG13

Changes to the Income and Resources Provisions for Supplemental Security Income (SSI) Based on Sections 430, 435, and 436 of the Social Security Protection Act (SSPA) of 2004

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: We are revising our regulations on how we determine an individual's income and resources under the SSI program based on the SSPA of 2004, enacted on March 2, 2004. Some of the provisions of the SSPA make a number of changes in the way we determine income and resources including: How we calculate infrequent or irregular income; what interest and dividend income we exclude; how we count cash military compensation; and when we exclude gifts for tuition or educational expenses from income or resources. We are also applying the exclusions required by the SSPA when we determine the countable income and resources of an ineligible spouse or ineligible parent.

DATES: These final rules are effective September 8, 2006.

FOR FURTHER INFORMATION CONTACT: Barbara E. Snyder, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–5655 or TTY 1–800–966–5609, for information about this **Federal Register** document. 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 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

The basic purpose of the SSI program (title XVI of the Social Security Act (the Act)) is to ensure a minimum level of income to people who are age 65 or older, or blind or disabled, and who have limited income and resources. Section 1611 of the Act provides that SSI payments can be made only to people who have income and resources below specified amounts. Therefore, the amount of income and resources a person has is a major factor in deciding whether the person can receive SSI benefits and in computing the amount of the benefits. Sections 430, 435, and 436 of the SSPA (Pub. L. 108–203), affect how we determine income and resources in the SSI program.

Section 430

Section 430 of the SSPA amended section 1612(b) of the Act as follows:

• *Change the Calculation of Infrequent or Irregular Income from a Monthly to a Quarterly Basis*

Prior to enactment of the SSPA, we did not count up to $10 of your earned income in a month or $20 of unearned income in a month if it was infrequent or irregular; that is, if you received it only once in a calendar quarter from a single source or if you could not reasonably have expected it. If the total amount of your infrequent or irregular income for a month exceeded $10 of earned income or $20 of unearned income, we could not use this exclusion. Based on section 430 of the SSPA, we will now exclude the first $30 per calendar quarter of earned income and the first $60 per calendar quarter of unearned income if you receive it infrequently or irregularly. This provision applies to benefits payable on or after July 1, 2004.

Section 1612(b)(3) of the Act (as amended by section 430(a) of the SSPA) provides that this exclusion is ''determined in accordance with criteria prescribed by the Commissioner of Social Security''. Consistent with this provision, we are also revising the definition of infrequent income to prevent a result that we believe is inconsistent with the intent of section 430. Under these final rules, we will consider income to be received infrequently if you receive it only once during a calendar quarter from a single source and you did not receive it in the month immediately preceding that month or in the month immediately subsequent to that month, regardless of whether or not these payments occur in different calendar quarters. We consider income to be received irregularly if you cannot reasonably expect to receive it.

• *Exclude From Income All Interest and Dividend Income Earned on Countable Resources*

Prior to enactment of the SSPA, there was no specific exclusion for interest and dividend income you earned on countable and certain excludable resources. Based on section 430 of the SSPA, when we determine your income, we will exclude interest or dividend income you earn on resources that are countable under section 1613(a) of the Act. In addition, we also will not count interest or dividend income you earn on resources that are excluded based on a Federal statute other than section 1613(a) of the Act. These amendments apply to benefits payable on or after July 1, 2004.

Section 435

Prior to the enactment of the SSPA, we did not count as unearned income any portion of a grant, scholarship, or fellowship that you used to pay tuition, fees, or other necessary educational expenses. However, we did count any portion that you set aside or actually used for food, clothing, or shelter as income in the month you received it and, to the extent any portion of it was retained, as a resource the month following the month you received it. Under these final rules, any portion of a grant, scholarship or fellowship set aside or used for food or shelter will continue to count as income in the month received or as a resource if retained.

Section 435 of the SSPA amended section 1612(b)(7) of the Act to provide that we will also exclude a gift (or portion of a gift) that you use to pay the cost of tuition and fees at any educational (including technical or vocational educational, institution when we determine your income (and the income of your eligible spouse). Additionally, section 435 of the SSPA amended section 1613(a) of the Act to provide that we will exclude from resources for 9 months after the month in which it is received, any grant, scholarship, fellowship, or gift (or portion of a gift) that you use to pay the cost of tuition and fees at an educational (including technical or vocational education) institution. These amendments apply to benefits payable on or after June 1, 2004.

We are also extending this resource exclusion to any portion of a grant, scholarship, or fellowship that you retain after the month of receipt. Prior to enactment of the SSPA, section 1612(b)(7) had excluded ''any portion'' of a grant, scholarship, or fellowship from income. When the SSPA added the resource exclusion, the exclusion covered grants, scholarships, and fellowships, but only specifically referenced portions with respect to gifts. In order to have consistent policy on exclusions related to tuition and educational expenses, we are excluding from resources for 9 months any portion of a grant, scholarship, fellowship, or gift used to pay necessary educational expenses. In addition, we are providing

in these final rules that any portion of a grant, scholarship, fellowship, or gift intended to be used for tuition, fees, or other necessary educational expenses that is used for another purpose during the 9-month resource exclusion period will be counted as income in the month it is used for another purpose.

Section 436

Under our current rules, your income is counted in the month you receive it rather than in the month you earn it. We count wages and unearned income at the earliest of the following points:

- When you receive them,
- When they are credited to your account, or
- When they are set aside for your use.

Members of a uniformed service (as defined in 20 CFR 404.1330) are paid twice per month, and receive one Leave and Earnings Statement (LES) at the beginning of the month, which reflects their earnings for services performed in the prior month. The earnings shown on the monthly LES consist of the money actually paid in the second payment from the previous month and the payment received at the beginning of the current month. The payment received at the beginning of the current month is actually for services performed in the last half of the previous month. Thus, both payments reflected on the LES represent services performed in the previous month. Because wages are counted when paid, the portion of the money that was paid in the previous month must be considered as received in the previous month, not the current month, and the portion paid at the beginning of the current month must be considered in the current month. Prior to enactment of the SSPA, we had to apply a complex formula to the information on the LES for 2 consecutive months to determine one month's wages and unearned income.

Section 436 of the SSPA amended section 1611(c) of the Act to provide that remuneration you receive for services performed as a member of a uniformed service may be treated as received in the month in which you earned it, if the Commissioner of Social Security (the Commissioner) determines that this method would promote the economical and efficient administration of the SSI program. This method of counting allows us to count the money shown on the LES for any month as received in that month, thereby eliminating the need to apply a complex formula to determine monthly earnings. Instead, we can determine monthly earnings by simply adding the amounts shown on the LES issued for that month.

Extending Exclusions in Section 430, 435, and 436 to the Deeming Process

Section 1614(f) of the Act requires that, when we determine an individual's eligibility for SSI benefits, we must consider the income and resources of an ineligible spouse living in the same household, or, in the case of a child under the age of 18, the income and resources of an ineligible parent living in the same household. We use the term ''deeming'' to identify this process of considering part of an ineligible spouse's or parent's income and resources to be the individual's own income and resources. Section 1614(f) also grants the Commissioner the discretion to waive the deeming of income and resources from an ineligible spouse or parent to an eligible individual when the Commissioner determines that deeming would be inequitable under the circumstances.

In addition to adding to our regulations the changes in how we determine an eligible individual's income and resources required by the SSPA, we will apply these changes when determining the countable income and resources of an ineligible spouse or ineligible parent.

These changes are:

- Change the calculation of infrequent and irregular income from a monthly to a quarterly basis, and revise the definition of infrequent income.
- Exclude from income interest or dividends earned on countable resources and resources excluded under other Federal statutes.
- Exclude from *income* gifts used to pay tuition, fees, or other necessary educational expenses at any educational institution, including vocational and technical institutions.
- Exclude from *resources* grants, scholarships, fellowships, or gifts used to pay tuition, fees, or other necessary educational expenses at an educational institution (including vocational or technical institution) for 9 months beginning the month after the month the educational assistance was received.
- Consider wages and unearned income from a uniformed service to be received in the month in which such compensation is earned.

Extending these changes to the deeming process is consistent with the SSI program's longstanding treatment of income and resources of spouses and parents, as authorized by section 1614(f) of the Act. This treatment avoids using assistance programs that benefit spouses and parents to indirectly support SSI recipients and provides consistent treatment of income and resources throughout the program.

Explanation of Changes

We are making the following changes to our rules on determining income and resources under the SSI program to implement the provisions of the SSPA:

- We are revising §§ 416.1112(c)(2) and 416.1124(c)(6) to reflect the provision of section 430 that changes the calculation of infrequent and irregular income from a monthly to a quarterly basis, and to revise the definition of infrequent income.
- We are also adding a new § 416.1124(c)(22) to reflect the provision of section 430 that excludes from income interest or dividends earned on countable resources and resources excluded under other Federal statutes.
- We are amending § 416.1124(c)(3) to reflect the provision in section 435 that states that gifts (or portions of gifts) used to pay tuition and fees at any educational institution, including vocational and technical institutions, are excluded from income.
- Additionally, we are adding a new § 416.1210(u) and a new § 416.1250 to reflect the provision in section 435 that excludes from resources any grants, scholarships, fellowships, or gifts used to pay tuition and fees at an educational institution (including vocational or technical institution) for 9 months beginning the month after the month the educational assistance was received.
- We are amending §§ 416.1111(a) and 416.1123(a), and adding a new § 416.1123(f) to reflect section 436 that states that we may consider wages and unearned income from a uniformed service to be received in the month in which such compensation is earned. We also are making a technical amendment to add a cross-reference in § 416.1123(a) to § 416.1123(e).
- Finally, we are amending § 416.1161 by revising paragraph (a)(4) and adding a new paragraph (a)(26) to exclude certain interest and dividends and gifts used to pay educational expenses from the income of an ineligible spouse and ineligible parent for deeming purposes.

Public Comments

On September 6, 2005, we published proposed rules in the **Federal Register** at 70 FR 52949 and provided a 60-day comment period for interested persons to comment. We received comments from three organizations and three individuals. We carefully considered all of the comments in publishing these final rules. Because some of the comments were long, we have condensed, summarized and

paraphrased them. However, we have tried to present all of the commenter's views adequately and have addressed all of the significant issues raised by the commenters that are within the scope of the proposed rules. We have not addressed in this preamble comments that are outside the scope of this regulatory proceeding.

Comment: One commenter expressed confusion about the treatment of gifts for educational purposes when all or some of the excluded funds are used for purposes other than education. The commenter requested that § 416.1250(b) be modified to ensure that only those funds used for non-educational purposes be considered income in the month used and that the remaining funds held for educational purposes continue to be excluded.

Response: We have revised § 416.1250(b) to clarify that only those funds used for non-educational purposes would be considered income in the month used, and that the remaining funds held for educational purposes will continue to be excluded.

Comment: One commenter suggested that we address reporting responsibilities in these final rules in order to prevent overpayments. The commenter referred to the need to report to us when an individual uses some or all of a gift which was given for educational purposes for a different purpose. As an alternative, the commenter suggested that we revise the current reporting requirement regulations to address this specific issue.

Response: Section 416.708(b) and (c) of our current reporting requirements regulations specify that you must report any changes in income and resources. Detailed reporting requirements for specific types of income and resources are an operational issue and not appropriate to include in regulations. However, we reviewed our current operating instructions and determined that reporting requirements related to gifts given for educational use that are used for other purposes should be addressed. We modified our operating instructions. We have made no changes to the final rules based on this comment.

Comment: One commenter suggested that we revise the definition of infrequent income to allow exclusion of income received more than once in a calendar quarter. The commenter also made several other suggestions based on a misunderstanding of the proposed regulatory policy related to the source of the income.

Response: We are not adopting this comment. The intent of the quarterly basis exclusion was to permit beneficiaries to receive small amounts of income without their benefits being adversely affected, and to simplify program administration by reducing the required benefit adjustment (S. Rept. 108–176, at 40 (2003)). The revised definition provides that to be considered infrequent, the income can only be received once in a calendar quarter from a single source and not also received in consecutive months. Thus, we consider income to be received infrequently if it is received only once during a calendar quarter from a single source and it was not received in the month immediately preceding that month or in the month immediately subsequent to that month. The revised definition does not require that the income only be received from a single source to qualify for exclusion as infrequent. It does, however, prohibit the same type of income received two or more times in a calendar quarter from a single source from being considered infrequent. If you receive the same type of income multiple times from the same source during a quarter or in successive months it denotes a certain frequency of such income that would not meet the definition of infrequent income. However, the definition does permit exclusion of income received multiple times in a quarter from different sources. The same type of income received from different sources within the same calendar quarter can be considered infrequent income.

Comment: Two commenters suggested that changes in the definition of infrequent income were disadvantageous. Both commenters suggested that we eliminate the restriction that income cannot be infrequent if it is received in consecutive months. One of the commenters provides an example as illustration. If a person received a Christmas gift in December and a birthday gift in January from the same person, the new definition of infrequent income would only permit exclusion of the December gift. The January gift would not be excludable as infrequent income. Under the previous definition in our regulations, both gifts could be excludable as infrequent income.

Response: We disagree with the commenter that we would not be able to exclude the birthday gift in January under these final rules. In the example cited by the commenter, both the December gift and the January gift could still be excludable as irregular income (income you cannot reasonably expect to receive). Under these final rules, there are two separate exclusions: one for infrequent income, and one for irregular income. Thus, the end result is the same-both gifts can be excludable. There is no disadvantage caused by our interpretation of section 430 in this case.

If we adopted the commenter's suggestion that income from that same source should be considered ''infrequent'' if it is received in consecutive months, the new statutory language could be misinterpreted to result in some regular, recurring payments meeting the definition of infrequent income because of the change in the counting period from a monthly time period to a quarterly period. For example, a regular, recurring series of payments could begin in the third month of a calendar quarter. Under the prior definition of infrequent, this first payment could be considered to be infrequent income because it was received once in a calendar quarter from a single source, even if it will be received every month thereafter. We do not believe such a result is consistent with the intent of section 430. As explained in our response to the prior comment, to address this situation, these rules clarify the definition of infrequent in §§ 416.1112(c)(2) and 416.1124(c)(6) so that payments from the same source received in consecutive months are not considered to be infrequent.

Other Changes

In addition to the changes already discussed, we have made a minor, nonsubstantive change to §§ 416.1111(a) and 416.1123(f) for clarification purposes only. We have changed the wording of those sections to more closely reflect the statutory language that requires a person to be a member of the uniformed services by adding the words ''for services performed as a member of'' to both sections. We have also made one additional nonsubstantive editorial correction.

Regulatory Procedures

Executive Order 12866, as Amended by Executive Order 13258

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, they were reviewed by OMB. We have also determined that these final rules meet the plain language requirement of Executive Order 12866, as amended by Executive Order 13258.

Regulatory Flexibility Act

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

Paperwork Reduction Act

These final rules impose no reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: May 4, 2006.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set forth in the preamble, we are amending subparts K and L of part 416 of chapter III of title 20 of the Code of Federal Regulations as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—[Amended]

■ 1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383, and 1383(b); secs. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

■ 2. Section 416.1111 is amended by adding a sentence at the end of paragraph (a) to read as follows:

§ 416.1111 How we count earned income.

(a) * * * We count wages for services performed as a member of a uniformed service (as defined in § 404.1330 of this chapter) as received in the month in which they are earned.

* * * * *

■ 3. Section 416.1112 is amended by revising paragraph (c)(2) to read as follows:

§ 416.1112 Earned income we do not count.

* * * * *

(c) * * *

(2) The first $30 of earned income received in a calendar quarter if you receive it infrequently or irregularly. We consider income to be received infrequently if you receive it only once during a calendar quarter from a single source and you did not receive it in the month immediately preceding that month or in the month immediately subsequent to that month. We consider income to be received irregularly if you cannot reasonably expect to receive it.

* * * * *

■ 4. Section 416.1123 is amended by revising paragraph (a) and adding a new paragraph (f) to read as follows:

§ 416.1123 How we count unearned income.

(a) *When we count unearned income.* We count unearned income at the earliest of the following points: when you receive it or when it is credited to your account or set aside for your use. We determine your unearned income for each month. We describe exceptions to the rule on how we count unearned income in paragraphs (d), (e) and (f) of this section.

* * * * *

(f) *Uniformed service compensation.* We count compensation for services performed as a member of a uniformed service (as defined in § 404.1330 of this chapter) as received in the month in which it is earned.

* * * * *

■ 5. Section 416.1124 is amended by revising the first sentence in paragraph (c)(3), by revising paragraph (c)(6), by removing the word ''and'' at the end of paragraph (c)(20), by removing the period at the end of paragraph (c)(21) and adding a semicolon in its place followed by the word ''and'', and by adding paragraph (c)(22) to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) * * *

(3) Any portion of a grant, scholarship, fellowship, or gift used or set aside for paying tuition, fees, or other necessary educational expenses.

* * *

* * * * *

(6) The first $60 of unearned income received in a calendar quarter if you receive it infrequently or irregularly. We consider income to be received infrequently if you receive it only once during a calendar quarter from a single source and you did not receive it in the month immediately preceding that month or in the month immediately subsequent to that month. We consider income to be received irregularly if you cannot reasonably expect to receive it.

* * * * *

(22) Interest and dividend income from a countable resource or from a resource excluded under a Federal statute other than section 1613(a) of the Social Security Act.

■ 6. Section 416.1161 is amended by revising paragraph (a)(4), by removing the word ''and'' at the end of paragraphs (a)(22) and (a)(24), by removing the period at the end of paragraph (a)(25) and adding a semicolon in its place followed by the word ''and'', and by adding a new paragraph (a)(26) to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

* * * * *

(a) * * *

(4) Any portion of a grant, scholarship, fellowship, or gift used or set aside to pay tuition, fees or other necessary educational expenses;

* * * * *

(26) Interest and dividend income from a countable resource or from a resource excluded under a Federal statute other than section 1613(a) of the Social Security Act.

* * * * *

Subpart L—[Amended]

■ 7. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631 and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383 and 1383(b); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

■ 8. Section 416.1210 is amended by removing the word ''and'' at the end of paragraph (s), by removing the period at the end of paragraph (t) and adding a semicolon in its place followed by the word ''and'', and by adding a new paragraph (u) to read as follows:

§ 416.1210 Exclusions from resources; general.

* * * * *

(u) Any portion of a grant, scholarship, fellowship, or gift used or set aside for paying tuition, fees, or other necessary educational expenses as provided in § 416.1250.

■ 9. Section 416.1250 is added to read as follows:

§ 416.1250 How we count grants, scholarships, fellowships or gifts.

(a) When we determine your resources (or your spouse's, if any), we will exclude for 9 months any portion

of any grant, scholarship, fellowship, or gift that you use or set aside to pay the cost of tuition, fees, or other necessary educational expenses at any educational institution, including vocational or technical institutions. The 9 months begin the month after the month you receive the educational assistance.

(b)(1) We will count as a resource any portion of a grant, scholarship, fellowship, or gift you (or your spouse, if any) did not use or set aside to pay tuition, fees, or other necessary educational expenses. We will count such portion of a grant, scholarship, fellowship or gift as a resource in the month following the month of receipt.

(2) If you use any of the funds that were set aside for tuition, fees, or other necessary educational expenses for another purpose within the 9-month exclusion period, we will count such portion of the funds used for another purpose as income in the month you use them.

(3) If any portion of the funds are no longer set aside for paying tuition, fees, or other necessary educational expenses within the 9-month exclusion period, we will count the portion of the funds no longer set aside as income in the month when they are no longer set aside for paying tuition, fees, or other necessary educational expenses. We will consider any remaining funds that are no longer set aside or used to pay tuition, fees, or other educational expenses as a resource in the month following the month we count them as income.

(4) We will count any portion of grants, scholarships, fellowships, or gifts remaining unspent after the 9-month exclusion period as a resource beginning with the 10th month after you received the educational assistance.

[FR Doc. E6–12942 Filed 8–8–06; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9280]

RIN 1545–BE10

Section 411(d)(6) Protected Benefits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing guidance on certain issues under section 411(d)(6) of the Internal Revenue Code (Code), including the interaction between the anti-cutback rules of section 411(d)(6) and the nonforfeitability requirements of section 411(a). These regulations also provide a utilization test under which certain plan amendments are permitted to eliminate or reduce certain early retirement benefits, retirement-type subsidies, or optional forms of benefit. These regulations generally affect sponsors of, and participants and beneficiaries in, qualified retirement plans.

DATES: *Effective Date:* These regulations are effective August 9, 2006.

Applicability Date: For dates of applicability, see § 1.411(d)–3(j) of these regulations.

FOR FURTHER INFORMATION CONTACT: Pamela R. Kinard at (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1 under section 411(d)(6) of the Code. These regulations revise § 1.411(d)–3 to provide guidance on the application of section 411(d)(6) to a plan amendment that places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits, even if the amendment merely adds a restriction or condition that is permitted under the vesting rules of section 411(a)(3) through (11). These rules are intended to reflect *Central Laborers' Pension Fund* v. *Heinz*, 541 U.S. 739 (2004). These regulations also set forth standards for the utilization test, which is a permitted method of eliminating optional forms of benefit that are burdensome to the plan and of de minimis value to plan participants.

Section 401(a)(7) provides that a trust does not constitute a qualified trust unless its related plan satisfies the requirements of section 411. Section 411(a) generally provides that an employee's right to the accrued benefit derived from employer contributions must become nonforfeitable within a specified period of service. Section 411(a)(3) provides circumstances under which an employee's benefit is permitted to be forfeited without violating section 411(a). Section 411(a)(3)(B) provides that a right to an accrued benefit derived from employer contributions is not treated as forfeitable solely because the plan provides that the payment of benefits is suspended for such period as the employee is employed, subsequent to the commencement of payment of such benefits, either (1) by the employer who maintains the plan under which such benefits were being paid, in the case of a plan other than a multiemployer plan, or (2) in the case of a multiemployer plan, in the same industry, the same trade or craft, and the same geographic area covered by the plan as when such benefits commenced.

The definition of employment for which benefit payments are permitted to be suspended is set forth in 29 CFR 2530.203–3 of the Department of Labor Regulations, which interprets section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, the counterpart to section 411(a)(3)(B) of the Code. Employment that satisfies the conditions described in section 203(a)(3)(B) of ERISA and the regulations are referred to as ''section 203(a)(3)(B) service.'' See 29 CFR 2530.203–3(c).

Under section 411(a)(10), a plan amendment changing the plan's vesting schedule must satisfy certain requirements. Section 411(a)(10)(A) provides that a plan amendment changing any vesting schedule under the plan does not satisfy the minimum vesting standards of section 411(a)(2) if the nonforfeitable percentage of the accrued benefit derived from employer contributions (determined as of the applicable amendment date) [1] of any employee who is a participant in the plan is less than the nonforfeitable percentage computed under the plan without regard to the amendment. Section 411(a)(10)(B) provides that a plan amendment changing any vesting schedule under the plan does not satisfy the minimum vesting standards of section 411(a)(2) unless each participant with at least 3 years of service is permitted to elect to have his or her nonforfeitable percentage computed under the plan without regard to the plan amendment.

Section 411(d)(6)(A) provides that a plan is treated as not satisfying the requirements of section 411 if the accrued benefit of a participant is decreased by an amendment of the plan, other than an amendment described in section 412(c)(8) of the Code or section 4281 of ERISA. Section 411(d)(6)(B) provides that a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy, or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment, is treated as impermissibly reducing accrued benefits. This protection applies with

[1] The term *applicable amendment date* means the later of the effective date of the amendment or the date that the amendmdent is adopted. See § 1.411(d)–3(g)(4).

respect to an employee who satisfies the preamendment conditions for the subsidy either before or after the amendment. Section 411(d)(6)(B) also authorizes the Secretary of the Treasury to provide, through regulations, that section 411(d)(6)(B) does not apply to any plan amendment that eliminates an optional form of benefit (other than a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy).

Section 645(b)(1) of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107–16 (115 Stat. 38) (EGTRRA) amended section 411(d)(6)(B) of the Code to direct the Secretary of the Treasury to issue regulations providing that section 411(d)(6)(B) does not apply to any amendment that reduces or eliminates early retirement benefits or retirement-type subsidies that create significant burdens or complexities for the plan and plan participants unless such amendment adversely affects the rights of any participant in a more than de minimis manner.

Section 204(g) of ERISA contains parallel rules to section 411(d)(6) of the Code, including a similar directive to the Secretary of the Treasury to issue regulations providing that section 204(g) of ERISA does not apply to any amendment that reduces or eliminates early retirement benefits or retirement-type subsidies that create significant burdens or complexities for the plan and plan participants unless such amendment adversely affects the rights of any participant in a more than de minimis manner. Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713) and section 204(g) of ERISA, the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these regulations for purposes of ERISA, as well as the Code. Thus, these final regulations issued under section 411(d)(6) of the Code also apply for purposes of section 204(g) of ERISA.

In *Central Laborers'*, the plaintiffs were two inactive participants in a multiemployer pension plan who commenced payment of their benefits in 1996 after qualifying for subsidized early retirement payments. The plan terms required that payments be suspended if a participant engaged in ''disqualifying employment.'' At the time of their commencement of benefits, the plan defined disqualifying employment to include only employment covered by the plan, but not work as a construction supervisor. Both participants were employed as construction supervisors after they commenced payment of benefits. After the two participants' benefit payments had commenced in 1996, the plan was amended in 1998 to expand its definition of disqualifying employment to include any employment in the same trade or craft, industry, and geographic area covered by the plan, and the plan stopped payments to the two participants on account of their disqualifying employment as construction supervisors. The two participants sued to recover the suspended payments, claiming that the amendment expanding the plan's suspension provisions violated section 204(g) of ERISA.

The Supreme Court, holding for the two participants, ruled that section 204(g) of ERISA prohibits a plan amendment expanding the categories of post-retirement employment that result in suspension of the payment of early retirement benefits already accrued. The Court held that, while ERISA permits certain conditions that are elements of the benefit itself (such as suspensions under section 411(a)(3)(B) of the Code and section 203(a)(3)(B) of ERISA), such a condition may not be imposed on a benefit after the benefit has accrued, and that the right to receive benefit payments on a certain date may not be limited by a new condition narrowing that right. The Court agreed with the 7th Circuit that ''[a] participant's benefits cannot be understood without reference to the conditions imposed on receiving those benefits, and an amendment placing materially greater restrictions on the receipt of the benefit 'reduces' the benefit just as surely as a decrease in the size of the monthly benefit.'' *Central Laborers'*, 547 U.S. at 744, quoting *Heinz* v. *Central Laborers' Pension Fund*, 303 F.3d 802, 805 (7th Cir. 2002).

On July 11, 1988, final regulations (TD 8212) under section 411(d)(6) were published in the **Federal Register** (53 FR 26050). Those regulations are contained in § 1.411(d)–4 (the 1988 regulations). On August 12, 2005, final regulations (TD 9219) under section 411(d)(6) were published in the **Federal Register** (70 FR 47109) (the 2005 final regulations). Those 2005 final regulations, which are largely contained in § 1.411(d)–3, set forth conditions under which a plan amendment is permitted to eliminate an optional form of benefit and to eliminate or reduce an early retirement benefit or a retirement-type subsidy that creates significant burdens or complexities for the plan and its participants, but only if the elimination does not adversely affect the rights of any participant in a more than de minimis manner. However, those regulations reserved two topics for later guidance—a utilization test and the interaction of the permitted forfeiture rules under section 411(a) with the anti-cutback rules under section 411(d)(6) after taking into account the decision in *Central Laborers'*.

In connection with the 2005 final regulations, a notice of public rulemaking (REG–156518–04) under section 411(d)(6) of the Code was published in the **Federal Register** (70 FR 47155) (the 2005 proposed regulations) to address the two reserved topics discussed in this preamble. On December 6, 2005, the IRS held a public hearing on the 2005 proposed regulations. Written comments responding to the notice of public rulemaking were also received. After consideration of all the comments, the 2005 proposed regulations are adopted, as amended by this Treasury Decision. The revisions are discussed in this preamble.

Explanation of Provisions

Application of Section 411(d)(6) to Plan Amendments Affecting Vesting

In applying the holding in *Central Laborers'*, these regulations retain the rule in the 2005 proposed regulations that provides that a plan amendment that places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits by adding or modifying a plan provision relating to suspension of benefit payments during a period of employment or reemployment violates section 411(d)(6). This rule applies for periods beginning on or after June 7, 2004, the date of the decision in *Central Laborers'*. For relief limiting the retroactive application of *Central Laborers'*, see the discussion under the heading ''Effective Dates'' in this preamble.

These regulations also address a broader question of the interaction of the vesting rules in section 411(a) with the requirements of section 411(d)(6), applying the reasoning in *Central Laborers'* to other situations. These regulations generally retain the rule in the 2005 proposed regulations that a plan amendment that decreases a participant's accrued benefits, or otherwise places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits, violates section 411(d)(6), even if the amendment merely adds a restriction or condition that is otherwise permitted under the vesting rules in section 411(a)(3) through (11).[2] These

[2] However, note that section 411(d)(6) does not prohibit a plan amendment that reduces or suspends benefits under a multiemployer plan as

regulations also provide examples of the application of this rule, including an example illustrating, for changes in a plan's vesting schedule, the protection of a participant's right to have post-amendment vesting of the participant's pre-amendment accrued benefit determined under the old vesting schedule. Of course, these regulations also retain the rule that such a plan amendment is permitted under section 411(d)(6) to the extent it applies to benefits accruing after the applicable amendment date.

Some commentators agreed with the rule in the 2005 proposed regulations that adopts the holding and rationale of *Central Laborers'*, but other commentators raised concerns about the scope of the rule. Several commentators argued that Central Laborers' only addresses the interaction of section 411(d)(6) with the suspension of benefit rules under section 411(a)(3)(B), and does not require the extension of its holding to plan amendments relating to the other vesting provisions under section 411(a). Those commentators recommended that the regulations be revised to narrow the scope of the rule in the 2005 proposed regulations to the fact pattern in *Central Laborers'*. Other commentators recommended that the final regulations provide that, for a plan amendment changing the plan's vesting schedule, the rule in the 2005 proposed regulations does not apply, so that section 411(a)(10) would provide the exclusive requirements for vesting schedule changes. Some of these commentators supported this request by stating that the rule in the 2005 proposed regulations had the effect of rendering section 411(a)(10) moot.

After consideration of the comments relating to the rule in the 2005 proposed regulations, the Treasury Department and the IRS believe that the holding and rationale in the *Central Laborers'* decision control and, thus, the rule in the 2005 proposed regulations should be retained, subject to a certain modifications. In this regard, the Treasury Department and the IRS note that the protection provided by section 411(a)(10) applies with respect to future accruals, whereas the protection extended by these regulations to changes in a vesting schedule applies only with respect to benefits accrued before the applicable amendment date. However, in light of the comments, these final regulations provide a limited exception from the requirement in the 2005 proposed regulations for a plan changing its vesting computation period. Under this exception, a plan amendment that satisfies the rules for changing a plan's vesting computation period, as set forth in applicable Department of Labor Regulations,[3] does not fail to satisfy the requirements under section 411(d)(6) merely because the plan changes the plan's vesting computation period.

Utilization Test

These regulations generally retain the rule in the 2005 proposed regulations that a plan is permitted to be amended to eliminate optional forms of benefit that comprise a generalized optional form[4] for a participant with respect to benefits accrued before the applicable amendment date if certain requirements relating to the use of the generalized optional form are satisfied. Under the utilization test, a plan is not permitted to eliminate any core option[5] offered under the plan and the plan amendment eliminating the generalized optional form cannot apply to an optional form of benefit with an annuity commencement date that is earlier than the number of days in the maximum QJSA explanation period (for example, a 90-day period) after the date the amendment is adopted. The utilization test, along with the redundancy method and the core options method, are three permitted methods for eliminating or reducing section 411(d)(6)(B) protected benefits. See § 1.411(d)–3(c), (d), and (e) of the 2005 final regulations for rules relating to the redundancy and core options methods.

These regulations provide that, in order to eliminate a noncore optional form of benefit under the utilization test, the plan must satisfy two conditions. First, the generalized optional form must have been available to at least a minimum number of participants who are taken into account during the relevant look-back period. Second, no participant must have elected the optional form of benefit that is part of the generalized optional form with an annuity commencement date that is within the look-back period.

Under the 2005 proposed regulations, the look-back period was generally the 2 plan years immediately preceding the date on which the plan amendment eliminating the general optional form is adopted. These regulations modify the look-back period from the 2005 proposed regulations to include the portion of the plan year in which the plan amendment is adopted that precedes the date of adoption (the pre-adoption period). Adding the pre-adoption period to the look-back period ensures that participants who elected the generalized optional form with an annuity commencement date within the year of adoption are taken into account. However, in order to reduce burdens for plans, the regulations permit a plan to exclude from the lookback period the calendar month in which the amendment is adopted and the 1 or 2 preceding calendar months (to the extent those preceding months are within the pre-adoption period). These regulations also retain the rule under the 2005 proposed regulations permitting a plan to extend the look-back period to include an additional 1, 2, or 3 plan years.

Under the utilization test in the 2005 proposed regulations, the generalized optional form being eliminated must have been available to at least 100 participants who are taken into account during the look-back period. A participant is generally taken into account only if, during the look-back period, the participant was eligible to commence payment of an optional form of benefit that is part of the generalized optional form being eliminated. However, the 2005 proposed regulations provided that a participant is not taken into account if the participant did not elect any optional form of benefit with an annuity commencement date that is within the look-back period, elected an optional form of benefit that includes a single-sum distribution that applies with respect to at least 25% of the participant's accrued benefit, elected an optional form of benefit that was only available during a limited period of time that contained a retirement-type subsidy that was not extended to the generalized optional form being eliminated, or elected an optional form of benefit with an annuity commencement date that is more than 10 years before normal retirement age.

Commentators recommended that the regulations be revised to provide an alternative for smaller plans that cannot meet the 100-participant requirement, even with the 5-year look-back rule. Commentators also recommended that the utilization test be revised to permit a plan to use the utilization test to

permitted under section 411(a)(3)(F) (*e.g.*, a plan amendment to reduce benefits as permitted under section 418D or to suspend benefit payments as permitted under section 418E).

[3] See 29 CFR 2530.203–2(c) for rules relating to changing a plan's vesting computation period. See also §§ 1.411(a)–8(b)(3) and 1.411(a)–8T(b)(3).

[4] The term *generalized optional form* is defined in § 1.411(d)–3(g)(8) as a group of optional forms of benefit that are identical except for differences due to the actuarial factors that are used to determine the amount of the distributions under those optional forms of benefit and the annuity starting dates.

[5] The term *core option* is defined in § 1.411(d)–3(g)(5) as a straight life annuity, a 75% joint and contingent annuity, a 10-year term certain and life annuity, and the most valuable option for a participant with a short life expectancy.

eliminate a general optional form even if a small percentage of participants elected the generalized optional form. The percentages proposed by the commentators ranged from 1% to 5% of the participants. Commentators further recommended that the regulations be revised to permit participants who elected single-sum distributions to be taken into account in determining the applicable number of participants.

In light of these comments, these regulations include a number of revisions. In applying the utilization test, the generalized optional form must be available to at least the applicable number of participants who are taken into account. These regulations define the term *applicable number of participants* as 50 participants. These regulations also set forth a special rule that permits a plan to take into account any participant who elects a single-sum distribution that applied with respect to at least 25% of the participant's accrued benefit, provided the applicable number of participants is increased to 1,000 participants.

The Treasury Department and the IRS continue to believe that the utilization test, by its nature, determines which optional forms are considered valuable to participants. This determination is made by reference to participants' elections. The fact that, during a 2-year period, no participant in a substantial number of participant elections elected any optional form of benefit that is within a generalized optional form is a compelling indication that elimination of that generalized optional form would not adversely affect the rights of any participant in a more than *de minimis* manner. Conversely, if at least one participant in the sample elected the generalized optional form, that election would provide significant evidence that the elimination of the generalized optional form could adversely affect the rights of some other participant in a more than *de minimis* manner. In addition, a plan that satisfies the requirements of the utilization test is permitted to be amended to eliminate all of the optional forms of benefit that comprise a generalized optional form without having to satisfy separately the requirements of § 1.411(d)–3(e). Thus, these regulations retain the requirement from the 2005 proposed regulations that no participant must have elected any optional form that is part of the generalized optional form that is being eliminated.

Other Issues

These regulations also include a few modifications to the 2005 final regulations. Specifically, the regulations include specific reference to amendments permitted under sections 418D and 418E (relating to, respectively, to multiemployer plans in reorganization and accrued benefits attributable to employer contributions that are not eligible for the Pension Benefit Guaranty Corporation's guarantee) as not being subject to the requirements of section 411(d)(6). See section 411(a)(3)(F), which permits the reduction and suspension of accrued benefits by a multiemployer plan pursuant to sections 418D and 418E, as well as section 4281 of ERISA.

These regulations also revise the method for determining whether an optional form of benefit is within a family of optional forms of benefit for purposes of eliminating redundant optional forms of benefit in situations in which a plan permits a participant to make different distribution elections with respect to two or more separate portions of the participant's accrued benefit. Comments were received recommending that the regulations be revised to permit a plan that provides different elections with respect to separate portions of a participant's benefit (for example, plans with one set of generally applicable distribution options and a second set of distribution options that apply only to a participant's benefit earned while employed by a former employer) to be permitted to apply the redundancy rules separately to each set of distribution options.

In light of this comment, these regulations permit a plan to apply the redundancy rules separately to each portion of the participant's benefit to which separate distribution elections apply as if that portion were the participant's entire benefit. This change is similar to the bifurcation rule in § 1.417(a)(3)–1(c)(5)(iii), which permits a plan that permits a participant to make separate distribution elections with respect to two or more portions of the participant's benefit to describe the financial effect and relative value of combined optional forms of benefit separately for each such portion of the benefit, rather than for each optional form of benefit (for example, each combination of possible elections).

Effective Dates

Applicability Dates for Amendments Relating to Vesting

With respect to a plan amendment that places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits by adding or modifying a plan provision relating to suspension of benefit payments, the rules in these regulations apply for periods beginning on or after June 7, 2004. However, for a plan amendment that places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits with respect to vesting, other than a plan amendment relating to a suspension of benefit payments, the rules in these regulations apply to plan amendments adopted after August 9, 2006.

Applicability Date for Change to Redundancy Rule Regarding Bifurcation of Benefits

The change to the regulations permitting a plan to apply the redundancy rules separately to each portion of a participant's benefit to which separate distribution elections apply is applicable for amendments adopted after August 9, 2006.

Applicability Date for Utilization Test

The rules provided in the utilization test are applicable for amendments adopted after December 31, 2006.

Relief Limiting the Retroactive Application of Central Laborers'

Rev. Proc. 2005–23 (2005–18 I.R.B. 991), as modified by Rev. Proc. 2005–76 (2005–50 I.R.B. 1139), limits the retroactive application of *Central Laborers'* for qualified plans under section 401(a) pursuant to the Commissioner's authority under section 7805(b)(8). Rev. Proc. 2005–23 provides that a qualified plan will not be treated as having failed to satisfy the requirements of section 401(a) merely because a plan amendment that was adopted before June 7, 2004, violated section 411(d)(6) by adding or expanding a provision under which a suspension of benefit provision occurs. To receive this treatment, a plan must adopt a reforming plan amendment, comply operationally with the reforming amendment, and provide to affected participants notice of the right to elect retroactively to commence payment of benefits. All of these actions must be completed on or before January 1, 2007.

In response to the 2005 proposed regulations, some commentators expressed concern on how section 411(d)(6) would apply to plan amendments adopted many years in the past when both the rules for interpreting the suspension of benefit provisions under section 411(a)(3)(B) and the rules for satisfying section 411(d)(6) were still being developed. Commentators specifically raised the issue of whether the adoption of a benefit suspension amendment in response to the final

suspension of benefit regulations issued by the Department of Labor would violate section 411(d)(6).[6]

In light of these comments and taking into account the Supreme Court's suggestion for relief in *Central Laborers'*,[7] the Treasury Department and IRS believe that it is appropriate not to require that a plan correct under Rev. Proc. 2005–23 in order to qualify for relief from disqualification under section 401(a) for a plan amendment that added or expanded a suspension of benefit provision if the amendment was adopted before the effective date of the 1988 regulations under section 411(d)(6). Providing this section 7805(b) treatment for any such amendment is appropriate because it would be difficult to determine whether a plan amendment adding or expanding a suspension of benefit payment that was adopted at that time violated section 411(d)(6). In addition, any correction made for any affected plan participant would likely be insignificant (especially in light of subsequent accruals), while creating significant administrative burdens for the plan.

Accordingly, pursuant to the Commissioner's authority under section 7805(b)(8), a plan will not fail to satisfy section 401(a) merely because the plan was amended to add or expand a suspension of benefit provision, provided that the amendment was adopted before January 1, 1989. In the case of collectively bargained plans, this relief applies to plan amendments adopted before January 1, 1991. These dates are based on the effective dates of the 1988 regulations under § 1.411(d)–4 for plans generally existing as of August 1, 1986.

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 has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because no collection of information is imposed on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply, and therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(b) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Pamela R. Kinard of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

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 continues to read in part as follows:

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

■ **Par. 2.** Section 1.411(a)–8 is amended by adding paragraph (c)(3) to read as follows:

§ 1.411(a)–8 Changes in vesting schedule.

* * * * *

(c) * * *

(3) *Relationship with section 411(d)(6).* For additional requirements relating to section 411(d)(6), see § 1.411(d)–3(a)(3).

* * * * *

■ **Par. 3.** Section 1.411(d)–3 is amended by:

■ 1. Revising the first sentence of paragraph (a)(1).

■ 2. Revising paragraphs (a)(3) and (f).

■ 3. Adding *Examples 3* and *4* to paragraph (a)(4), *Example 3* to paragraph (b)(4), and *Example 6* to paragraph (h).

■ 4. Adding paragraphs (c)(6), (j)(3), (j)(4), and (j)(5).

The revisions and additions read as follows:

§ 1.411(d)–3 Section 411(d)(6) protected benefits.

(a) *Protection of accrued benefits*—(1) *General rule.* Under section 411(d)(6)(A), a plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) if a plan amendment decreases the accrued benefit of any plan participant, except as provided in section 412(c)(8), section 4281 of the Employee Retirement Income Security Act of 1974 as amended (ERISA), or other applicable law (see, for example, sections 418D and 418E of the Internal Revenue Code, and section 1541(a)(2) of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788, 1085)). * * *

* * * * *

(3) *Application of section 411(a) nonforfeitability provisions with respect to section 411(d)(6) protected benefits*—(i) *In general.* The rules of this paragraph (a) apply to a plan amendment that decreases a participant's accrued benefits, or otherwise places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits, even if the amendment merely adds a restriction or condition that is permitted under the vesting rules in section 411(a)(3) through (11). However, such an amendment does not violate section 411(d)(6) to the extent it applies with respect to benefits that accrued prior to the applicable amendment date. See section 411(a)(10) and § 1.411(a)–8 for additional rules relating to changes in a plan's vesting schedule.

(ii) *Exception for changes in a plan's vesting computation period.* Notwithstanding paragraph (a)(3)(i) of this section, a plan amendment that satisfies the applicable requirements under 29 CFR 2530.203–2(c) (rules relating to vesting computation periods) does not fail to satisfy the requirements of section 411(d)(6) merely because the plan amendment changes the plan's vesting computation period.

(4) * * *

Example 3. (i) *Facts.* Employer N maintains Plan C, a qualified defined benefit plan under which an employee becomes a participant upon completion of 1 year of service and is vested in 100% of the employer-derived accrued benefit upon completion of 5 years of service. Plan C provides that a former employee's years of service prior to a break in service will be reinstated upon completion of 1 year of service after being rehired. Plan C has participants who have fewer than 5 years of service and who are accordingly 0% vested in their employer-derived accrued benefits. On December 31, 2007, effective January 1, 2008, Plan C is amended, in accordance with section 411(a)(6)(D), to provide that any nonvested participant who has at least 5 consecutive 1-year breaks in

[6] See 29 CFR 2530.203–3, providing rules that permit a plan to withhold permanently a plan participant's benefit payments on account of a continuation of employment or reemployment after the payments commenced. See also Notice 82–23 (1982–2 C.B. 752) (providing guidance on the need to amend and the timing for a plan to be amended to comply with the final suspension of benefit regulations).

[7] The Court stated in *Central Laborers':*

Nothing we hold today requires the IRS to revisit the tax-exempt status in past years of plans that were amended in reliance on the agency's representations in its manual by expanding the categories of work that would trigger suspension of benefit payments as to already-accrued benefits. The Internal Revenue Code gives the Commissioner discretion to decline to apply decisions of this Court retroactively * * *. This would doubtless be an appropriate occasion for exercise of that discretion.

Central Laborers', 541 U.S. at 748, n.4.

service and whose number of consecutive 1-year breaks in service exceeds his or her number of years of service before the breaks will have his or her pre-break service disregarded in determining vesting under the plan.

(ii) *Conclusion.* Under paragraph (a)(3) of this section, the plan amendment does not satisfy the requirements of this paragraph (a), and thus violates section 411(d)(6), because the amendment places greater restrictions or conditions on the rights to section 411(d)(6) protected benefits, as of January 1, 2008, for participants who have fewer than 5 years of service, by restricting the ability of those participants to receive further vesting protections on benefits accrued as of that date.

Example 4. (i) *Facts.* (A) Employer O sponsors Plan D, a qualified profit sharing plan under which each employee has a nonforfeitable right to a percentage of his or her employer-derived accrued benefit based on the following table:

Completed years of service	Nonforfeitable percentage
Fewer than 3	0
3	20
4	40
5	60
6	80
7	100

(B) In January 2006, Employer O acquires Company X, which maintains Plan E, a qualified profit sharing plan under which each employee who has completed 5 years of service has a nonforfeitable right to 100% of the employer-derived accrued benefit. In 2007, Plan E is merged into Plan D. On the effective date for the merger, Plan D is amended to provide that the vesting schedule for participants of Plan E is the 7-year graded vesting schedule of Plan D. In accordance with section 411(a)(10)(A), the plan amendment provides that any participant of Plan E who had completed 5 years of service prior to the amendment is fully vested. In addition, as required under section 411(a)(10)(B), the amendment provides that any participant in Plan E who has at least 3 years of service prior to the amendment is permitted to make an irrevocable election to have the vesting of his or her nonforfeitable right to the employer-derived accrued benefit determined under either the 5-year cliff vesting schedule or the 7-year graded vesting schedule. Participant G, who has an account balance of $10,000 on the applicable amendment date, is a participant in Plan E with 2 years of service as of the applicable amendment date. As of the date of the merger, Participant G's nonforfeitable right to G's employer-derived accrued benefit is 0% under both the 7-year graded vesting schedule of Plan D and the 5-year cliff vesting schedule of Plan E.

(ii) *Conclusion.* Under paragraph (a)(3) of this section, the plan amendment does not satisfy the requirements of this paragraph (a) and violates section 411(d)(6), because the amendment places greater restrictions or conditions on the rights to section 411(d)(6) protected benefits with respect to G and any participant who has fewer than 5 years of service and who elected (or was made subject to) the new vesting schedule. A method of avoiding a section 411(d)(6) violation with respect to account balances attributable to benefits accrued as of the applicable amendment date and earnings would be for Plan D to provide for the vested percentage of G and each other participant in Plan E to be no less than the greater of the vesting percentages under the two vesting schedules (for example, for G and each other participant in Plan E to be 20% vested upon completion of 3 years of service, 40% vested upon completion of 4 years of service, and fully vested upon completion of 5 years of service) for those account balances and earnings.

(b) * * *

(4)* * *

Example 3. (i) *Facts.* Plan C, a multiemployer defined benefit plan in which participation is limited to electricians in the construction industry, provides that a participant may elect to commence distributions only if the participant is not currently employed by a participating employer and provides that, if the participant has a specified number of years of service and attains a specified age, the distribution is without any actuarial reduction for commencement before normal retirement age. Since the plan's inception, Plan C has provided for suspension of pension benefits during periods of disqualifying employment (ERISA section 203(a)(3)(B) service). Before 2007, the plan defined disqualifying employment to include any job as an electrician in the particular industry and geographic location to which Plan C applies. This definition of disqualifying employment did not cover a job as an electrician supervisor. In 2005, Participant E, having rendered the specified number of years of service and attained the specified age to retire with a fully subsidized early retirement benefit, retires from E's job as an electrician with Employer Y and starts a position with Employer Z as an electrician supervisor. Employer Z is not a participating employer in Plan C but is an employer in the same industry and geographic location as Employer Y. When E left service with Employer Y, E's position as an electrician supervisor was not disqualifying employment for purposes of Plan C's suspension of pension benefit provision, and E elected to commence benefit payments in 2005. In 2006, effective January 1, 2007, Plan C is amended to expand the definition of disqualifying employment to include any job (including supervisory positions) as an electrician in the same industry and geographic location to which Plan C applies. The plan's definition of disqualifying employment satisfies the requirements of section 411(a)(3)(B). On January 1, 2007, E's pension benefits are suspended because of E's disqualifying employment as an electrician supervisor.

(ii) *Conclusion.* Under paragraphs (a)(3) and (b)(1) of this section, the 2007 plan amendment violates section 411(d)(6), because the amendment places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits to the extent it applies with respect to benefits that accrued before January 1, 2007. The result would be the same even if the amendment did not apply to former employees and instead applied only to participants who were actively employed at the time of the applicable amendment.

* * * * *

(c) * * *

(6) *Separate application of redundancy rules for bifurcated benefits.* If a plan permits the participant to make different distribution elections with respect to two or more separate portions of the participant's benefit, the rules of this paragraph (c) are permitted to be applied separately to each such portion of the participant's benefit as if that portion were the participant's entire benefit. Thus, for example, if one set of distribution elections applies to a portion of the participant's accrued benefit and another set of distribution elections applies to the other portion of the participant's accrued benefit, then with respect to one portion of the participant's benefit, the determination of whether any optional form of benefit is within a family of optional forms of benefit is permitted to be made disregarding elections that apply to the other portion of the participant's benefit. Similarly, if a participant can elect to receive any portion of the accrued benefit in a single sum and the remainder pursuant to a set of distribution elections, the rules of this paragraph (c) are permitted to be applied separately to the set of distribution elections that apply to the portion of the participant's accrued benefit that is not payable in a single sum (for example, for the portion of a participant's benefit that is not paid in a single sum, the determination of whether any optional form of benefit is within a family of optional forms of benefit is permitted to be made disregarding the fact that the other portion of the participant's benefit is paid in a single sum).

* * * * *

(f) *Utilization test*—(1) *General rule.* A plan is permitted to be amended to eliminate all of the optional forms of benefit that comprise a generalized optional form (as defined in paragraph (g)(8) of this section) for a participant with respect to benefits accrued before the applicable amendment date if—

(i) None of the optional forms of benefit being eliminated is a core option, within the meaning of paragraph (g)(5) of this section;

(ii) The plan amendment is not applicable with respect to an optional form of benefit with an annuity commencement date that is earlier than the number of days in the maximum

Qualified Joint and Survivor Annuity explanation period (as defined in paragraph (g)(9) of this section) after the date the amendment is adopted;

(iii) During the look-back period—

(A) The generalized optional form has been available to at least the applicable number of participants who are taken into account under paragraph (f)(3) and (4) of this section; and

(B) No participant has elected any optional form of benefit that is part of the generalized optional form with an annuity commencement date that is within the look-back period.

(2) *Look-back period*—(i) *In general.* For purposes of this paragraph (f), the look-back period is the period that includes—

(A) The portion of the plan year in which such plan amendment is adopted that precedes the date of adoption (the pre-adoption period); and

(B) The 2 plan years immediately preceding the pre-adoption period.

(ii) *Special look-back period rules*—(A) *12-month plan year.* In the look-back period, at least 1 of the plan years must be a 12-month plan year.

(B) *Permitted 3-month exclusion in the pre-adoption period.* A plan is permitted to exclude from the look-back period the calendar month in which the amendment is adopted and the preceding 1 or 2 calendar months to the extent those preceding months are contained within the pre-adoption period.

(C) *Permission to extend the look-back period.* In order to have a look-back period that satisfies the minimum applicable number of participants requirement in paragraph (f)(1)(iii)(A) of this section, the look-back period described in paragraph (f)(2)(i)(B) of this section is permitted to be expanded, so as to include the 3, 4, or 5 plan years immediately preceding the plan year in which the amendment is adopted. Thus, in determining the look-back period, a plan is permitted to substitute the 3, 4, or 5 plan years immediately preceding the pre-adoption period for the 2 plan years described in paragraph (f)(2)(i)(B) of this section. However, if a plan does not satisfy the minimum applicable number of participants requirement of paragraph (f)(1)(iii)(A) of this section using the pre-adoption period and the immediately preceding 5 plan years, the plan is not permitted to be amended in accordance with the utilization test in this paragraph (f).

(3) *Participants taken into account.* A participant is taken into account for purposes of this paragraph (f) only if the participant was eligible to elect to commence payment of an optional form of benefit that is part of the generalized optional form being eliminated with an annuity commencement date that is within the look-back period. However, a participant is not taken into account if the participant—

(i) Did not elect any optional form of benefit with an annuity commencement date that was within the look-back period;

(ii) Elected an optional form of benefit that included a single-sum distribution that applied with respect to at least 25% of the participant's accrued benefit;

(iii) Elected an optional form of benefit that was only available during a limited period of time and that contained a retirement-type subsidy where the subsidy that is part of the generalized optional form being eliminated was not extended to any optional form of benefit with the same annuity commencement date; or

(iv) Elected an optional form of benefit with an annuity commencement date that was more than 10 years before normal retirement age.

(4) *Determining the applicable number of participants.* For purposes of applying the rules in this paragraph (f), the applicable number of participants is 50 participants. However, notwithstanding paragraph (f)(3)(ii) of this section, a plan is permitted to take into account any participant who elected an optional form of benefit that included a single-sum distribution that applied with respect to at least 25% of the participant's accrued benefit, but only if the applicable number of participants is increased to 1,000 participants.

(5) *Default elections.* For purposes of this paragraph (f), an election includes the payment of an optional form of benefit that applies in the absence of an affirmative election.

* * * * *

(h) * * *

Example 6. (i) *Facts involving elimination of noncore options using utilization test*—(A) *In general.* Plan G is a calendar year defined benefit plan under which participants may elect to commence distributions after termination of employment in the following actuarially equivalent forms, with spousal consent, if applicable: a straight life annuity; a 50%, 75%, or 100% joint and contingent annuity; or a 5-year, 10-year, or a 15-year term certain and life annuity. A participant is permitted to elect a single-sum distribution if the present value of the participant's nonforfeitable accrued benefit is not greater than $5,000. The annuities offered under the plan are generally available both with and without a social security leveling feature. The social security leveling feature provides for an assumed commencement of social security benefits at any age selected by the participant between the ages of 62 and 67. Under Plan G, the normal retirement age is defined as age 65.

(B) *Utilization test.* In 2007, the plan sponsor of Plan G, after reviewing participants' benefit elections, determines that, during the period from January 1, 2005, through June 30, 2007, no participant has elected a 5-year term certain and life annuity with a social security leveling option. During that period, Plan G has made the 5-year term certain and life annuity with a social security leveling option available to 142 participants who were at least age 55 and who elected optional forms of benefit with an annuity commencement dates during that period. In addition, during that period, 20 of the 142 participants elected a single-sum distribution and there was no retirement-type subsidy available for a limited period of time. Plan G, in accordance with paragraph (f)(1) of this section, is amended on September 15, 2007, effective as of January 1, 2008, to eliminate all 5-year term certain and life annuities with a social security leveling option for all annuity commencement dates on or after January 1, 2008.

(ii) *Conclusion.* The amendment satisfies the requirements of paragraph (f) of this section. First, the 5-year term certain and life annuity with a social security leveling option is not a core option as defined in paragraph (g)(5) of this section. Second, the plan amendment is not applicable with respect to an optional form of benefit with an annuity commencement date that is earlier than the number of days in the maximum QJSA explanation period after the date the amendment is adopted. Third, the 5-year term certain and life annuity with a social security leveling option has been available to at least 50 participants who are taken into account for purposes of paragraph (f) of this section during the look-back period. Fourth, during the look-back period, no participant elected any optional form that is part of the generalized optional form being eliminated (for example, the 5-year term and life annuity with a social security leveling option).

* * * * *

(j) * * *

(3) *Effective dates for rules relating to section 411(a) nonforfeitability provisions*—(i) *Application of suspension of benefit rules to section 411(d)(6) protected benefits.* With respect to a plan amendment that places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits by adding or modifying a plan provision relating to suspension of benefit payments during a period of employment or reemployment, the rules provided in paragraph (a)(3) of this section apply to periods beginning on or after June 7, 2004.

(ii) *Application of section 411(a) nonforfeitability provisions to section 411(d)(6) protected benefits.* With respect to a plan amendment that places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits other than a plan amendment described in paragraph (j)(3)(i) of this section, the rules

provided in paragraph (a)(3) of this section apply to plan amendments adopted after August 9, 2006.

(4) *Effective date for change to redundancy rule regarding bifurcation of benefits.* The rules provided in paragraph (c)(6) of this section are applicable for amendments adopted after August 9, 2006.

(5) *Effective date for rules relating to utilization test.* The rules provided in paragraph (f) of this section are applicable for amendments adopted after December 31, 2006.

* * * * *

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: July 31, 2006.

Eric Solomon,

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

[FR Doc. E6–12885 Filed 8–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–06–105]

Drawbridge Operation Regulations; Jamaica Bay and Connecting Waterways, Queens, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Marine Parkway Bridge across Jamaica Bay at mile 3.0, at Queens, New York. Under this temporary deviation, the Marine Parkway Bridge need not open for the passage of vessel traffic between 7 a.m. and 3 p.m. on August 28, 2006 and August 29, 2006. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from August 28, 2006 through August 29, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York, 10004, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Marine Parkway Bridge, across Jamaica Bay at mile 3.0, at Queens, New York, has a vertical clearance in the closed position of 55 feet at mean high water and 59 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.795(a).

The owner of the bridge, MTA Bridges and Tunnels, requested a temporary deviation to facilitate bridge inspection operations. The bridge will not be able to open while the bridge inspection operation is underway.

Under this temporary deviation, the Marine Parkway Bridge across Jamaica Bay at mile 3.0 need not open for the passage of vessel traffic between 7 a.m. and 3 p.m. on August 28, 2006 and August 29, 2006.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 1, 2006.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E6–12983 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–06–099]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, Jones Beach, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Loop Parkway Bridge across Long Creek at mile 0.7, at Jones Beach, New York. Under this temporary deviation, the Loop Parkway Bridge need not open for the passage of vessel traffic from 8:30 a.m. through 11:30 a.m. and 1:30 p.m. through 4:30 p.m., daily, from September 6, 2006 through October 26, 2006. A single bridge opening for all inbound commercial fishing vessels shall be provided, if a request to open the bridge is given, during the 1:30 p.m. to 4:30 p.m. bridge closure period. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from September 6, 2006 through October 26, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York 10004, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Loop Parkway Bridge, across Long Creek at mile 0.7, at Jones Beach, New York, has a vertical clearance in the closed position of 21 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(f).

The owner of the bridge, New York State Department of Transportation, requested a temporary deviation to facilitate bridge painting operations. The bridge will not be able to open while the bridge painting operation is underway.

Under this temporary deviation, the Loop Parkway Bridge across Long Creek at mile 0.7, need not open for the passage of vessel traffic from 8:30 a.m. through 11:30 a.m. and from 1:30 p.m. through 4:30 p.m., daily, from September 6, 2006 through October 26, 2006. All inbound commercial fishing vessels shall be provided a single bridge opening during the 1:30 p.m. through 4:30 p.m. bridge closure period each day provided a bridge opening request is

given by calling the number posted at the bridge.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 26, 2006.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E6–12985 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–06–089]

Drawbridge Operation Regulations; Hackensack River, Snake Hill, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the AMTRAK Portal Bridge, across the Hackensack River at mile 5.0, at Snake Hill, New Jersey. This deviation allows the bridge to remain in the closed position from 11 p.m. on Friday, July 28, 2006 through 11 a.m. on Tuesday, August 1, 2006, and from 11 p.m. on Friday, August 4, 2006 through 11 a.m. on Tuesday, August 8, 2006. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from July 28, 2006 through August 8, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York, 10004, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Joe Arca, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The AMTRAK Portal Bridge, across the Hackensack River at mile 5.0, at Snake Hill, New Jersey, has a vertical clearance in the closed position of 23 feet at mean high water and 28 feet at mean low water. The existing regulation is listed at 33 CFR 117.723(c).

The owner of the bridge, National Railroad Passenger Corporation (AMTRAK), requested a temporary deviation to facilitate scheduled structural and electrical bridge repairs. In order to perform the above repairs the bridge must remain in the closed position.

Under this temporary deviation the AMTRAK Portal Bridge across the Hackensack River at mile 5.0, at Snake Hill, New Jersey, shall remain in the closed position from 11 p.m. on Friday, July 28, 2006 through 11 a.m. on Tuesday, August 1, 2006, and from 11 p.m. on Friday, August 4, 2006 through 11 a.m. on Tuesday, August 8, 2006.

Vessels that can pass under the draw without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 21, 2006.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E6–12978 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–019]

RIN 1625–AA87

Security Zone, Mackinac Bridge and Straits of Mackinac, Mackinaw City, MI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent security zone approximately one quarter mile on each side of the Mackinac Bridge in the Straits of Mackinac near Mackinaw City, MI. This security zone will place navigational and operational restrictions on all vessels transiting through the Straits area, under and around the Mackinac Bridge, located between Mackinaw City, MI, and St. Ignace, MI.

DATES: This rule is effective August 31, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–06–019 and are available for inspection or copying at Sector Sault Ste. Marie between 8 a.m. (local) and 4 p.m. (local), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have further questions on this rule, contact CDR R. Stephenson, Prevention Department Chief, Sector Sault Ste. Marie, MI at 906–635–3220.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 24, 2006, we published a notice of proposed rulemaking (NPRM) entitled Security Zone, Mackinac Bridge and Straits of Mackinac, Mackinaw City, MI in the **Federal Register** (71 FR 29873). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. Under 5. U.S.C. 553(d)(3) the Coast Guard finds good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Specifically, delaying this rule would be contrary to the public interest of ensuring the safety of pedestrians in the event of an accidental or intentional bridge allision by a vessel.

Background and Purpose

The Mackinac Bridge Walk is held on Labor Day of each year. At this annual event participants are permitted to walk the five mile distance of the Mackinac Bridge from St. Ignace, MI. to Mackinaw City, MI. The purpose of this security zone is to protect pedestrians during the event from accidental or intentional vessel to bridge allision.

Because this is an annual event, the Coast Guard is enacting a permanent security zone that will be in effect Labor Day of each year.

Discussion of Comments and Changes

No comments were received by the Coast Guard as a result of the request for comments in our NPRM. Therefore, we made no changes from the proposed rule.

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. It has not been reviewed by the Office of Management and Budget under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

Small Entities

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

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

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels which may be intending to transit or anchor in a portion of the Straits of Mackinac on Labor Day between 6 a.m. (local) and 11:59 p.m. (midnight) (local).

This rule will not have a significant impact on a substantial number of small entities because the restrictions affect only a limited area for a brief amount of time in a limited area. Further, transit through the zone may be permitted with proper authorization from the Captain of the Port or his designated representative. Additionally, the opportunity to engage in activities outside the limits of the safety zone will not be disrupted.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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 does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically

excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This temporary rule establishes a security zone and as such is covered by this paragraph.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.** Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.928 to read as follows:

§ 165.928 Security Zone; Mackinac Bridge, Straits of Mackinac, Michigan.

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

(1) *Designated Representative* means those persons designated by the Captain of the Port to monitor these security zones, permit entry into these zones, give legally enforceable orders to persons or vessels within these zones and take other actions authorized by the Captain of the Port. Persons authorized in paragraph (e) to enforce this section and Vessel Traffic Service St. Marys River (VTS) are Designated Representatives.

(2) *Federal Law Enforcement Officer* means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(3) *Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.

(4) *Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(5) *Michigan Law Enforcement Officer* means any regularly employed member of a Michigan police force responsible for the prevention and detection of crime and the enforcement of the general criminal laws of Michigan as defined in Michigan Compiled Laws section 28.602(l)(i).

(b) *Security zone.* The following area is a security zone: All waters enclosed by a line connecting the following points: 45°50.763 N: 084°43.731 W, which is the northwest corner; thence east to 45°50.705 N: 084°43.04 W, which is the northeast corner; thence south to 45°47.242 N: 084°43.634 W, which is the southeast corner; thence west to 45°47.30 N: 084°44.320 W, which is the southwest corner; then north to the point of origin. The zone described above includes all waters on either side of the Mackinac Bridge within one-quarter mile of the bridge. [Datum: NAD 1983].

(c) *Obtaining permission to enter or move within, the security zone:* All vessels must obtain permission from the COTP or a Designated Representative to enter or move within, the security zone established in this section. Vessels with an operable Automatic Identification System (AIS) unit should seek permission from the COTP or a Designated Representative at least 1 hour in advance. Vessels with an operable AIS unit may contact VTS St. Marys River (Soo Traffic) on VHF channel 12. Vessels without an operable AIS unit should seek permission at least 30 minutes in advance. Vessels without an operable AIS unit may contact Coast Guard Station St. Ignace on VHF channel 16.

(d) *Regulations.* The general regulations in 33 CFR part 165 subpart D, apply to any vessel or person in the navigable waters of the United States to which this section applies. No person or vessel may enter the security zone established in this section unless authorized by the Captain of the Port or his designated representatives. Vessels and persons granted permission to enter the security zone shall obey all lawful orders or directions of the Captain of the Port or his designated representatives. All vessels entering or moving within the security zone must operate at speeds which are necessary to maintain a safe course and which will not exceed 12 knots.

(e) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. In the navigable waters of the United States to which this section applies, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to provide effective enforcement of this section, any Federal Law Enforcement Officer or Michigan Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR 6.04–11. In addition, the Captain of the Port may be assisted by other Federal, state or local agencies in enforcing this section pursuant to 33 CFR 6.04–11.

(f) *Exemption.* Public vessels as defined in paragraph (a) of this section are exempt from the requirements in this section.

(g) *Waiver.* For any vessel, the Captain of the Port Sault Ste. Marie may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

(h) *Enforcement period.* This rule will be enforced Labor Day of each year; 6 a.m. (local) to 11:59 p.m. (midnight) (local).

Dated: July 28, 2006.

E.Q. Kahler,

Captain, U.S. Coast Guard, Captain of the Port, Sault Ste. Marie.

[FR Doc. E6–12947 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–113]

RIN 1625–AA00

Safety Zone; Pirate Days, Heart Island, Alexandria Bay, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing a portion of the navigable waters of the St. Lawrence River in New York. 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.

DATES: This rule is effective from 9 p.m. (local) until 10 p.m. (local) on August 16, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–06–113 and are available for inspection or copying at: U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203, between 8 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date.

Under 5 U.S.C. 533(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event, and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on 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 800 foot radius of the fireworks barge moored/anchored in approximate position 44°20′43″ N, 075°55′18″ 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.

The Coast Guard believes this regulation will not pose any new problems for commercial vessels transiting the area. In the unlikely event that shipping is affected by this regulation, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone. The zone is in areas where the Coast Guard expects insignificant adverse impact to mariners from its activation.

Small Entities

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

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

This rule will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of the safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect from 9 p.m. (local) until 10 p.m. (local) on the day of the event. Vessel traffic can safely pass outside the safety zone during the event. In cases where traffic congestion is greater than expected and/or blocks shipping channels, traffic may be allowed to pass through the safety zone under Coast Guard or assisting agency escort with the permission of the Captain of the Port Buffalo. Additionally, the Coast Guard has not received any negative reports from small entities affected during these displays in previous years.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will 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 will 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 will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Sector Buffalo (see **ADDRESSES**.)

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under 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 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

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.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

Indian Tribal Governments

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

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–113 is added to read as follows:

§ 165.T09–113 Safety Zone; Alexandria Bay, NY.

(a) *Location.* The following area is a temporary safety zone: all waters of the St. Lawrence River within 800 foot radius of the fireworks barge moored/anchored in approximate position 44°20′43″ N, 075°55′18″ W (NAD 83).

(b) *Effective time and date.* This section is effective from 9 p.m. (local) until 10 p.m. (local) on August 16, 2006.

(c) *Regulations.*

(1) 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.

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

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

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

Dated: July 6, 2006.

S.J. Ferguson,

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

[FR Doc. E6–12938 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–115]

RIN 1625–AA00

Safety Zone; Labor Day Celebration Fireworks, Baldwinsville, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of the Seneca River, New York. 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 Seneca River.

DATES: This rule is effective from 9 p.m. (local) until 10 p.m. (local) on September 2, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–06–115 and are available for inspection or copying at: U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date.

Under 5 U.S.C. 533(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event, and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on 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 Seneca River within 800 foot radius of the fireworks barge moored/anchored in approximate position 43°09′30″ N, 076°20′24″ W. All geographic coordinates are North American Datum of 1983 (NAD 83). The size of this proposed zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

The Coast Guard believes this regulation will not pose any new problems for commercial vessels transiting the area. In the unlikely event that shipping is affected by this proposed regulation, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone. The zone is in areas where the Coast Guard expects insignificant adverse impact to mariners from its activation.

Small Entities

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

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

This rule will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of the safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect from 9 p.m. (local) until 10 p.m. (local) on the day of the event. Vessel traffic can safely pass outside the proposed safety zone during the event. In cases where traffic congestion is greater than expected and/or blocks shipping channels, traffic may be allowed to pass through the safety zone under Coast Guard or assisting agency escort with the permission of the Captain of the Port Buffalo. Additionally, the Coast Guard has not received any negative reports from small entities affected during these displays in previous years.

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 affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Sector Buffalo (see **ADDRESSES**.)

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

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from

Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

Indian Tribal Governments

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

Energy Effects

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

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.T09–115 is added to read as follows:

§ 165.T09–115 Safety Zone; NY.

(a) *Location.* The following area is a temporary safety zone: all waters of the Seneca River within 800 foot radius of the fireworks barge moored/anchored in approximate position 43°09′30″ N, 076°20′23″ W (NAD 83).

(b) *Effective time and date.* This section is effective from 9 p.m. (local) until 10 p.m. (local) on September 2, 2006.

(c) *Regulations.*

(1) 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.

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

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

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

Dated: July 6, 2006.

S.J. Ferguson,

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

[FR Doc. E6–12939 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–114]

RIN 1625–AA00

Safety Zone; Cleveland National Air Show, Lake Erie, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Erie. This zone is intended to restrict vessels from a portion of Lake Erie and Cleveland Harbor during the Cleveland National Air Show from August 31, 2006 to September 4, 2006. This safety zone is necessary to protect persons and vessels from the potential safety hazards associated with high speed, low altitude acrobatic and military aircraft.

DATES: This rule is effective from 10 a.m. on August 31, 2006 through 6 p.m. on September 4, 2006. The rule will be enforced from 10 a.m. to 6 p.m. on August 31, 2006; from 10 a.m. to 6 p.m. on September 1, 2006; from 10 a.m. to 6 p.m. on September 2, 2006; from 10 a.m. to 6 p.m. on September 3, 2006; and from 10 a.m. to 6 p.m. on September 4, 2006. All times are local.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD09–06–114 and are available for inspection or copying at MSU Cleveland, 1055 East 9th Street, Cleveland, OH 44114 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Nicole Starr, U.S. Coast Guard Marine Safety Unit Cleveland, at (216) 937–0128.

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

Background and Purpose

This safety zone is necessary to protect persons and vessels from the potential safety hazards associated with high speed, low altitude acrobatic and military aircraft.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone for the Cleveland National Air Show. The zone covers the waters of Lake Erie and Cleveland Harbor (near Burke Lakefront Airport) from position 41°30.34′ N 081°42.33′ W to 41°30.84′ N 081°42.82′ W then to 41° 32.15′ N 081°39.82′ W then to 41°31.88′ N 081°39.40′ W then east to 41°31.71′N 081°39.76′ W. The event sponsor will establish marker buoys to outline the safety zone at regular intervals to assist vessels in recognizing this area as a safety zone during the times of enforcement. These coordinates are based upon North American Datum 1983 (NAD 83).

The Coast Guard will notify the public in advance by way of Ninth Coast Guard District Local Notice to Mariners, Marine Information Broadcasts, and for those who request it from Marine Safety Unit Cleveland, by facsimile.

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 this rule under that Order.

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

This determination is based on the size and location of the safety zone within the water. Commercial vessels will not be hindered by the safety zone, as all commercial traffic will be diverted through the Lake Approach Channel. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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. 05(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of commercial vessels intending to transit a portion of the safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the zone is only in effect for the Labor Day Weekend, a holiday known to have minimal commercial traffic in the area of the safety zone. Before the activation of the safety zone, the Coast Guard will issue maritime advisories available to users who may be impacted through notification in the **Federal Register**, the Ninth District Coast Guard Local Notice to Mariners, Marine Information Broadcasts and when requested by facsimile.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Nicole Starr, U.S. Coast Guard Marine Safety Unit Cleveland, 1055 East 9th Street, Cleveland, OH 44114.

The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial 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

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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. Because this event establishes a safety zone, paragraph (34)(g) of the Instruction applies.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–114 is added to read as follows:

§ 165.T09–114 Safety Zone; Cleveland National Air Show, Lake Erie, OH.

(a) *Location.* The following is a safety zone: All waters of Lake Erie and Cleveland Harbor (near Burke Lakefront Airport) from position 41°30.34′ N 081°42.33′ W to 41°30.84′ N 081°42.82′ W then to 41°32.15′ N 081°39.82′ W then to 41°31.88′ N 081°39.40′ W then east to 41°31.71′ N 081°39.76′ W. These coordinates are based upon North American Datum 1983 (NAD 83). The event sponsor will establish marker buoys to outline the safety zone at regular intervals to assist vessels in recognizing this area as a safety zone during the times of enforcement.

(b) *Effective Period.* The safety zone in paragraph (a) of this section is effective from 10 a.m. on August 31, 2006 through 6 p.m. on September 4, 2006. The rule will be enforced from 10 a.m. to 6 p.m. on August 31, 2006; from 10 a.m. to 6 p.m. on September 1, 2006; from 10 a.m. to 6 p.m. on September 2, 2006; from 10 a.m. to 6 p.m. on September 3, 2006; and from 10 a.m. to 6 p.m. on September 4, 2006. All times are local.

(c) *Regulations.* Entry into, transit through, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The designated on-scene representative will be the Coast Guard Patrol Commander. The Coast Guard Patrol Commander may be contacted via VHF Channel 16.

Dated: July 6, 2006.

S.J. Ferguson,

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

[FR Doc. E6–12937 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0529; FRL–8083–8]

Lepidopteran Pheromones; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends the existing exemption from the requirement of a tolerance for residues of the biochemicals classified as lepidopteran pheromones, which are naturally occurring compounds, or identical or substantially similar synthetic compounds to include use as a ''post-harvest treatment'' on all stored food commodities. Bedoukian Research, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of biochemicals classified as lepidopteran pheromones.

DATES: This regulation is effective August 9, 2006. Objections and requests for hearings must be received on or before October 10, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0529. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–

4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Andrew Bryceland, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6928; e-mail address: *bryceland.andrew@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0529 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 10, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0529, by one of the following methods.

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

II. Background and Statutory Findings

In the **Federal Register** of April 12, 2006 (71 FR 18735–18736) (FRL–7773–8), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 6F7044) by Bedoukian Research, Inc., 21 Finance Drive, Danbury, CT 06810–4192. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of biochemicals classified as lepidopteran pheromones, which are naturally occurring compounds, or identical or substantially similar synthetic compounds, designated by an unbranched aliphatic chain (between 9 and 18 carbons) ending in an alcohol, aldehyde, or acetate functional group and containing up to 3 double bonds in the aliphatic backbone. This notice included a summary of the petition prepared by the petitioner Bedoukian Research, Inc.. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.... '' Additionally, section 408(b)(2)(D) of the FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues '' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity,

completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A pheromone (including identical or substantially similar synthetic compounds) as defined by the Agency is a compound produced by an arthropod which, alone or in combination with other compounds, modifies the behavior of other individuals of the same species. Straight Chain Lepidopteran Pheromones (SCLPs) are those produced by a member of the order *Lepidoptera*, which includes butterflies and moths.

The toxicity profile of SCLPs has already been assessed for their pesticidal use by the Agency and published in support of the tolerance exemption in or on all raw agricultural commodities for all straight chain lepidopteran pheromones (SCLPs) that are naturally occurring compounds, or identical or substantially similar synthetic compounds, designated by an unbranched aliphatic chain (between 9 and 18 carbons) ending in an alcohol, aldehyde or acetate functional group and containing up to 3 double bonds in the aliphatic backbone, when the pheromone is applied to growing crops at a rate not to exceed 150 grams active ingredient/acre/year in accordance with good agricultural practices. (See § 180.1153, 60 FR 45060, August 30, 1995). This final rule is amending the current Lepidopteran pheromone tolerance exemption, 40 CFR 180.1153, to include indoor post-harvest treatment in or on all stored food commodities at a rate not to exceed 3.5 grams active ingredient/1,000 square feet/year (3.5 g a.i./1,000/ft^2/year) (equivalent to 150 grams active ingredient/acre/year) in accordance with good agricultural practices. The toxicity profile and use pattern of SCLPs, as mentioned above, have been fully characterized by the Agency. SCLPs are lowly toxic, are released in very small quantities in the environment, and act on a select group of insects. They are biodegradable by enzyme systems present in most living organisms and therefore, there is a reasonable certainty that no harm will result from their use as pesticides on food. For the purposes of this tolerance exemption amendment, the Agency has relied on the data and/or information previously submitted, in addition to comprehensive reviews and risk assessments already conducted by the Agency, and has reassessed that data in order to evaluate the request to add post harvest uses to the tolerance exemption. The Agency believes that in combination, the data and other information relied upon for this tolerance exemption supports its conclusion that there is reasonable certainty of no harm from the use of SCLPs as a post-harvest treatment in or on all stored food commodities at a rate not to exceed 3.5 grams active ingredient (a.i.)/1,000 ft^2/year (equivalent of 150 grams a.i./acre/year in accordance with good agricultural practices.

The registrant did not submit any toxicity data testing the technical grade of the active ingredient. Data waivers were requested by the registrant and granted by the Agency based on the body of extensive knowledge from the public literature and comprehensive reviews and risk assessments conducted by the Agency on SCLPs. The toxicity of the SCLPs via the oral, dermal, inhalation, eye, skin, and genotoxicity routes of exposure have been assessed by the Agency (Refs. 1 and 5) and reassessed in light of the request to add indoor post harvest treatment. The toxicity profile of SCLPs when used as a post-harvest treatment in or on all stored food commodities does not change, and SCLPs when used in this manner are lowly toxic. EPA therefore concludes that there is a reasonable certainty of no harm resulting from the use of SCLPs as indoor post-harvest treatment in or on all stored food commodities. The data waivers that were granted are as follows:

1. *OPPTS 870.1100 Acute oral toxicity (rat) (Ref 2)—LD50 > 5,000 milligrams/kilogram (mg/kg).* The test material is classified as a Toxicity Category IV for acute oral toxicity and demonstrates that there is little potential of the active ingredient to cause acute toxic effects. There were no adverse effects reported at 5,000 mg/kg.

2. *OPPTS 870.1200 Acute dermal toxicity (rat) (Ref 2)—LD50 > 2,000 mg/kg.* The test material is classified as a Toxicity Category III for acute dermal toxicity and demonstrates that there is little potential for toxic effects. There were no adverse effects reported at 2,000 mg/kg.

3. *OPPTS 870.5100, 870.5300, and 870.5375 Genotoxicity (Ref. 2).* No evidence of mutageniticity.

4. *OPPTS 870.3700 Teratogenicity (Ref. 7).* A developmental toxicity study (rats), involving inhalation exposure to unbranched, primary alcohols with chain length C_8 to C_{10}, indicated no detectable developmental toxicity (Ref. 7).

Published mammalian toxicity data on SCLPs indicate no significant acute toxicity to humans (Ref. 6). A 90–day feeding study (870.3100) (rats) was conducted at doses up to 1 g/kg, of a commercial blend of branched acetates with an aliphatic chain length between C_{10} to C_{14}. The results indicated no significant signs of toxicity other than those expected with longer term exposure to high doses of a hydrocarbon, namely, histopathologic evidence of nephropathy in males and increased liver and kidney weights in both sexes (Ref. 8).

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

The Agency calculated an estimate of total dietary exposure, for adults and children, to pheromones used in agricultural and food commodity storage areas. This estimate was calculated assuming an application rate of 3.5 g a.i./1,000 ft^2/year (the maximum application rate for SCLPs), assuming 100% of commodities (fruits, vegetables, and grains) are treated, and assuming that stored commodities absorb 100% of the pheromone and that 100% of the population eats all three commodity types each day. This scenario produces a dietary exposure of 0.1 to 1 mg/kg/day. This calculation demonstrates that there is an unlikely potential for significant dietary exposure to SCLPs. As a result of the risk assessment the Agency concludes that the use of SCLPs as a indoor post-harvest treatment in or on all stored food commodities at the maximum use rate of 3.5 g a.i./1,000 ft^2/year will not add any new exposures or risks and is considered safe.

1. *Food.* The Agency has determined that post harvest treatment of SCLPs to stored food commodities at the maximum application rate of 3.5 g a.i./1,000 ft^2/year may reduce any new anticipated exposure of SCLPs due to their indoor use. However, even if dietary exposure to SCLPs are not reduced due to their use as pesticides, the acute toxicity information demonstrating relatively low mammalian toxicity (Refs 1, 2, 5, 6, 7, and 8) and biodegradability of SCLPs (Refs 1 and 5) indicate that any possible risk associated with acute exposures by the oral route would be low to non-existent.

2. *Drinking water exposure*. No significant drinking water exposure is expected to result from the use of SCLPs when applied as a post-harvest treatment in or on all stored food commodities because they are applied in storage facilities, biodegradable, and are lowly toxic.

B. Other Non-Occupational Exposure

There are no residential, school or day care uses proposed for this product. Since this use pattern is for agricultural food crops and indoor post-harvest treatment in or on all stored food commodities, the potential for non-occupational, non-dietary exposures to SCLPs by the general population, including infants and children, is highly unlikely.

1. *Dermal exposure*. Non-occupational dermal exposures to SCLP when used as a post-harvest treatment to stored food commodities are expected to be negligible because it is limited to agricultural use.

2. *Inhalation exposure*. Non-occupational inhalation exposures to SCLPs silicate when used as a post-harvest treatment to stored food commodities are expected to be negligible because they are limited to agricultural use.

V. Cumulative Effects

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider available information concerning the cumulative effects of a particular pesticide's residues and other substances that have a common mechanism of toxicity. The information available at this time indicates that SCLPs, when applied at a rate not greater than 3.5 g a.i./1,000 ft^2/year, do not have a toxic effect. Therefore accumulative effects form residues of SCLPs are not anticipated.

VI. Determination of Safety for U.S. Population, Infants and Children

1. *U.S. population*. The Agency has determined that there is a reasonable certainty that no harm will result to the U.S. population from aggregate exposure to residues of SCLPs when used for post harvest treatment in or on all stored food commodities at a rate not to exceed 3.5 g a.i./1,000 ft^2/year. This includes all anticipated dietary exposures and other non-occupational exposures for which there is reliable information. The Agency arrived at this conclusion based on the low acute and subchronic toxicity of these pheromones, the metabolic pathways for long-chain fatty acids derived from straight chain alcohols, aldehydes and acetates are well understood, the low exposure to these pheromones subsequent to application from aging, volatilization, and the new use will be indoors, found that there is a reasonable certainty of no harm that will result form the use of SCLP and as a post-harvest treatment in or on all stored food commodities.

2. *Infants and children*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure for infants and children in the case of threshold effects. Margins of exposure are often referred to as uncertainty or safety factors, and are used to account for potential prenatal and postnatal toxicity and any lack of completeness of the data base. Based on available data and other information, EPA may determine that a different margin of exposure will define a level of concern for infants and children or that a margin of exposure approach is not appropriate. Based on all the available information the Agency reviewed on SCLPs, including a lack of threshold effects, the Agency concluded that SCLPs are practically non-toxic to mammals, including infants and children. Since there are no effects of concern, the provision requiring an additional margin of safety does not apply

VII. Other Considerations

A. Endocrine Disruptors

EPA is required under section 408(p) of FFDCA, as amended by FQPA, to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or other such endocrine effects as the Administrator may designate.'' Following the recommendations of its Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), EPA determined that there were scientific bases for including, as part of the program, the androgen and thyroid hormone systems, in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the Program include evaluations of potential effects in wildlife. For pesticide chemicals, EPA will use Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and, to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA has authority to require the wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP).

At this time, the Agency is not requiring information on the endocrine effects of SCLPs. Based on the weight of the evidence of the available data and the absence of any reports to the Agency of sensitivity or other adverse effects, no endocrine system related effects are identified for SCLPs and none are expected because of their use. To date there is no evidence that SCLPs affect the immune system, functions in a manner similar to any known hormones, or that they act as endocrine disruptors. Thus, there is no impact via endocrine-related effects on the Agency's safety finding set forth in this final rule amending the SCLPs exemption from the requirement of a tolerance.

B. Analytical Method(s)

An enforcement analytical method (OPPTS Harmonized Guideline 830.1800) was provided by the petitioner. The method is gas chromatography with flame ionization detection. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Sciece Center, 701 Mapes Rd., Ft. Mead, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: *residuemethods@epa.gov*.

C. Codex Maximum Residue Level

There are no CODEX maximum residue levels for residues for any SCLPs for indoor post-harvest treatment in or on all stored food commodities.

VIII. Conclusions

The Agency concludes that if products containing SCLPs as active ingredients are applied for post harvest treatment in or on all stored food commodities at a rate not to exceed 3.5 g a.i./1,000 ft^2/year, there is a reasonable certainty that no harm to the U.S. population, including infants and children, will result from aggregate exposure to residue of SCLPs, when used in or on all stored food commodities.

IX. References

1. Toughey, J.G. (ca 1990). ''White Paper - A review of the current bases for the United States Environmental Protection Agency's policies for the regulation of pheromones and other semiochemicals, together with the review of the available relevant data which may impact the assessment of risk for these classes of chemicals. Part No.1, Straight Chain Alcohols, Acetate Esters, and Aldehydes.'' (unpublished report, 474 pp.)

2. **Federal Register**. 59 FR 3687–3684, Jan. 26, 1994. EPA Notice: Arthropod pheromones in solid matrix dispensers; Experimental Use Permits.

3. **Federal Register**. 59 FR 34812–34814, Jul. 7, 1994. EPA Notice: Arthropod pheromones; Experimental Use Permits.

4. **Federal Register**. 60 FR 45060–45062, Aug. 30,1995. EPA Rule: Lepidopteran pheromones; Tolerance Exemption.

5. EPA Final Rule: Lepidopteran Pheromones: Tolerance Exemption.Environmental Directorate, 26 February, 2002, OECD Series on Pesticides No. 12. Guidance for Registration Requirements for Pheromones and Other Semiochemicals Used for Arthropod Pest Control. ENV/JM/MONO(2001)12, Organization of Economic Co-operation and Development. Paris, France. (*http://www.epa.gov/pesticides/biopesticides/regtools/index.htm*).

6. Inscoe & Ridgway. 1992.

7. Nelson et al. 1990.

8. Daughtrey et al. 1990.

IX. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low–Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption from the requirement of a tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule

X. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: July 26, 2006.

Phil Hutton,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.1153 is revised to read as follows:

§ 180.1153 Lepidopteran pheromones; exemption from the requirement of a tolerance.

Lepidopteran pheromones that are naturally occurring compounds, or identical or substantially similar synthetic compounds, designated by an unbranched aliphatic chain (between 9 and 18 carbons) ending in an alcohol, aldehyde or acetate functional group and containing up to 3 double bonds in the aliphatic backbone, are exempt from the requirement of a tolerance in or on

all raw agricultural commodities. This exemption only pertains to those situations when the pheromone is: Applied to growing crops at a rate not to exceed 150 grams active ingredient/acre/year in accordance with good agricultural practices; and applied as a post-harvest treatment to stored food commodities at a rate not to exceed 3.5 grams active ingredient/1,000 ft^2/year (equivalent to 150 grams active ingredient/acre/year) in accordance with good agricultural practices.

[FR Doc. E6–12971 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0123; FRL–8077–6]

Inorganic Bromide; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking twelve specific inorganic bromide tolerances because they are no longer needed. These twelve tolerances are for residues of inorganic bromide from pre-plant (non-food) use in or on raw agricultural commodities grown in soil fumigated with combinations of chloropicrin, methyl bromide, and propargyl bromide. Although methyl bromide is used as an agricultural pesticide, the Agency considers its application as a soil fumigant to be a non-food use because it is quickly degraded or metabolized in the soil, and subsequently incorporated into natural plant constituents. Methyl bromide is also emitted to the atmosphere. Residues of the parent compound are not likely to be found in foods as a result of prior treatment of fields. While residues of inorganic bromide may be present, these residues are indistinguishable from background because of inorganic bromide's ubiquity in the environment. Consequently, EPA is revoking them because no tolerances are needed for those non-food uses. Furthermore, since methyl bromide, when applied as a pre-plant soil fumigant is a non-food use, the Agency is adding it as an entry to 40 CFR 180.2020 noting the non-food use determination.

DATES: This regulation is effective August 9, 2006. Objections and requests for hearings must be received on or before October 10, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0123. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Steven Weiss, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8293; e-mail address: *weiss.steven@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 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0123 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 10, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2005–0123, by one of the following methods.

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of May 31, 2006 (71 FR 30845) (FRL–8061–7), EPA issued a proposed rule to revoke twelve specific tolerances for residues of inorganic bromide. The proposal provided a 60–day comment period.

In response to the proposal published in the **Federal Register** of May 31, 2006 (71 FR 30845), EPA received no comments during the 60–day public comment period.

These twelve tolerances are for residues of inorganic bromide from pre-plant use in or on raw agricultural commodities grown in soil fumigated with combinations of chloropicrin, methyl bromide, and propargyl bromide. There are no active registrations for the use of propargyl bromide. Although methyl bromide is used as an agricultural pesticide, the Agency considers its application as a soil fumigant to be a non-food use because it is quickly degraded or metabolized in the soil, and subsequently incorporated into natural plant constituents. Residues of the parent compound are not likely to be found in foods as a result of prior soil fumigation treatment of fields and are indistinguishable from background because of inorganic bromide's ubiquity in the environment. Accordingly, because the tolerances are no longer needed, EPA is revoking the tolerances in 40 CFR 180.199(a) for residues of inorganic bromides in or on broccoli, cauliflower, eggplants, muskmelons, peppers, pineapples, strawberries, and tomatoes; in 40 CFR 180.199(b) in or on asparagus, lettuce, and onions (dry bulb); and in 40 CFR 180.199(c) in or on ginger, roots.

Furthermore, because methyl bromide application as a pre-plant soil fumigant is a non-food use, EPA is adding methyl bromide as an entry to 40 CFR 180.2020 noting the non-food use determination for all pre-plant soil uses.

Currently, there are CODEX Maximum Residue Limits (MRLs) for bromide ion on broccoli, head lettuce, sweet peppers, strawberry, and tomato. However, as noted above, residues of bromide ion may be expected to occur in both domestic and imported foods as a result of inorganic bromide's ubiquity in the environment and residue levels resulting from use of methyl bromide are expected to be indistinguishable from those background, or naturally occurring levels. Thus, no international trade issues due to absence bromide ion tolerances in the U.S. are expected as a result of this final action.

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

As a general matter, EPA believes that retention of tolerances not needed to cover any residues on food may result in unnecessary restriction on trade of pesticides and foods. In an assessment of aggregate exposure to a pesticide, EPA must consider potential contributions to such exposure from all tolerances. If the aggregate risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate assessment, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency believes it is appropriate to revoke tolerances that are no longer needed.

C. When Do These Actions Become Effective?

These actions become effective on the date of publication of this final rule in the **Federal Register** because application of pre-plant uses in or on raw agricultural commodities grown in soil fumigated with combinations of chloropicrin, methyl bromide, and propargyl bromide have been determined by EPA to be a non-food use and no tolerances are needed for those non-food uses.

D. What is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 3, 2006 to reassess the tolerances in existence on August 2, 1996. As of July 31, 2006, EPA has reassessed over 9,700 tolerances. This document revokes a total of 12 tolerances which have been previously considered to be reassessed and counted toward the August, 2006 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

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

No. As stated previously there are no international trade issues raised by this final action. EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at *http://www.epa.gov.* On the Home Page select ''Laws and Regulations,'' then select ''Regulations and Proposed Rules'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr.*

IV. Statutory and Executive Order Reviews

In this final rule, EPA revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any

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

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 2, 2006.

James Jones,

Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

§ 180.199 [Removed]

■ 2. Section 180.199 is removed.

■ 3. Section 180.2020 is amended by adding alphabetically the following entry to the table to read as follows:

§ 180.2020 Non-food determinations.

* * * * *

Pesticide Chemical	CAS Reg.No.	Limits	Uses
Methyl Bromide	74–83–9	When applied as a pre-plant soil fumigant	All pre-plant soil uses
	* * *	* *	

[FR Doc. E6–12964 Filed 8–8–06; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0582; FRL–8082–1]

Isophorone; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends existing exemption from the requirement of a tolerance for residues of isophorone (CAS Reg. No. 78–59–1) to limit the use to beets, ginseng, rice, spinach, sugar beets, and Swiss chard. The Isophorone Task Group (ITG) requested this revised exemption from the requirement of a tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996. This regulatory action contributes toward the Agency's tolerance reassessment requirements under FFDCA section 408(q), as amended by the FQPA of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. The regulatory action in this document pertains to the revision of one existing tolerance exemption which is counted as a tolerance reassessment toward the August 2006 review deadline.

DATES: This regulation is effective August 9, 2006. Objections and requests for hearings must be received on or before October 10, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0582. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kerry Leifer, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8811; e;mail address: *leifer.kerry@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 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

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

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C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0582 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 10, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0582, by one of the following methods:

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

II. Background and Statutory Findings

In the **Federal Register** of April 27, 2005 (70 FR 7951) (FRL–7710–1), EPA

issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4E6894) The Isophorone Task Group (ITG) of the Ketones Panel of the American Chemistry Council, 1300 Wilson Blvd., Arlington, VA 22209. The petition requested that 40 CFR 180.920 be amended by limiting the existing exemption from the requirement for isophorone (CAS Reg. No. 78–59–1) to rice, spinach, and sugar beets. That notice included a summary of the pesticide petition prepared by ITG, the petitioner. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for an exemption from the requirement of a tolerance for residues of isophorone in or on beets, ginseng, rice, spinach, sugar beets, and Swiss chard. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by isophorone are discussed in the following Table 1 as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the reviewed toxicity studies.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity rodents (rats)	NOAEL = 233.8/>311.8 milligram/kilogram/day (mg/kg/day) male/female.
		LOAEL = 102.5 (M)/not established (F) mg/kg/day based on M decrease in body weight
870.3150	90–Day oral toxicity study in nonrodents (dogs)	NOAEL = 150 mg/kg/day higest dose tested (HDT) LOAEL = cannot be established
870.3700	Prenatal developmental (inhalation) in rodents (mice)	Maternal NOAEL = 50 ppm LOAEL = 115 ppm based on decreased gestation day 18 body weight, corrected for uterine weight Developmental NOAEL = >115 ppm Developmental LOAEL = cannot be established
870.3700	Prenatal developmental (inhalation) in rodents (rats)	Maternal NOAEL = 25 ppm LOAEL = 50 ppm based on increased incidence of clinical signs (alopecia, ano-genital and cervical staining) Developmental NOAEL = 115 ppm HDT Developmental LOAEL = cannot be established
870.4200	Carcinogenicity (rats)	NOAEL = 250/500 mg/kg/day (M/F) LOAEL = 500 (M)/not established (F) based on M = increased incidence of preputial gland carcinoma
870.4200	Carcinogenicity (mice)	NOAEL = 500 mg/kg/day HDT LOAEL = cannot be established

Isophorone was evaluated as part of the International Programme on Chemical Safety (ICPS). The IPCS is a joint venture of the United Nations Environment Programme, the International Labour Organisation, and the World Health Organization. The main objective of the IPCS is to carry out and disseminate evaluations of the effects of chemicals on human health and the quality of the environment.

The ICPS Environmental Health Criteria monograph for isophorone critically evaluated the available toxicity data on isophorone, which included a consideration of the studies summarized in Table 1 as well as other available toxicity data on isophorone. As part of the human health risk assessment of isophorone, the ICPS monograph states that ''limited studies in rats and mice indicate that isophorone does not affect fertility nor does it cause developmental toxicity in experimental animals.'' Additionally in summarizing the results of genotoxicity testing, the ICPS further concluded that ''the weight of evidence of all mutagenicity data supports the contention that isophorone is not a potent DNA-reactive compound.''

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the LOAEL are identified is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify non-threshold hazards such as cancer. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk, estimates risk in terms of the probability of occurrence of additional cancer cases.

A summary of the toxicological endpoints for isophorone used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR ISOPHORONE FOR USE IN HUMAN RISK ASSESSMENT

Exposure/Scenario	Dose Used in Risk Assessment, Interspecies and Intraspecies and any Traditional UF	Special FQPA SF and Level of Concern for Risk Assessment	Study and Toxicological Effects
Chronic dietary (all populations). Special FQPA SF = 1 ..... cPAD = chronic RfD Special FQPA SF = 0.2 mg/kg/day	NOAEL = 150 mg/kg/day UF = 1.000 Chronic RfD = 0.2 mg/kg/day 90–Day oral dog toxicity study. No toxicity was seen at the HDT		
Cancer (oral, dermal, inhalation).	NOAEL = 250 mg/kg/day	NA	Increased incidence of preputial gland carcinomas in male rats Toxicology and Carcinogenesis Study of Isophorone in F344/N Rats
	Classification: Under the 1986 cancer classification scheme, isophorone was classified as Group C- Possible Human Carcinogen, with a linear low-dose extrapolation approach and a 3/4s interspecies scaling factor for human risk. The upper bound estimate of unit risk, Q_1* is 6.08 x 10^{-4} in human equivalents		

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* An exemption from the requirement of a tolerances has been established (40 CFR 180.40 CFR site) for the residues of isophorone, in or on beet, ginseng, rice, spinach, sugar beet and Swiss chard commodities. Risk assessments were conducted by EPA to assess dietary exposures from isophorone in food as follows:

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

Option 1. No such effects were identified in the toxicological studies for isophorone; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.—Option 2.* In conducting the chronic dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), which incorporates food consumption data as reported by respondents in the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The assessment was based on a screening level dietary assessment that assumed residues of isophorone in beet, ginseng, rice, spinach, sugar beet and Swiss chard commodities corresponding to the highest established active ingredient tolerance level residues for those commodities and 100% crop treated. The highest established tolerance level active ingredient residue level is chosen as ''worst-case'' chronic exposure scenario as it would be highly unlikely that residues of isophorone in the above-listed crops would be at such levels.

iii. *Cancer.* The assessment assumed residues of isophorone in beet, ginseng, rice, spinach, sugar beet and Swiss chard commodities corresponding to the highest established active ingredient tolerance level residues for those commodities and 100% crop treated. The highest established tolerance level active ingredient residue level is chosen as ''worst-case'' cancer exposure scenario as it would be highly unlikely that residues of isophorone in the above-listed crops would be at such levels.

2. *Dietary exposure from drinking water.* Monitoring exposure data are utilized to complete a dietary exposure

analysis and risk assessment for isophorone in drinking water. The estimated drinking water concentration (EDWC) of isophorone of 10 µg/L utilized for the purposes of this tolerance action is a value equivalent to the highest measured concentration of isophorone in drinking water sources in monitoring studies used by EPA to establish ambient water quality criteria for isophorone. (EPA 440/5–80–056; NTIS PB81–11767).

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

Since the use of isophorone is limited to pesticide productswhich are not registered for use on any sites that would result in residential exposure, no residential exposures are expected and a residential exposure assessment has not been conducted

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

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

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional uncertainty factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There was no evidence of increased prenatal or postnatal susceptibility of isophorone following *in utero* exposure to rats and mice.

3. *Conclusion*. There is an adequate toxicity database for the selection of doses and endpoints for use in risk assessment for isophorone. Exposure data are complete or are estimated based on data that reasonably account for potential exposures. The use of the IRIS chronic reference dose (cRfD) utilizes an additional 10X UF beyond the traditional UFs for intraspecies variability and interspecies extrapolation of 100X . This is protective of any potential concerns for increased susceptibility of infants and children to isophorone. The additional 10X uncertainty factor incorporated into the IRIS RfD is based on the use of a subchronic toxicity study, which, given the lack of increased pre-natal and postnatal susceptibility of isophorone, would address any potential concerns for increased susceptibility of infants and children to isophorone, therefore the FQPA factor is removed.

E. Aggregate Risks and Determination of Safety

1. *Acute risk*. As there were no toxic effects attributable to a single dose, an endpoint of concern was not identified to quantitate acute dietary risk to the general population or to the subpopulation females 13-50 years old. No acute risk is expected from exposure to isophorone

2. *Chronic risk*. The chronic dietary exposure analysis is based on a screening level dietary assessment that assumed residues of isophorone in beets, ginseng, rice, spinach, sugar beet and Swiss chard commodities corresponding to the highest established active ingredient tolerance level residues for those commodities and 100% crop treated Even with these highly conservative assumptions, the risk estimates are well below the Agency's level of concern. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to isophorone from food and drinking water will utilize 1.8% of the chronic population adjusted dose (cPAD) for the U.S. population, and 4.4% of the cPAD for non-nursing infants, the most highly exposed population subgroup. Based on the use pattern, chronic residential exposure to residues of isophorone is not expected. Drinking water was incorporated directly into the dietary assessment using the concentration for drinking water given in unit III.C.2.

3. *Aggregate cancer risk for U.S. population*. A non-threshold (Q_1*) approach is used to estimate estimate cancer risk. The upper bound estimate of lifetime cancer risk for the U.S population is 2.14×10^{-6}. This value is derived by multiplying the upper bound estimate of unit risk, 6.08×10^{-4} by the chronic dietary exposure (food + drinking water) for the U.S. general population (0.003520 mg/kg/day). Drinking water was incorporated directly into the dietary assessment using the concentration for drinking water given in unit III.C.2. Since this upper bound estimate of cancer risk is based on a very conservative exposure estimate, and is within the range of one in one million cancer risk that is typically considered to not be a concern. EPA therefore concludes that isophorone is not expected to pose a carcinogenic risk to humans. If applicable, insert text. There is no boilerplate for this section.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

There are currently no Codex Maximum Residue Limits for isophorone

C. Response to Comments

Ten comments were received regarding petition PP 4E6894. One comment, from B. Sachau, regarded general opposition to Agency approval of tolerances and exemptions other than zero, and general opposition to any residue left on a treated crop. The Agency finds that this comment contained no scientific data or evidence to rebut the Agency's conclusion that there is a reasonable certainty that no harm will result from aggregate exposure to isophorone including all anticipated dietary exposures and other exposures for which there is reliable information. This comment, as well as prior similar comments from B. Sachau have been responded to by the Agency on several occasions. For example, (October 29, 2004, 69 FR 63083), (January 7, 2005, 70 FR 1349), and (June 30, 2005, 70 FR 37683. The other nine comments regarded the use of isophorone in desmedipham and phenmedipham formulations for use on beets, Swiss chard and ginseng. These uses are either part of existing section 24(c) registrations or section 18 emergency exemptions, with each of the commentors requesting that these commodities be included in the reassessment of the isophorone tolerance exemption. The Agency agrees that these commodities should be included in the tolerance exemption expression for isophorone and has included these commodities in the aggregrate risk assessment and safety determination provided in Unit III.

V. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of the inert ingredient isophorone, in or on beets, ginseng, rice, spinach, sugar beets, and Swiss chard.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: July 28, 2006.

Lois Rossi,

Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.920 is amended in the table by removing the entry Isophorone.
■ Section 180.1270 is added to subpart D to read as follows:

§ 180.1270 Isophorone; exemption from the requirement of a tolerance.

Isophorone (CAS Reg. No. 78–59–1) is exempt from the requirement of a tolerance when used as an inert ingredient in pesticide formulations applied to beets, ginseng, rice, spinach, sugar beets, and Swiss chard.

[FR Doc. E6–12547 Filed 8–8–06; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0253; FRL–8082–3]

Inert Ingredient; Revocation of the Tolerance Exemption for Mono- and Bis-(1*H*, 1*H*, 2*H*, 2*H*-perfluoroalkyl) Phosphates Where the Alkyl Group is Even Numbered and in the C_6-C_{12} Range

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking, under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(e)(1), the existing exemption from the requirement of a tolerance for residues of the inert ingredient ''Mono- and bis-(1*H*, 1*H*, 2*H*, 2*H*-perfluoroalkyl) phosphates where the alkyl group is even numbered and in the C_6-C_{12} range'' under 40 CFR 180.920. The regulatory action contributes toward the Agency's tolerance reassessment requirements under FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. This regulatory action counts as a tolerance reassessment toward the August 2006 review deadline.

DATES: This rule is effective February 9, 2008.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0253. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0404; e-mail address: *angulo.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you 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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0253 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 10, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0253, 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 Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

A. What Action is the Agency Taking?

In evaluating the tolerance exemption under 40 CFR 180.920 for ''Mono- and

bis-(1*H*, 1*H*, 2*H*, 2*H*-perfluoroalkyl) phosphates where the alkyl group is even numbered and in the C_6-C_{12} range,'' EPA determined that there were potential risks of concern associated with the use of these perfluoroalkyl phosphates. EPA concluded that it was unable to determine that the tolerance exemption met the safety requirements of FFDCA section 408(c)(2) and proposed the revocation of the tolerance exemption in the **Federal Register** on April 19, 2006 (71 FR 20048) (FRL–8058–3).

EPA received comments on the proposed rule from Bayer CropScience and Mason Chemical Company. Neither commentor challenged EPA's conclusions on the chemical described under the current tolerance exemption. Therefore, this final rule revokes the tolerance exemption under 40 CFR 180.920 for ''Mono- and bis-(1*H*, 1*H*, 2*H*, 2*H*-perfluoroalkyl) phosphates where the alkyl group is even numbered and in the C_6-C_{12} range'' 18 months after the publication date of this final rule in the **Federal Register**. EPA's response to the comments received is found in the following section.

B. EPA's Responses to Comments

1. *Does the tolerance exemption name the wrong chemical?* Mason Chemical Company claims that the current tolerance exemption describes the wrong chemical, and this error reaches back to the establishment of the exemption. They assert that the tolerance exemption actually should encompass certain perfluoroalkylphosphinic and phosphonic acid compounds instead of the perfluoroalkyl phosphate compound described by the tolerance exemption.

The Agency disagrees. The current inert ingredient tolerance exemption under 40 CFR 180.920 for ''Mono- and bis-(1*H*, 1*H*, 2*H*, 2*H*-perfluoroalkyl) phosphates where the alkyl group is even numbered and in the C_6-C_{12} range'' was established on January 23, 1985 by a final rule published in the **Federal Register** (50 FR 2983). The Agency established this tolerance exemption in response to a petition from the American Hoechst Corporation. The petitioner requested that the new tolerance exemption limit the use of the compound in pesticide products to a defoaming agent used only on growing crops at no more than 0.5% of the pesticide formulation. No comments were received on the proposed rule. From the time of the establishment of the current tolerance exemption in 1985 until now, the Agency has received no petitions to modify the current tolerance exemption. The Agency concludes that the tolerance exemption is not in error as the commentors assert, rather, it describes the chemical compound that the original petitioner requested. If commodities are sold or distributed containing pesticide residues that are not within the tolerance expression, and for which there is no existing tolerance or exemption, those commodities may be deemed adulterated for purposes of FFDCA.

2. *Reassess the compounds.* Mason Chemical Company asserts that EPA must reassess the perfluoroalkylphosphinic and phosphonic acid compounds because the current tolerance exemption should have included these chemicals all along.

FFDCA as amended by FQPA requires EPA to reassess all inert ingredient tolerance exemptions established prior to August 3, 1996. No inert ingredient tolerance exemption that includes the perfluoroalkylphosphinic and phosphonic acid compounds described by Mason Chemical Company was in existence prior to 1996, nor is one in existence now. EPA cannot reassess a tolerance exemption that does not exist.

3. *Permit use of the compounds.* Bayer CropScience requests that the Agency allow the use of the perfluoroalkylphosphonic and perfluoroalkylphosphinic acid compounds under the current exemption for two years. Bayer CropScience requested use of the compounds only for two years because ''insufficient data exist for perfluoroalkylphosphonic and perfluoroalkylphosphinic acid to allow the Agency to make a safety finding according to FFDCA section 408(b)(2).'' Bayer CropScience indicated an interest in generating data to support a new tolerance exemption for these compounds.

FFDCA requires a tolerance or tolerance exemption for all chemicals used in pesticide products. As of July 5, 2006, EPA has not received a petition for a tolerance or tolerance exemption for the perfluoroalkylphosphonic and perfluoroalkylphosphinic acid compounds, and data sufficient for evaluating these compounds have not been submitted to the Agency. As stated in the proposed rule, the Agency has identified human health and environmental risks of concern for the perfluoroalkyl phosphate chemical described by the current exemption under 40 CFR 180.920, and the FFDCA safety finding cannot be made. A party or parties may choose to petition the Agency for a tolerance or tolerance exemption for the perfluoroalkylphosphonic and perfluoroalkylphosphinic acid compounds. The very limited information available to the Agency indicates that there may be serious human health and environmental risk issues associated with these compounds. It is likely that petitioner(s) will have to support their petition with a robust dataset.

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

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

D. When Do These Actions Become Effective?

This action becomes effective 18 months after the publication date of this final rule in the **Federal Register**. Any commodities listed in the regulatory text of this document that are treated with the pesticide chemical subject to this final rule, and that are in the channels of trade following the tolerance exemption revocations, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residue of the pesticide chemical in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

- The residue is present as the result of an application or use of the pesticide chemical at a time and in a manner that was lawful under FIFRA.
- The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under an exemption from tolerance. Evidence to show that food

was lawfully treated may include records that verify the dates that the pesticide chemical was applied to such food.

E. What is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2006, to reassess the tolerances and exemptions from tolerances that were in existence on August 2, 1996. This document revokes one inert ingredient tolerance exemption which is counted as a tolerance reassessment toward the August 2006, review deadline under FFDCA section 408(q), as amended by FQPA in 1996.

III. Statutory and Executive Order Reviews

In this final rule, EPA is revoking a tolerance exemption established under section 408(d) of FFDCA. The Office of Management and Budget (OMB) has exempted this type of action from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide listed in this rule, the Agency hereby certifies that this final action will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation (this Agency document is available in the docket of this final rule). Furthermore, for the pesticide named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change the EPA's previous analysis (note also that revocation of these tolerances does not affect entities selling or distributing commodities containing only pesticide residues that are not subject to these tolerances). In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this final rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This final rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule.

IV. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: July 26, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.920, the table is amended by revising the following inert ingredient to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* *	
Mono- and bis-(1*H*, 1*H*, 2*H*, 2*H*-perfluoroalkyl) phosphates where the alkyl group is even numbered and in the C_6-C_{12} range.	Not more than 0.5% of pesticide formulation. Expires February 9, 2008.	Surfactant, related adjvants of surfactants
* * *	* *	

[FR Doc. E6–12541 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0251; FRL–8082–2]

Inert Ingredient; Revocation of the Tetrahydrofurfuryl Alcohol (THFA) Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking, under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(e)(1), the existing exemption from the requirement of a tolerance for residues of the inert ingredient ''Tetrahydrofurfuryl alcohol'' (THFA) under 40 CFR 180.910, and establishes a limited tolerance for THFA under 40 CFR 180.1263. The regulatory action contributes toward the Agency's tolerance reassessment requirements under FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. This regulatory action counts as a tolerance reassessment toward the August 2006 review deadline.

DATES: This rule is effective February 9, 2008.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0251. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 306–0404; e-mail address: *angulo.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you 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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0251 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 10, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0251, 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 telephone number is (703) 305–5805.

II. Background and Statutory Findings

A. What Action is the Agency Taking?

On April 12, 2006, EPA published in the **Federal Register** (71 FR 18689; FRL–7771–3) proposed actions for the inert ingredient tetrahydrofurfuryl alcohol (THFA). This final rule revokes the exemption from the requirement of a tolerance for THFA under 40 CFR 180.910 and establishes a limited tolerance exemption for THFA under 40 CFR 180.1263. In evaluating THFA, EPA determined that dietary risks of concern may result from the use of THFA under the current tolerance exemption in 40 CFR 180.910, which allows an unlimited amount of THFA to be applied to growing crops and raw agricultural commodities after harvest. The hazard characterization of THFA shows effects of concern, including significant developmental and reproductive effects from repeated oral exposures. The available data show there is evidence of increased susceptibility (both quantitative and qualitative) of the offspring after *in utero* exposure to THFA, including decreased fetal body weights. The Agency concluded that THFA's unlimited tolerance exemption under 40 CFR 180.910 does not meet the safety requirements of FFDCA section 408(b)(2), and proposed the revocation of the tolerance exemption 18 months after the publication of the final rule in the **Federal Register**. In the same document, EPA proposed to establish a new exemption under 40 CFR 180.1263 for applications to cotton, use with herbicides with one application to wheat and barley prior to the pre-boot stage, for use as a seed treatment, and applications at the time of planting.

EPA's responses to comments received on the proposed rule are given in Unit II.B. EPA maintains its conclusion that THFA's tolerance exemption under 40 CFR 180.910 does not meet the safety standard of FFDCA section 408(b)(2), therefore, this tolerance exemption is revoked in this final rule. The revocation will take effect 18 months after the publication date of this final rule in the **Federal Register**.

EPA has evaluated the scope of the new limited THFA tolerance exemption under 40 CFR 180.1263 and has added limited uses on canola, soybeans, and field corn, and has clarified that applications will now be permitted prior to planting. EPA finds that exempting THFA with the limitations in 40 CFR 180.1263 will be safe for the general population including infants and children.

B. EPA's Responses to Comments

1. *Applications at the time of planting.* Several commentors requested the proposed use of THFA ''at-plant'' be expanded to include all applications prior to planting. EPA agrees. The proposed limitation ''For application at the time of planting.'' under 40 CFR 180.1263 is replaced with ''For applications prior to planting and at the time of planting.'' This includes uses such as applications made in preparation for the planting of the crop, in the furrow during planting of seeds and transplants, and to the soil surface at the time of planting. This small expansion of the proposed limitation is in keeping with the uses of currently registered pesticide products containing THFA. Considering THFA's physical-chemical properties and biodegradation potential in the environment, the new limitation does not change EPA's safety finding for the new 40 CFR 180.1263.

2. *Requests to expand uses, and establish application rates and pre-harvest intervals.* One commentor stated that EPA does not have to restrict the crops that THFA can be applied to if the Agency would set either a maximum THFA percentage limit in pesticide concentrates, or a maximum THFA percentage limit for dilute product rates applied to food crops. In addition, several commentors suggested the establishment of pre-harvest intervals as a way to limit or eliminate the potential for residues of THFA on harvested commodities.

In determining whether uses of THFA could be maintained, the Agency evaluated the uses of all currently registered pesticide products that contained THFA. The products were registered for applications to a very large number of crops and most permitted multiple applications (e.g., six) including on the day of harvest. For many pesticide products, the quantity of THFA in formulation was unusually high, with more than half containing 75 - 98 % THFA. The Agency discussed its toxicity concerns for THFA with the registrants of these pesticide products, and the large majority elected to reformulate their products with another solvent. Of the pesticide products that continued to contain THFA, EPA determined that the safety finding could be made for their uses and crafted the limitations of the new tolerance exemption under 40 CFR 180.1263 to include only those uses. The available reliable information on THFA's physical-chemical properties and biodegradation potential in soil was considered in making the safety finding for the uses described in the new exemption. The uses in the new exemption significantly reduce the number of times that THFA may be applied per season - often to one application only — and, therefore, reduce the potential for dietary exposures below the Agency's level of concern.

EPA believes that defining the scope of a tolerance exemption for THFA requires a cautious approach considering the significant toxicity concerns. THFA's toxicity profile is more similar to pesticide active ingredients or safeners than to minimal risk inert ingredients. Therefore, certain supporting data typically required for active ingredients and safeners may also be necessary for petitions requesting applications of THFA to most growing food crops (especially applications to edible parts). Considering THFA's significant reproductive and developmental toxicity and lack of neurotoxicity data (a sub-chronic study reported whole body spasms), EPA does not believe it can pick a safe maximum application rate or pre-harvest interval in the absence of the appropriate acceptable guideline studies (such as crop residue data) normally used by EPA to set these use limitations. Unfortunately, the Agency does not have acceptable, reliable crop residue data that could assist in setting THFA application rates and pre-harvest intervals.

Several commentors requested that 40 CFR 180.1263 permit the application of THFA to many crops, such as all cereal grains in crop group 15. Considering the chemical's toxicity profile, EPA does not believe it has the necessary data to broadly grant more uses of THFA now without knowing exact application scenarios. EPA needs to evaluate the uses of a pesticide product in order to estimate the potential for residues of THFA and determine whether residue data may be necessary. In the future, 40 CFR 180.1263 will be amended if the Agency receives a petition that is supported by data and information

sufficient for the request, and the Agency determines that the safety finding can be made for these new and/or expanded uses. EPA suggests that parties interested in petitioning for new and/or expanded uses of THFA first consult with the Agency to determine data needs.

Several commentors requested 40 CFR 180.1263 include two early season (pre-bloom) applications in herbicides on soybeans, canola, and field corn. The Agency evaluated the requested application scenarios for these crops and determined that the FQPA safety finding could be made for these limited early season uses.

3. *Availability of acceptable crop residue data for THFA.* All commenters asserted that a residue study (MRID 56444) provides sufficient data to demonstrate the rapid rate of decline of THFA residues from treated crops, and that the results of this study support the use of THFA on all crops. EPA disagrees that any reliable data have been submitted to the Agency concerning residues on food resulting from applications of pesticide products containing THFA. The study identified by the commentors, MRID 56444, was developed by Chemagro in 1972 and submitted to EPA in 1973 by Quaker Oats Company. The three crops used (alfalfa, Roma variety tomato, and soybeans in pod) do not represent the broad range of crops requested by the commentors. It is not an acceptable study for a number of reasons. MRID 56444 is an unpublished summary of data (one page per crop) that lacks documentation about how the study was conducted or method validation, and does not include a discussion of the study results. The data are considered to be of low reliability because of the low rates of recoveries. It appears that sampling was done at 0, 4, and 24 hours after application of THFA. The results on Roma variety tomato between the 4 and 24 hour sampling times were contradictory and no discussion was provided. No results for the 24th hour sample were included in the comments submitted by Penn Specialty Chemicals, Inc. The study MRID 56444 is considered unacceptable and cannot be used to support a tolerance or tolerance exemption for THFA.

The Agency disagrees with the commentors who asserted that THFA is naturally occurring, and is sufficiently volatile that it will not be available for uptake into plants and treated crops. An acceptable plant metabolism study that would describe the potential for plant uptake of THFA is not available to the Agency. In addition, EPA cannot locate any reliable information that THFA is a naturally occurring substance and is ubiquitous in the environment, as the commentor inferred. On the contrary, Quaker Oats stated that THFA is produced commercially by catalytic hydrogenation of furfural or furfuryl alcohol.

4. *Use of DEEM in the THFA assessment.* All commentors objected to Agency's use of the inert ingredient screening level DEEM as a basis for its decision to limit the uses of THFA, and they proposed refinements that support their THFA use proposals. The Agency's regulatory decision that the current unlimited THFA tolerance exemption under 40 CFR 180.910 does not meet the safety requirements of FFDCA section 408(b)(2) was based on a consideration of the significant hazard profile of THFA rather than the result of the inert ingredient screening level DEEM. The results of the screening level DEEM was provided in the Public Docket for informational purposes in order to provide some information regarding the potential for exposure from the use of THFA on food crops under the unlimited 40 CFR 180.910 tolerance exemption. It should be noted that while the inert ingredient DEEM screening model is designed to be conservative, it is not conservative enough to cover the registered uses of THFA under the 40 CFR 180.910 tolerance exemption because the quantity of THFA in the formulations of many pesticide products was quite high, with more than half containing 75 - 98 % THFA.

EPA disagrees with the commentors who asserted that the Agency must refine the inert ingredient DEEM with the dissipation and decline data they calculated from MRID 56444. The inert ingredient DEEM is used as a screening level model only, and refinements to the screening model are inappropriate and do not meet the standards of sound science. Residue decline data are used in refined exposure modeling and assessments, which were not performed for THFA because the remaining supported registered uses included in 40 CFR 180.1263 did not need a refined exposure assessment. Also, EPA will not consider the results of MRID 56444 in any future refined exposure modeling because the study is unacceptable (see above).

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

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

D. When do These Actions Become Effective?

The revocation of the tolerance exemption for THFA under 40 CFR 180.910 becomes effective 18 months after the publication date of this final rule in the **Federal Register**. Any commodities listed in the regulatory text of this document that are treated with the pesticide chemical subject to this final rule, and that are in the channels of trade following the tolerance exemption revocations, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residue of the pesticide chemical in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

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

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

The establishment of the new tolerance exemption for THFA under 40 CFR 180.1263 becomes effective on the publication date of this final rule in the **Federal Register**.

E. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2006, to reassess the tolerances and exemptions from tolerances that were in

existence on August 2, 1996. This document revokes one inert ingredient tolerance exemption which is counted as a tolerance reassessment toward the August 2006, review deadline under FFDCA section 408(q), as amended by FQPA in 1996.

VI. Statutory and Executive Order Reviews

In this final rule, EPA is establishing and revoking specific tolerance exemptions established under section 408(d) of FFDCA. The Office of Management and Budget (OMB) has exempted this type of action from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide listed in this rule, the Agency hereby certifies that this final action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with pesticides containing the ingredients being revoked in this notice. Furthermore, for the pesticide named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change the EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this final rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This final rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule.

IV. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: Juky 26, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. In § 180.910, the table is amended by revising the entry for Tetrahydrofurfuryl alcohol to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* *	
Tetrahydrofurfuryl alcohol (THFA) (CAS Reg. No 97–99–4)	Expires February 9, 2008	Solvent/cosolvent
* * *	* *	

■ 3. Section 180.1263 is added to subpart D to read as follows:

§ 180.1263 Tetrahydrofurfuryl alcohol; exemption from the requirement of a tolerance.

Tetrahydrofurfuryl alcohol (THFA, CAS Reg. No. 97–99–4) is exempt from the requirement of a tolerance in or on all raw agricultural commodities when used in accordance with good agricultural practices as an inert ingredient applied only:

(a) For use as a seed treatment.

(b) For applications prior to planting and at the time of planting.

(c) For use on cotton.

(d) For use in herbicides with one application to wheat and barley prior to the pre-boot stage, and two applications to canola and soybeans pre-bloom.

(e) For use in herbicides with two applications to field corn up to 24 inches tall (V 5 stage).

[FR Doc. E6–12591 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0230; FRL–8084–1]

Inert Ingredients; Revocation of Tolerance Exemptions with Insufficient Data for Reassessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule revokes under section 408(e)(1) of the Federal Food, Drug, and Cosmetic Act (FFDCA) the existing exemptions from the requirement of a tolerance for residues of certain inert ingredients because there are insufficient data to make the determination of safety required by FFDCA section 408(b)(2), or because they are redundant and, therefore, are not necessary. In addition, EPA has identified substances within certain of these tolerance exemptions that meet the definition of low-risk polymers and is establishing new tolerance exemptions for them. The revocation actions in this document contribute towards the Agency's tolerance reassessment requirements under FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. The regulatory actions in this document pertain to the revocation of 130 tolerance exemptions which are counted as tolerance reassessment toward the August 2006 review deadline.

DATES: This rule is effective August 9, 2008, except amendatory instructions dd for § 180.910; jj and pp for § 180.920; m, q, bb, and kk for § 180.930; and § 180.960 which are effective August 9, 2006. Objections and requests for hearings must be received on or before October 10, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0230. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at http://www.regulations.gov, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Kerry Leifer, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8811; e-mail address: *leifer.kerry@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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178.

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0230 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 10, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0230, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

II. Background and Statutory Findings

A. What Action is the Agency Taking?

1. *Revocation because of insufficient data*. This final rule revokes the inert ingredient tolerance exemptions with insufficient data identified in two documents that published in the **Federal Register** on May 3, 2006 (71 FR 25993; EPA–HQ–OPP–2006–0230) (FRL–8060–9) and June 7, 2006 (71 FR 32895; EPA–HQ–OPP–2006–0493) (FRL–8072–4). EPA is now in the process of reassessing all inert ingredient exemptions from the requirement of a tolerance (''tolerance exemptions'') established prior to August 3, 1996, as required by FFDCA section 408(q). Under FFDCA section 408(q), tolerance reassessment may lead to regulatory action under FFDCA section 408(e)(1). When taking action under FFDCA section 408(e)(1), EPA may leave a tolerance exemption in effect only if the Agency determines that the tolerance exemption is safe. EPA is revoking 130 inert ingredient tolerance exemptions because insufficient data are available to the Agency to make the safety determination required by FFDCA section 408(c)(2).

In making the FFDCA reassessment safety determination, EPA considers the validity, completeness, and reliability of the data that are available to the Agency, FFDCA section 408(b)(2)(D), and the available information concerning the special susceptibility of infants and children (including developmental effects from *in utero* exposure), FFDCA section 408(b)(2)(C). Data gaps exist for these inert ingredients in areas critical to reassessment. Without these data, the assessment of possible effects to infants and children cannot be made. EPA has insufficient data to make the safety finding of FFDCA section 408(c)(2) and is revoking the inert ingredient tolerance exemptions identified in this final rule.

The Agency is revoking two other inert ingredient tolerance exemptions with insufficient data under 40 CFR part 180 that were identified in the preamble of the proposed revocation document (71 FR 25993; EPA–HQ–OPP–2006–0230). They were inadvertently removed from the CFR some time ago but are considered to be active tolerance exemptions subject to reassessment as required by FFDCA section 408(q). The tolerance exemptions being revoked are:

i. § 180.910: ''α-Alkyl(C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.''

ii.§ 180.930: ''α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.''

EPA's response to the comments received on the proposed rule is provided in Unit II.B. In summary, the safety finding required by FFDCA section 408(b)(2) cannot be made for certain inert ingredient tolerance exemptions due to insufficient data. Therefore, EPA is revoking under FFDCA section 408(e)(1) the tolerance exemptions identified in this document under §§ 180.910, 180.920, 180.930, and 180.940, with the revocations effective 2 years after the date of publication of this rule in the **Federal Register**.

2. *Five new tolerance exemptions for polymer chemicals.* In this final rule, EPA is establishing five tolerance exemptions under 40 CFR 180.960 for chemicals that meet the criteria for defining a low-risk polymer under 40 CFR 723.250. No comments were received on the proposal to establish these tolerance exemptions (71 FR 25993; EPA–HQ–OPP–2006–0230). The establishment of these tolerance exemptions is effective on the date of publication of this rule in the **Federal Register**.

3. *Revocations for administrative reasons*. The Agency is revoking seven redundant and incorrect tolerance exemptions under 40 CFR part 180, as described in this unit. No comments were received on the proposal to revoke these tolerance exemptions (71 FR 25993; EPA–HQ–OPP–2006–0230). These tolerance exemptions are revoked on the date of publication of this rule in the **Federal Register**.

i. In § 180.920, the tolerance exemption for: ''Sodium mono- and dimethyl naphthalenesulfonate; molecular weight (in amu) 245-260.''

ii. In § 180.930, the tolerance exemptions for: ''Ethyl vinyl acetate (CAS Reg. No. 24937–78–8)'' and ''α-(Methylene (4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene)bis-ω-hydroxypoly(oxyethylene) having 6-7.5 moles of ethylene oxide per hydroxyl group.''

iii. In § 180.920 and 180.930, the tolerance exemptions for: ''Sodium butyl naphthalenesulfonate.''

iv. In § 180.910 and 180.930, the tolerance exemptions for: ''α-[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-70 moles of ethylene oxide; ...''.

B. EPA's Rsponses to Comments

1. *Identifying data gaps.* Several commenters claim that EPA has not communicated specific data gaps for each tolerance exemption, and has been reticent in communicating whether testing must be conducted for each chemical or whether inert ingredients can be grouped and data submitted that supports all the inert ingredients within a group. EPA disagrees. The proposed rule identified the data gaps that resulted in the Agency being unable to make the safety finding of FFDCA section 408(c)(2). In addition, EPA discussed these topics at some depth during both public meetings on the proposed revocation (See the **Federal Register** of May 3, 2006 (71 FR 26000) (FRL–8068–5).

In the proposed rule, EPA clearly stated that tests agreed to under the Organization for Economic Cooperation and Development's (OECD) Screening

Information Data Set (SIDS) program would have permitted the Agency to evaluate the tolerance exemptions for reassessment. The proposed rule stated that there are data gaps critical to reassessment including acceptable repeat-dose, developmental, and reproductive toxicity studies. EPA stated that the preferred test for repeat-dose toxicity is the ''Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test'' (OECD Test Guideline 422). The OECD SIDS is a well-known international program that also is used in EPA's High Production Volume (HPV) program.

In the proposed rule, EPA stated that for some inert ingredients, the full SIDS may not be necessary because EPA has available a limited number of studies and information (e.g., acute toxicity studies). The Agency anticipates that most inert ingredients will only need the OECD 422 screening level study, but it must be noted that the results of this study may indicate a need for further testing. EPA is reiterating here the recommendation stated in the proposed rule that all parties interested in supporting a chemical consult with EPA prior to embarking on a testing strategy in order to determine the data gap and what data the Agency already has available. In addition, the proposed rule lists numerous broad multi-chemical tolerance exemptions, each of which could encompass many chemicals. EPA continues to offer to work with industry to clarify whether testing certain chemicals within a multi-chemical tolerance exemption will suffice rather than testing each chemical in the group. This will help reduce the number of studies conducted. EPA is pleased to report that numerous companies have already consulted with the Agency, and more meetings have been scheduled for the near future.

One commenter asserted that sufficient publicly available data exists for several of the inert ingredients proposed for revocation. The Agency disagrees. EPA searched Agency and publicly available data sources, including EPA's HPV program, and found inadequate and insufficient data for all of the inert ingredients being revoked in this final rule.

2. *Concern about whether 2 years is sufficient time.* Most commenters expressed concern that the effective date of the revocation action for the tolerance exemptions with insufficient data, which is 2 years from the publication of the final rule, is too short a timeframe to identify supporters of inert ingredients, generate the data, and complete Agency review. Some commenters asked for assurance that the Agency will grant revocation extensions if a good-faith effort is demonstrated by the supporter of an inert ingredient.

The Agency determined that the safety finding of FFDCA section 408(c)(2) could not be made for the inert ingredient tolerance exemptions with insufficient data being revoked in this final rule. While the Agency does not anticipate dietary risks of concern for the majority of these chemicals based on what is known of their physical-chemical properties and the history of their use, the lack of data requires revocation.

EPA selected the 2–year timeframe after considering what data would typically be needed to fill the data gaps for these inert ingredients. As discussed in this unit, the Agency anticipates that most inert ingredients will only need the OECD 422 screening level study to fill the data gap. The OECD 422 is an oral 28–day repeat-dose screening level study (with developmental and reproductive toxicity testing) that is known to have a relatively short development time—approximately 9 months from test initiation to report completion. Two years provides sufficient time for the study development and submission process, and for Agency review and decisionmaking.

The Agency is aware that unforeseen or other circumstances may make it challenging to complete data development work within the 2–year timeframe. The Agency envisions extending the expiration date of individual inert ingredient tolerance exemptions on a case-by-case basis when legitimate extenuating circumstances arise. EPA may be able to through rulemaking delay the effective date of the revocation to allow sufficient time for testing and data submission to be completed when, soon after the publication of this final rule, the submitter clearly communicates to EPA their commitment to support an inert ingredient, demonstrates a concerted effort to develop and submit the data within the 2–year timeframe, keeps the Agency informed of challenging circumstances as they arise, and, most importantly, provides the Agency with early indications of data that would support a safety finding.

Most commenters asserted that 2 years is an inadequate amount of time if they need to reformulate their pesticide products with other inert ingredients. The Agency believes that the majority of inert ingredients affected by this final rule that are currently used in pesticide products will be successfully supported with adequate data. Developing the data, rather than costly reformulation, is the likely path forward considering the relatively low cost of conducting the screening level study (approximately $150,000). It should be noted that for some pesticide products, no action is needed because the registrants already have permission to use alternate inert ingredients with tolerance exemptions that have been reassessed. The Agency will work with registrants on a case-by-case basis if the tolerance exemption for an inert ingredient cannot be reinstated because study results are unacceptable.

3. *Low Risk Methodology and DCIs.* Several commenters claim that EPA has not followed the guidance of the ''Low Risk Methodology'' and issued Data Call-In (DCI) notices requiring studies. The commenters are referring to EPA's ''Guidance Document on Methodology for Determining the Data Needed and the Types of Assessments Necessary to Make FFDCA Section 408 Safety Determinations for Lower Toxicity Pesticide Chemicals.'' Posted to EPA's website 4 years ago (June, 2002), this non-binding guidance document was developed in cooperation with a committee comprised of representatives of pesticide and industrial chemical manufacturers. It generally describes the reassessment and petition process for inert ingredients, sources of publicly available data and information, and the types of data and information that might be needed for risk characterization depending on various chemical-related factors. The screening level assessments that EPA is using to reassess inert ingredients are generally described in the guidance document. Data are discussed in some detail in the guidance document, including the need for repeat-dose, developmental, and reproductive toxicity studies and the OECD 422 study. Therefore, the need for these studies for inert ingredient reassessment has been public knowledge for some time.

The guidance document generally describes how DCIs are used by EPA, but never states that the Agency would definitely issue DCIs for inert ingredients. The mention of DCIs in the guidance document focuses on chemicals that have significant toxicity concerns and need a more robust (''Tier 3'') evaluation rather than a screening level assessment. The guidance document states, ''These chemicals may have already been classified as List 1 'inerts of toxicological concern' or List 2 'potentially toxic inerts/high priority for testing.' Usually, registrants whose products contain Tier 3 chemicals would be required to provide these data via a Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA) section 3(c)(2)(B) DCI notice.'' The guidance document wisely and purposefully built in flexibility to the general process and states ''The policies and process described herein are not binding on either EPA or pesticide registrants, and EPA may modify or disregard the process described herein where circumstances warrant and without prior notice.''

Some commenters believe that EPA may not revoke a tolerance or exemption for lack of supporting data unless it has first solicited data through a DCI under FFDCA section 408(f)(1). Although FFDCA section 408(f)(1) may be used to solicit data required to support a tolerance or exemption, the statute provides direct authority for revocation in the absence of such data. Section 408(q)(1)(C) of FFDCA requires that ''100 percent of... tolerances and exemptions are reviewed within 10 years of August 3, 1996.'' When reviewing a tolerance exemption, FFDCA section 408(c)(2)(A)(i) provides the following: The Administrator may establish or leave in effect an exemption from the requirement for a tolerance for a pesticide chemical residue in or on food only if the Administrator determines that the exemption is safe. The Administrator shall modify or revoke an exemption if the Administrator determines it is not safe.

Under FFDCA section 408(c)(2)(A)(i) safety must be shown, and not presumed: The term ''safe,'' with respect to an exemption for a pesticide chemical residue, means that the Administrator has determined that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.

Thus, EPA is required by August of 2006 to determine that all tolerance exemptions are safe. And if there are insufficient data to determine that an exemption is safe, the assessment mandated by FFDCA section 408(q)(1)(C) requires that the Agency revoke the exemption, regardless of whether a DCI has been issued.

4. *Request for guidance.* Several commenters requested written guidance, including process steps and schedules, on how to support chemicals with insufficient data. EPA is now developing written guidance that will help those interested in developing data on the inert ingredients with insufficient data identified in this final rule. The helpful guidance will include a recommended process with interim steps toward the completion of the inert ingredient evaluation. For example, the guidance will (among other things) suggest ways to:

i. Demonstrate an intention to support an inert ingredient (such as an official letter to the Agency).

ii. Consult with the Agency on data gaps and chemicals to be tested.

iii. Show commitment by contracting with a testing laboratory.

iv. Submit the study to the Agency. The guidance will be made public on EPA's website and widely distributed among industry and other interested stakeholders.

5. *Previously reassessed tolerance exemptions.* Several commenters noted that five tolerance exemptions were listed in the revocation proposal by mistake because they had already been reassessed by the Agency. The five tolerance exemptions are as follows:

i. In both § 180.910 and 180.930: ''α-Lauryl-ω-hydroxypoly(oxyethylene), average molecular weight (in amu) of 600.''

ii. In both § 180.910 and 180.930: ''Polyglyceryl phthalate ester of coconut oil fatty acids.''

iii. In §180.920: ''Tall oil diesters with polypropylene glycol (CAS Reg. No. 68648–12–4).''

Previous Agency reassessment determinations did include four of the above-listed tolerance exemptions, however, subsequent to those decisions, it was determined that the inert ingredients were erroneously included in those reassessment documents. In the case of polyglyceryl phthalate esters of coconut oil fatty acids, the two tolerance exemptions were initially considered to be reassessed based primarily upon an inaccurate assumption that the molecular weights for this inert ingredient are greater than 1,000 amu. The tolerance exemptions are no longer considered to be reassessed because there are no molecular weight limitation in the inert ingredient's tolerance exemption expressions. In the case of α-Lauryl-ω-hydroxypoly(oxyethylene), the two tolerance exemptions were inappropriately included in a reassessment document as a member of a group of polyethylene glycol fatty acid ester-type substances. The tolerance exemptions are no longer considered to be reassessed because they are not a part of this group. The reassessment documents that initially erroneously included these four tolerance exemptions have been revised and these tolerance exemptions have been removed. The Agency then attempted to evaluate these inert ingredients but found that insufficient data exists to make the FQPA reasonable certainty of no harm safety finding. As a result, the Agency is revoking the four tolerance exemptions in this final rule.

The tolerance exemption for ''Tall oil diesters with polypropylene glycol (CAS Reg. No. 68648–12–4)'' in § 180.920 has not been reassessed and is not part of any reassessment document.

6. *Channels of trade.* Commenters raised two issues regarding channels of trade. First, a number of commenters indicated that existing stocks of pesticides containing ingredients whose exemptions are to be revoked, or of chemical blends intended only for such pesticides, may not be used up by the time the exemption expires. As stated in this unit, the Agency envisions extending the expiration date of individual inert ingredient tolerance exemptions on a case-by-case basis when circumstances allow. Nevertheless, the Agency does not anticipate serious existing stocks problems as a result of this revocation action. The Agency believes that submission of acceptable new studies and acceptable existing studies that were previously unavailable to EPA will keep the need to reformulate pesticide products to a minimum. The Agency has already received several communications from pesticide registrants indicating their intention to submit unpublished data in their possession, and an industry association has stated that they are working to obtain unpublished data cited in various publications.

Second, one commenter raised a question regarding FFDCA section 408(l)(5), which provides that commodities containing pesticide residues whose tolerances or exemptions that have been revoked are not considered adulterated provided that it is shown to the satisfaction of the Food and Drug Administration (FDA) that:

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

ii. The residue does not exceed a level that was authorized at the time of that application or use to be present on the food under a tolerance, exemption, or food additive regulation.

The commenter stated that it is highly doubtful that the agriculture industry would be able to provide FDA sufficient documentation to meet the standards in this provision. EPA has revoked a large number of tolerances since the enactment of FQPA, and is not aware of widespread difficulties in this area.

7. *Data compensation.* A number of commenters have expressed concern regarding the ability to receive compensation under FFDCA section

408(i) for data generated to demonstrate the safety of the ingredients subject to this revocation. EPA has made clear that it interprets FFDCA section 408(i) to provide exclusive use and data compensation rights in data submitted to EPA by pesticide registrants or inert ingredient manufacturers and sellers to support or maintain tolerances or tolerance exemptions for inert ingredients. See the **Federal Register** of April 17, 2003 (68 FR 18977) (FRL–7279–9). Accordingly, should EPA rely upon such data to reinstate any of the listed tolerance exemptions subject to this action, such data will be subject to the protections of FFDCA section 408(i). The obligation for others to provide compensation for such protected data would accrue from DCIs as well as registration and registration review actions under FIFRA with respect to products containing the ingredients subject to this revocation action.

8. *Cost of the rule, OMB review, and the Regulatory Flexibility Act.* Several commenters expressed the opinion that the costs of the rule are significant, exceeding the $100 million threshold for OMB review under Executive Order 12866. Commenters also claimed EPA's analysis of the impact on small business did not comply with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The costs asserted by the commenters include, among other things, testing of every ingredient subject to the tolerance exemptions to be revoked, lost sales due to cancellation of pesticides because of the revocations, lost value to farmers resulting from the unavailability of these pesticides, and the cost of reformulation to change inert ingredients. These costs have been estimated by some commenters to be in excess of 1 billion dollars.

EPA disagrees with this analysis. Companies will choose the lowest cost alternative between testing, reformulation, and abandoning a product. In most cases, testing, which EPA expects to average around $150,000, will be by far the cheapest alternative, and EPA anticipates very few instances in which reformulation or pesticide product abandonment will be appropriate. EPA also anticipates that testing will not have to be performed for every chemical affected for several reasons. First, it is likely that some of these exemptions cover chemicals no longer used in pesticide products. Testing would not be conducted for such chemicals and there would be no costs for reformulation or due to pesticide product cancellation. Second, preliminary discussions with pesticide registrants and inert ingredient manufacturers that would be affected by this rule suggest that there are a significant number of unpublished studies already conducted that would meet the data needs identified here. Third, in many instances, similarities among these chemicals will allow EPA to rely on data produced on one chemical to support another chemical or a whole group of chemicals. Therefore, the overall cost of this rule will be far below the Executive Order 12866 threshold.

Although several commenters claimed that EPA's RFA certification of no significant impact on a substantial number of small businesses was deficient, little or no explanation was provided for that claim other than to argue that EPA needed to perform a more comprehensive analysis. EPA has reexamined this question and again concluded that there will be no significant negative impact on a substantial number of small entities (here, small businesses). As explained in this unit, the costs associated with this action are most likely to be testing costs borne by pesticide registrants. EPA has identified 1,720 pesticide registrants and approximately 58% of this total meet the definition of a small business. Even assuming some of these small businesses have to conduct testing on their own, the cost of testing ($150,000) would only be a small fraction of average annual sales for these companies (0.60%). EPA believes, however, that it is unlikely that small pesticide registrants will bear solely the costs of testing for an exemption. First, for the reasons explained in this unit, EPA believes that the number of tests conducted will be far fewer than the number of inert ingredients covered by these revocations. Second, and more to the point, the statute has cost-sharing provisions to ensure that the costs are divided between all affected parties. Although EPA has not matched up exemptions with pesticide products for pesticide registrants, EPA expects impacts to be widely spread through the group of 1,720 registrants because the same inert ingredients are frequently used in several pesticide products. Therefore, in all likelihood, the costs will be divided between many registrants. In fact, EPA has information indicating task forces are already being formed to share the cost of producing data. One commenter asserted that small registrants did not have the resources to participate in cost-sharing task forces. EPA's analysis, however, suggests that the shared costs of conducting these studies will be insignificant. Finally, with respect to RFA, EPA would note that tolerance revocations generally are under FFDCA, and these actions in particular, are based solely on safety grounds, and costs may not be considered. For example, it would not be relevant under FFDCA to contest these revocations on the ground that the tests needed to demonstrate safety are too costly. Thus, the testing costs associated with this rule are not actually costs that must be considered under the RFA in determining whether there is an impact on small entities.

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

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under FFDCA section 402(a), 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under FFDCA, but also must be registered FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

D. When do These Actions Become Effective?

1. EPA is revoking the tolerance exemptions identified in this document that have insufficient data effective 2 years after the date of publication of this rule in the **Federal Register**. Any commodities listed in this rule treated with pesticide products containing the inert ingredients and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticide chemicals in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that:

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

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

2. EPA is establishing new tolerance exemptions under 40 CFR 180.960 effective on the date of publication of this rule in the **Federal Register**.

3. EPA is revoking for administrative reasons the redundant and incorrect tolerance exemptions identified in this document under 40 CFR 180.910, 180.920, and 180.930 effective on the date of publication of this rule in the **Federal Register**.

E. What is the Contribution to Tolerance Reassessment?

By law, EPA is required by August, 2006 to reassess the tolerances and exemptions from tolerances that were in existence on August 3, 1996. This document revokes 130 inert ingredient tolerance exemptions, which count as a tolerance reassessment toward the August, 2006 review deadline under FFDCA section 408(q), as amended by FQPA in 1996.

III. Are the Actions Consistent with International Obligations?

The tolerance revocation in this rule is not discriminatory and is designed to ensure that both domestically produced and imported foods meet the food safety standard established by FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision (RED) documents. EPA has developed guidance concerning submissions for import tolerance support which was published in the **Federal Register** of June 1, 2000 (65 FR 35069) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the Internet at *http://www.epa.gov*. On the Home Page select ''Laws, Regulations, and Dockets,'' then select ''Regulations and Proposed Rules'' and then look up the entry for this document under ''**Federal Register—** Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr.

IV. Statutory and Executive Order Reviews

This rule establishes and revokes tolerance exemptions under section 408(d) of FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

Pursuant to RFA (5 U.S.C. 601 *et seq*), the Agency hereby certifies that this action will not have a significant negative economic impact on a substantial number of small entities. The factual basis for this certification is included in Unit II.B.8.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175 requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

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

List of Subjects in 40 CFR Part 180

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

Dated: July 31, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

§ 180.910 [Amended]

■ 2. In § 180.910, the table is amended by removing the following entries:

a. α-Alkyl (C_9-C_{18}-ω-hydroxypoly(oxyethylene) with poly(oxyethylene) content of 2-30 moles.

b. α-(*p*-Alkylphenyl)-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C_{13}) with 6 moles of ethylene oxide.

c. α-Alkyl (C_6-C_{14})-ω-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 4-12 moles; average molecular weight (in amu) is approximately 635.

d. α-(*p-tert*-Butylphenyl)-ω-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 4-12 moles.

e. α-(*o*,*p*-Dinonylphenyl)-ω-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.

f. α-(*o*,*p*-Dinonylphenyl)-ω-hydroxypoly (oxyethylene) produced by condensation of 1 mole of dinonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 or 140-160 moles of ethylene oxide.

g. Dodecylbenzenesulfonic acid, amine salts.

h. α-(*p*-Dodecylphenyl)-ω-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.

i. Ethylene oxide adducts of 2,4,7,9-tetramethyl-5-decynediol, the ethylene oxide content averages 3.5, 10, or 30 moles.

j. α-Lauryl-ω-hydroxypoly(oxyethylene), average molecular weight (in amu) of 600.

k. α-Lauryl-ω-hydroxypoly(oxyethylene) sulfate, sodium salt; the poly(oxyethylene) content is 3-4 moles.

l. Manganous oxide.

m. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 4-14 moles or 30 moles.

n. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.

o. Polyglyceryl phthalate ester of coconut oil fatty acids.

p. Poly(methylene-*p-tert*-butylphenoxy)- poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles.

q. Poly(methylene-*p*-nonylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles.

r. Secondary alkyl (C_{11}-C_{15}) poly(oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.

s. Sodium diisobutylnaphthalenesulfonate.

t. Sodium dodecylphenoxybenzenedisulfonate.

u. Sodium isopropylisohexylnaphthalenesulfonate.

v. Sodium lauryl glyceryl ether sulfonate.

w. Sodium monoalkyl and dialkyl (C_8-C_{16}) phenoxybenzenedisulfonate mixtures containing not less than 70% of the monoalkylated product.

x. Sodium mono- and dimethylnaphthalenesulfonates, molecular weight (in amu) 245-260.

y. Sodium mono-, di-, and tributyl naphthalenesulfonates.

z. Sodium mono-, di-, and triisopropyl naphthalenesulfonate.

aa. Sodium *N*-oleoyl-*N*-methyltaurine.

bb. Sodium sulfite.

cc. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide: if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70.

dd. α-[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.

ee. Tridecylpoly(oxyethylene) acetate, sodium salt; where the ethylene oxide content averages 6-7 moles.

§ 180.920 [Amended]

■ 3. In § 180.920, the table is amended by removing the following entries:

a. α-Alkyl (C_{12}-C_{18})-ω-hydroxypoly(oxyethylene) copolymers with poly(oxypropylene); polyoxyethylene content averages 3-12 moles and polyoxypropylene content 2-9 moles.

b. α-Alkyl (C_{10}-C_{16})-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 3-20 moles.

c. α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene)

sulfosuccinate, isopropylamine and *N*-hydroxyethyl isopropylamine salts of; the poly(oxyethylene) content averages 3-12 moles.

d. α-Alkyl(C_{10}-$_{12}$)-ω-hydroxpoly(oxyethylene) poly(oxypropylene) copolymer; poly(oxyethylene) content is 11-15 moles; poly(oxyproplene) content is 1-3 moles.

e. α-Alkyl(C_{12}-C_{18})-ω-hydroxypoly (oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content averages 13-17 moles and the oxypropylene content averages 2-6 moles.

f. α-Alkyl (C_{10}-C_{16})-ω-hydroxypoly(oxyethylene)poly (oxypropylene) mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the combined poly(oxyethylene) poly(oxypropylene) content averages 3-20 moles.

g. α-Alkyl (C_{12}-C_{18})-ω-hydroxypoly(oxyethylene/ oxypropylene) hetero polymer in which the oxyethylene content is 8-12 moles and the oxypropylene content is 3-7 moles.

h. α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene/ oxypropylene) hetero polymer in which the oxyethylene content is 8-13 moles and the oxypropylene content is 7-30 moles.

i. α-Alkyl (C_{21}-C_{71})-ω-hydroxypoly (oxyethylene) in which the poly(oxyethylene) content is 2 to 91 moles and molecular weight range from 390 to 5,000.

j. *n*-Alkyl(C_8-C_{18})amine acetate.

k. Amine salts of alkyl (C_8-C_{24}) benzenesulfonic acid (butylamine, dimethylaminopropylamine, mono- and diisopropylamine, mono- , di- , and triethanolamine).

l. *N*-(Aminoethyl) ethanolamine salt of dodecylbenzenesulfonic acid.

m. *N*,*N*-Bis[α-ethyl-ω-hydroxypoly(oxyethylene) alkylamine; the poly(oxyethylene) content averages 3 moles; the alkyl groups (C_{14}-C_{18}) are derived from tallow, or from soybean or cottonseed oil acids.

n. *N*,*N*-Bis(2-hydroxyethyl)alkylamine, where the alkyl groups (C_8-C_{18}) are derived from coconut, cottonseed, soya, or tallow acids.

o. *N*,*N*-Bis 2-(ω-hydroxypolyoxyethylene) ethyl) alkylamine; the reaction product of 1 mole *N*,*N*-bis(2-hydroxyethyl)alkylamine and 3-60 moles of ethylene oxide, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

p. *N*,*N*-Bis-2-(ω-hydroxypolyoxyethylene/ polyoxypropylene) ethyl alkylamine; the reaction product of 1 mole of *N*,*N*-bis(2-hydroxyethyl alkylamine) and 3-60 moles of ethylene oxide and propylene oxide, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

q. Butoxytriethylene glycol phosphate.

r. Cyclohexanol.

s. α-(Di-*sec*-butyl)phenylpoly(oxypropylene) block polymer with poly(oxyethylene); the poly(oxypropylene) content averages 4 moles, the poly(oxyethylene) content averages 5 to 12 moles, the molecular.

t. Disodium 4-isodecyl sulfosuccinate.

u. Dodecylphenol.

v. α-Dodecylphenol-ω-hydroxypoly(oxyethylene/ oxypropylene) hetero polymer where ethylene oxide content is 11-13 moles and oxypropylene content is 14-16 moles, molecular weight (in amu) averages 600 to 965.

w. Isopropylbenzenesulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts.

x. (3-Lauramidopropyl) trimethylammonium methyl sulfate.

y. Linoleic diethanolamide (CAS Reg. No. 56863–02–6).

z. Methyl bis(2-hydroxyethyl)alkyl ammonium chloride, where the carbon chain (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

aa. α,α′-[Methylenebis]-4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene bis[ω-hydroxypoly(oxyethylene)] having 6-7.5 moles of ethylene oxide per hydroxyl group.

bb. Methylnaphthalenesulfonic acid—formaldehyde condensate, sodium salt.

cc. Methyl poly(oxyethylene) alkyl ammonium chloride, where the poly(oxyethylene) content is 3-15 moles and the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

dd. Methyl violet 2B.

ee. Morpholine salt of dodecylbenzenesulfonic acid.

ff. Naphthalenesulfonic acid-formaldehyde condensate, ammonium and sodium salts.

gg. Partial sodium salt of *N*-lauryl-α-iminodipropionic acid.

hh. Poly(methylene-*p*-nonylphenoxy)poly(oxypropylene) propanol; the poly(oxy-propylene) content averages 4-12 moles.

ii. Primary *n*-alkylamines, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

jj. Sodium butyl naphthalenesulfonate.

kk. Sodium 1,4-dicyclohexyl sulfosuccinate.

ll. Sodium 1,4-dihexyl sulfosuccinate.

mm. Sodium 1,4-diisobutyl sulfosuccinate.

nn. Sodium 1,4-dipentyl sulfosuccinate.

oo. Sodium 1,4-ditridecyl sulfosuccinate.

pp. Sodium mono- and dimethyl naphthalenesulfonate; molecular weight (in amu) 245-260.

qq. Sulfosuccinic acid ester with *N*-(2,-hydroxy-propyl) oleamide, ammonia and isopropylamine salts of.

rr. Tall oil diesters with polypropylene glycol (CAS Reg. No. 68648–12–4).

ss. *N*,*N*,*N*′,*N*′′-Tetrakis-(2-hydroxypropyl) ethylenediamine.

tt. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding sodium salts of the phosphate esters; the poly(oxyethylene) content averages 6 to 10 moles.

§ 180.930 [Amended]

■ 4. In § 180.930, the table is amended by removing the following entries:

a. α-Alkyl (C_9-C_{18})-ω-hydroxy poly(oxyethylene): the poly(oxyethylene) content averages 2-20 moles.

b. α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene/ oxypropylene) hetero polymer in which the oxyethylene content is 8-13 moles and the oxypropylene content is 7-30 moles.

c. α-Alkyl (C_8-C_{10}) hydroxypoly(oxypropylene) block polymer with polyoxyethylene; polyoxypropylene content averages 3 moles and polyoxyethylene content averages 5-12 moles.

d. α-Alkyl (C_6-C_{14})-ω-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight (in amu) approximately 635.

e. α-(*p*-Alkylphenyl)-ω-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C_{13}) with 6 moles of ethylene oxide.

f. Amine salts of alkyl (C_8-C_{24}) benzenesulfonic acid (butylamine; dimethylamino propylamine; mono- and diisopropyl- amine; and mono- , di- , and triethanolamine).

g. α-(*p*-*tert*- Butylphenyl)-ω-hydroxypoly(oxyethylene) mixture of

dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 4-12 moles.

h. α-(*o*,*p*-Dinonylphenyl)-ω-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.

i. α-(*o*,*p*-Dinonylphenyl)-ω-hydroxypoly (oxyethylene), produced by the condensation of 1 mole of dinonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 moles of ethylene oxide.

j. Dodecylbenzenesulfonic acid, amine salts.

k. α-(*p*-Dodecylphenyl)-ω-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70 moles.

l. Ethylene oxide adducts of 2,4,7,9-tetramethyl-5-decynediol, the ethylene oxide content averages 3.5, 10, or 30 moles.

m. Ethyl vinyl acetate (CAS Reg. No. 24937–78–8).

n. α-Lauryl-ω-hydroxypoly(oxyethylene), average molecular weight (in amu) of 600.

o. α-Lauryl-ω-hydroxypoly(oxyethylene), sulfate, sodium salt; the poly(oxyethylene) content is 3-4 moles.

p. Manganous oxide.

q. α-(Methylene (4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene) bis-ω-hydroxypoly(oxyethylene) having 6-7.5 moles of ethylene oxide per hydroxyl group.

r. Mono-, di-, and trimethylnaphthalenesulfonic acids-formaldehyde condensates, sodium salts.

s. Naphthalenesulfonic acid and its sodium salt.

t. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.

u. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.

v. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 or 30-90 moles of ethyiene oxide.

w. Polyglyceryl phthalate esters of coconut oil fatty acids.

x. Poly(methylene-*p*-*tert*-butylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles.

y. Poly(methylene-*p*-nonylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles.

z. Poly(methylene-*p*-nonylphenoxy)poly(oxypropylene) propanol; the poly(oxypropylene) content averages 4-12 moles.

aa. Secondary alkyl (C_{11}-C_{15}) poly(oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.

bb. Sodium butylnaphthalenesulfonate.

cc. Sodium diisobutylnaphthalenesulfonate.

dd. Sodium isopropylisohexylnaphthalenesulfonate.

ee. Sodium isopropylnaphthalenesulfonate.

ff. Sodium monoalkyl and diakyl (C_8-C_{13}) phenoxybenzenedisulfonate mixtures containing not less than 70% of the monoalkylated product.

gg. Sodium mono- and dimethylnaphthalenesulfonate, molecular weight (in amu) 245-260.

hh. Sodium mono-, di-, and tributylnaphthalenesulfonates.

ii. Sodium *N*-oleoyl-*N*-methyl taurine.

jj. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p* (1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide: if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70.

kk. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,-3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.

ll. Tridecylpoly(oxyethylene) acetate sodiums salt; where the ethylene oxide content averages 6-7 moles.

§ 180.940 [Amended]

■ 5. Section 180.940 is amended as follows:

■ a. The table in paragraph (a) is amended by removing the following entries:

i. α-Alkyl(C_{10}-C_{14})-ω- hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 768 to 837.

ii. α-Alkyl(C_{12}-C_{18})-ω hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 950 to 1120.

■ b. The table in paragraph (b) is amended by removing the following entries:

i. α-Lauroyl-ω-hydroxypoly (oxyethylene) with an average of 8-9 moles ethylene oxide, average molecular weight (in amu), 400.

ii. Oxirane, methyl-, polymer with oxirane, ether with (1,2-ethanediyldinitrilo)tetrakis [propanol] (4:1).

■ c. The table in paragraph (c) is amended by removing the following entries:

i. α-Alkyl(C_{10}-C_{14})-ω-hydroxypoly (oxyethylene) poly (oxypropylene) average molecular weight (in amu), 768 to 837.

ii. α-Alkyl(C_{11}-C_{15})-ω-hydroxypoly (oxyethylene) with ethylene oxide content 9 to 13 moles.

iii. α-Alkyl(C_{12}-C_{15})-ω-hydroxypoly (oxyethylene) polyoxypropylene, average molecular weight (in amu), 965.

iv. α-Alkyl(C_{12}-C_{18})-ω-hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 950 to 1120.

v. α-Lauroyl-ω-hydroxypoly (oxyethylene) with an average of 8-9 moles ethylene oxide, average molecular weight (in amu), 400.

vi. Naphthalene sulfonic acid, sodium salt.

vii. Naphthalene sulfonic acid sodium salt, and its methyl, dimethyl and trimethyl derivatives.

viii. Naphthalene sulfonic acid sodium salt, and its methyl, dimethyl and trimethyl derivatives alkylated at 3% by weight with C_6-C_9 linear olefins.

ix. Oxirane, methyl-, polymer with oxirane, ether with (1,2-ethanediyldinitrilo)tetrakis [propanol] (4:1).

§ 180.960 [Amended]

■ 6. In § 180.960, the table is amended by alphabetically adding the following entries:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * *	
α-(o,p-Dinonylphenyl)-ω-hydroxypoly(oxyethylene) produced by condensation of 1 mole of dinonylphenol (nonyl group is a propylene trimer isomer) with an average of 140-160 moles of ethylene oxide	9014-93-1
* * * * *	
α-(p-Dodecylphenyl)-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 30-70 moles of ethylene oxide	9014-92-0 26401-47-8
* * * * *	
α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 30 moles	None
α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 30-90 moles of ethylene oxide	None
* * * * *	
α-[p-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl)phenol with a range of 30-70 moles of ethylene oxide	9036-19-5 9002-93-1
* * * * *	

[FR Doc. E6–12877 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7937]

Suspension of Community Eligibility

AGENCY: Mitigation Division, Federal Emergency Management Agency (FEMA), Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 et seq.; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022,

prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region I				
Maine:				
Eagle Lake, Town of, Aroostook County	230016	May 16, 1975, Emerg; September 18, 1985, Reg; August 2, 2006, Susp.	Aug. 2, 2006	Aug. 2, 2006.
Region VIII				
Colorado:				
Garfield County, Unincorporated Areas	080205	March 27, 1974, Emerg; December 15, 1977, Reg; August 2, 2006, Susp.	.....do	Do.
Silt, Town of, Garfield County	080223	September 10, 1984, Emerg; April 1, 1987, Reg; August 2, 2006, Susp.	.....do	Do.

*-do-=Ditto.
Code for reading third column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension.

Dated: July 27, 2006.

David I. Maurstad,

Mitigation Division Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–12907 Filed 8–8–06; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1486; MB Docket No. 05–154; RM–11224; RM–11250]

Radio Broadcasting Service: Austwell, Refugio, and Victoria, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Petitioner Katherine Pyeatt grants her request for dismissal of her petition for rulemaking to allot Channel 290A at Victoria, Texas. In addition, the Audio Division grants a timely filed counterproposal filed by Voz de la Raza and allots Channel 290A at Austwell, Texas, as the community's first local service. Channel 290A can be allotted to Austwell in compliance with the Commission's minimum distance separation requirements at 28–23–40 North Latitude and 96–41–17 West Longitude with a site restriction of 15.1 kilometers (9.4 miles) east of Austwell. Mexican concurrence has been requested but not obtained. To accommodate this allotment, the coordinates of vacant Channel 291 at Refugio, Texas are changed to 28–19–44 North Latitude and 97–24–54 West Longitude with a site restriction of 14.1 kilometers (8.8 miles) west of Refugio. Mexican concurrence was previously obtained. A filing window for Channel 290A at Austwell will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective September 5, 2006.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Helen McLean, Media Bureau, (202) 418–2738.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05–154, adopted July 19, 2006, and released July 21, 2006. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchase from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Austwell, Channel 290A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–6768 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1465]

Radio Broadcasting Services; Hemet, California

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies two Petitions for Reconsideration filed by Southern California Public Radio and Maranatha Ministries of Hemet directed to the staff letters dated March 18, 2004, returning their Petitions for Rule Making requesting the reservation of vacant FM Channel 273A at Hemet, California for noncommercial educational use. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* adopted July 26, 2006, and released July 28, 2006. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals ll, CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will not send a copy of this *Memorandum Opinion and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the aforementioned petition for reconsideration was denied.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E6–12995 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1484; MB Docket No. 05–184]

Radio Broadcasting Services; Aspen and Leadville, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, on its on motion, deletes Channel 228A at Leadville, Colorado to resolve existing distance spacing conflicts. It is Commission policy to refrain from maintaining an allotment in instances were there are no *bona fide* expressions of interest.

DATES: Effective September 5, 2006.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MB Docket No. 05–184, adopted July 19, 2006, and released July 21, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Leadville, Channel 228A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E6–12855 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1487; MB Docket No. 05–305; RM–11137; RM–11248]

Radio Broadcasting Services; Lometa and Richland Springs, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Charles Crawford, the Audio Division allots Channel 253A at Lometa, Texas, as that community's second local FM transmission service. To accommodate the Lometa allotment, Channel 235A is substituted for vacant Channel 252A at Richland Springs, Texas. Channel 253A is allotted at Lometa with a site restriction of 11.7 kilometers (7.3 miles) northwest of the community at coordinates 31–18–45 NL and 98–26–45 WL. Channel 235A is substituted for vacant Channel 252A at Richland Springs, at Petitioner's requested site 9.4 kilometers (5.8 miles) southwest of the community at coordinates 31–12–30 NL and 99–00–45 WL. A filing window period for Channel 253A at Lometa will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

DATES: Effective September 5, 2006.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05–305, adopted July 19, 2006, and released July

21, 2006. At the request of Charles Crawford, the Audio Division allots Channel 253A at Lometa, Texas, as that community's second local FM transmission service. To accommodate the Lometa allotment, Channel 235A is substituted for vacant Channel 252A at Richland Springs, Texas. 70 FR 70777 (November 23, 2005). The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801 (a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 253A at Lometa and by removing Channel 252A and by adding Channel 235A at Richland Springs.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E6–12853 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket Number NHTSA–2006–25258]

Denial of Petition Regarding 49 CFR Part 572, Subpart O, Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition submitted by First Technology Safety Systems (FTSS) on December 30, 2002. The petition asked the agency to revise drawing dimensions for the Hybrid III 5th Female (HIII–5F) chest jacket to reflect the physical part manufactured by FTSS.

FTSS did not provide any data showing that these slight dimensional differences would affect the dummy's performance, nor did FTSS provide any justification for changing NHTSA's drawing specifications in CFR Section 49, Part 572 Subpart O drawings to FTSS's suggested specifications. Revising the Agency's drawing specifications to FTSS's suggested specifications appears to provide little to no benefit. Furthermore, FTSS did not claim they are unable to meet NHTSA's current drawing specifications. Accordingly, the agency finds no basis to revise the drawings as requested by FTSS.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Sean Doyle, NHTSA Office of Crashworthiness Standards. Telephone: (202) 366–1740. Facsimile: (202) 493–2739

For legal issues: Mr. J. Edward Glancy, NHTSA Office of the Chief Counsel. Telephone: (202) 366–2992. Facsimile: (202) 366–3820.

Both officials can be reached by mail at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

Issues Raised in the Petition

FTSS, a manufacturer of crash test dummies, petitioned NHTSA to amend the specifications of CFR Section 49, Part 572, Subpart O, ''Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy,'' to correct claimed specification errors on two chest jacket drawings in the NHTSA drawing package. The drawings were published in support of the amended CFR Section 49 Part 572 on March 1, 2000 (65 FR 10968), which added the Hybrid III fifth percentile (HIII–5F) dummy to Part 572. Specifically, FTSS petitioned for ''dimensional corrections to drawing number 880105–355–E, Sheets 1 and 2'' in order to accurately reflect the physical part. FTSS states that ''during the development phase of the HIII–5F dummy (about 1990), there was some dissatisfaction with the routing of the shoulder belt over the chest flesh and particularly the relationship of the belt and the breast representations.'' FTSS made a manufacturing decision at that time to ''lower the breasts for improved belt routing, and the molds were modified accordingly.'' However, FTSS did not inform NHTSA of their decision to modify the breast location, and therefore NHTSA did not reflect this change during the Part 572 rulemaking. Dummies manufactured by FTSS since that time are inconsistent with the drawings in the CFR Section 49, Part 572 Subpart O for the HIII–5F dummy. According to FTSS, they have manufactured and delivered over 387 HIII–5F chest flesh assemblies as part of a whole dummy or as replacement parts since the HIII–5F dummy's introduction. FTSS has used the same molds for the manufacture of all the chest flesh assemblies since the dummy's introduction, and they claim that all manufactured chest flesh assemblies are geometrically identical.

Analysis of Petition

FTSS did not provide any data in their petition showing that these slight height differences in the breast location would affect the dummy's impact performance, but rather stated that the performance *may* change. Nevertheless, NHTSA performed a number of comparative tests between the FTSS's chest flesh assembly and Denton's chest flesh assembly, which follows the specified drawing dimensions. This testing was done to better evaluate FTSS's claim that the dimensional differences between NHTSA's drawings and FTSS's chest flesh assembly ''could result in a change in the performance of the dummy.'' NHTSA also thoroughly reviewed prior agency testing done with both FTSS's and Denton's chest flesh assemblies. The agency records did not find any instances where the petitioned dimensional differences in the breast height location had any significant effects on the HIII–5F dummy's performance as long as the belt restraints were properly positioned as per FMVSS No. 208 (the shoulder belt is allowed to self-position on the torso). Similar conclusions were reached by Transport Canada, which found that when the shoulder belt is allowed to lie

diagonally across the chest without human guidance, as required by FMVSS No. 208, the FTSS and Denton chest flesh assemblies perform statistically the same.

It is debatable whether or not FTSS's dummy improves belt routing, but either way, the Agency considers this information insufficient justification for changing NHTSA's drawing specifications. The Agency must also consider the entire dummy industry and recognizing that there are multiple dummy manufacturers that have been producing the HIII–5F for a significant period of time and continue to produce them, the agency must weigh the benefit of changing a drawing against the adverse impact the change would have on other manufacturers. In this case, revising the Agency's drawing specifications to FTSS's suggested dimensions appears to provide little to no benefit while the adverse impact on other manufacturers could be significant. Consequently, the agency finds no basis to revise the drawings as requested by FTSS.

Conclusion

For the reasons discussed above, NHTSA is denying FTSS's petition for dimensional changes to drawing number 880105–355–E, sheets 1 and 2 of CFR Section 49, Part 572, Subpart O.

Authority: 49 U.S.C. 30162; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: August 3, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–12975 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622 and 635

[Docket No. 060425111–6205–02; I.D. 041906B]

RIN 0648–AN09

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 18A

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 18A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 18A) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule prohibits vessels from retaining reef fish caught under the recreational size and bag/possession limits when commercial quantities of Gulf reef fish are on board; adjusts the number of persons allowed on board when a vessel with both commercial and charter vessel/headboat reef fish permits and a U.S. Coast Guard (USCG) Certificate of Inspection (COI) is fishing commercially; prohibits use of Gulf reef fish, except sand perch or dwarf sand perch, as bait in any commercial or recreational fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico, with a limited exception for crustacean trap fisheries; requires a NMFS-approved vessel monitoring system (VMS) on board vessels with Federal commercial permits for Gulf reef fish, including charter vessels/headboats with such commercial permits; and requires owners and operators of vessels with Federal commercial or charter vessel/headboat permits for Gulf reef fish to comply with sea turtle and smalltooth sawfish release protocols, possess on board specific gear to ensure proper release of such species, and comply with guidelines for proper care and release of incidentally caught sawfish and sea turtles. This final rule also requires annual permit application rather than application every 2 years (biennial). In addition, Amendment 18A revises the total allowable catch (TAC) framework procedure to reflect current practices and terminology. The intended effects of this final rule are to improve enforceability and monitoring in the reef fish fishery in the Gulf of Mexico and to reduce mortality of incidentally caught sea turtles and smalltooth sawfish. Finally, NMFS informs the public of approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for those collections.

DATES: This final rule is effective September 8, 2006, except for the amendments to §§ 622.4 (m)(1) and 622.9, which are effective December 7, 2006, and §§ 622.4(h)(1) and 635.4(m)(1), which are effective September 1, 2006.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) may be obtained from Peter Hood, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308; email *Peter.Hood@noaa.gov*.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Jason Rueter at the Southeast Regional Office address (above) and to David Rostker, Office of Management and Budget (OMB), by e-mail at *David__Rostker@omb.eop.gov*, or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Peter Hood, telephone 727–824–5305; fax 727–824–5308; e-mail *Peter.Hood@noaa.gov*.

SUPPLEMENTARY INFORMATION: The reef fish fishery is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) that was prepared by the Council. The FMP was approved by NMFS and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 26, 2006, NMFS published a notice of availability of Amendment 18A and requested public comment (71 FR 24635). On May 18, 2006, NMFS published the proposed rule to implement Amendment 18A and requested public comment on the proposed rule (71 FR 28842). NMFS approved Amendment 18A on July 24, 2006. The rationale for the measures in Amendment 18A is provided in the amendment and in the preamble to the proposed rule and is not repeated here.

Comments and Responses

Following is a summary of comments received on Amendment 18A and the associated proposed rule along with NMFS' responses. A total of 15 comments were received from individuals and organizations.

Comment 1: Not allowing a commercial vessel to retain reef fish species caught under recreational size and bag limits when the vessel has commercial harvests of any reef fish species aboard will do little to help stocks recover.

Response: The primary purpose of this management measure is to improve enforceability of the prohibition on sale of reef fish caught under recreational bag limits. Prohibiting bag limits of reef fish on commercial vessels makes it more difficult for fish caught under a bag limit from entering the market through commercial vessel landings. In addition, this measure resolves confusion that occurs when a commercial season for a species is closed while the recreational season is

still open. For example, during the February 15 to March 15 commercial closed season on red grouper, black grouper, and gag, vessels with a commercial reef fish permit are prohibited from possessing the recreational bag limits of those species (unless the vessel also has a charter permit and is operating as a charter vessel). However, in other instances, commercial reef fish vessels can retain a recreational bag limit of grouper after the commercial grouper quota is met and the commercial fishery is closed. Thus, it can be difficult for a commercial fisherman to determine when a bag limit can be retained.

Comment 2: To reduce confusion, rather than prohibiting commercial fishermen from retaining reef fish bag limits, allow commercial fishermen to retain one bag limit for each crew member regardless of reef fish species so long as the recreational fishery is open.

Response: While the measure proposed by the commenter would reduce confusion with respect to bag limits, it would not fulfill the primary purpose of this measure, which is to improve the enforceability of the provision to prohibit the sale of reef fish caught under the recreational bag limit. It should be noted that the proposed measure does not prohibit commercial fishermen from retaining fish from their commercial catch for personal use. Under current regulations, a commercial reef fish permit allows a vessel to exceed the bag limit for managed reef fish species within certain area, season, trip, and size limits. There is no obligation to sell what is harvested.

Comment 3: Not allowing a commercial vessel to retain reef fish species caught under recreational size and bag limits when the vessel has commercial harvests of any reef fish species aboard limits the ability of a commercial vessel to be profitable, while charter reef fish vessels can reduce the rate for charters if, after filling bag limits, they continue to fish using their commercial reef fish permit.

Response: Current regulations do not allow a vessel having both a charter vessel/headboat reef fish permit and a commercial reef fish permit to act as a for-hire vessel and commercial vessel on the same trip. A for-hire vessel with paying customers aboard is limited to recreational harvest restrictions.

Comment 4: It would be fair and reasonable to allow a maximum crew size of four persons to fish commercially on a vessel having both commercial and for-hire reef fish permits.

Response: The initial regulations limiting the maximum crew size to three on vessels with both commercial and for-hire permits was implemented through Amendment 1 to the Reef Fish FMP to provide consistent regulations with those of the Coastal Migratory Pelagic FMP. This initial three-person crew limit was selected because available data indicated most vessels with both permits did not typically exceed three persons when fishing commercially. In addition, NMFS and the Council were concerned that higher maximum crew sizes might encourage boats under charter to harvest excess amounts of reef fish by claiming to be fishing commercially. The purpose of limiting the maximum crew size on a dual-permitted vessel with a COI to the minimum crew size allowed under the COI when the vessel is underway for more than 12 hours is to create consistency between fishing and USCG regulations, as described above.

Comment 5: Any legally landed fish should be allowed to be used for bait, including sand perch, grunts, porgies, and squirrelfish.

Response: It is illegal to cut-up reef fish at sea for use as bait. However, it is not illegal to use as bait cut-up reef fish purchased on shore, or whole reef fish provided the fish complies with applicable size and bag limits. This creates enforcement difficulties at sea because the origin of a reef fish carcass used for bait could be obtained through legal means (purchased onshore) or illegal means (a fish caught on the fishing trip). Prohibiting the use of reef fish as bait resolves this enforcement problem. The measure does allow for sand perch and dwarf sand perch, traditional bait species in the reef fish management unit, to be used as bait. It also allows other reef fish species not in the management unit, such as grunts, porgies, and squirrelfish, to be used as bait, consistent with the bait definition found in 50 CFR 622.38. To assist the efficiency of the reef fish fishery, the rule will allow reef fish parts purchased on shore to be used as bait in the blue crab, stone crab, deep-water crab, and spiny lobster trap fisheries.

Comment 6: VMS should only be placed on larger vessels or vessels fishing with longlines, and commercial reef fish fishermen below a certain income level should be exempt from VMS requirements.

Response: The Reef Fish FMP contains several area-specific regulations where fishing is restricted or prohibited to protect habitat, protect spawning aggregations, or reduce fishing pressure. Unlike size, bag, and trip limits, where the catch can be monitored when a vessel returns to port, area restrictions require at-sea enforcement. Because of the sizes of these areas and the distances from shore, the effectiveness of enforcement through overflights and at-sea interception is limited. VMS allows a more effective means to monitor vessels for intrusions into restricted areas and could be an important component of a possible future electronic logbook system.

The Council considered placing VMS on just commercial reef fish vessels using longlines. However, they determined requiring VMS on all commercial reef fish vessels rather than just longline vessels was preferred because most of the area restrictions in the Gulf of Mexico, with the exception of the longline/buoy gear boundary and the stressed area boundary, apply to all gear types. An exception was made for vessels fishing exclusively with fish traps. Fish traps are under a closed entry system (no new fish trap endorsements are allowed and transfers are allowed only under limited conditions) and will be prohibited as an allowable gear in the Gulf of Mexico after February 7, 2007. Because these vessels are unlikely to be able to recover the costs of installing a VMS before the phase-out is complete, and because they are fishing under an alternative trip initiation/termination reporting requirement, exempting these vessels for the short period of time until fish traps are prohibited was considered acceptable. This exemption applies only if a fish trap vessel fishes exclusively with traps and no other gear. If any other gear is used, the vessel would be required to have VMS.

Comment 7: The cost of VMS is excessive and will put commercial fishermen out of business. Fishermen are already stressed from the increasing costs of fuel, early closures of the grouper fishery, and damage from storms and red tide.

Response: As stated above, the Council determined, and NMFS agrees, that VMS is necessary to enforce area-specific regulations for the commercial fishery. The Council also considered whether the cost of VMS equipment should be paid by reef fish vessel owners or by NMFS. The Council determined if NMFS were to purchase the equipment, there could be a delay in implementation of the VMS requirement until funding for the VMS units was made available from Congress or other sources. Were such funding not to become available, implementation of a VMS requirement could be delayed indefinitely. Therefore, the Council selected an alternative placing the burden of purchasing a VMS with the vessel owner. However, it should be noted that NMFS has been provided

funds by Congress to purchase VMS units in other fisheries. If such monies were to become available for the reef fish fishery, costs could be defrayed for reef fish vessel owners. The cost of the installation, maintenance, and month-to-month communications would still be paid or arranged for by vessel owners as appropriate.

Comment 8: Requiring VMS only on commercially permitted reef fish vessels and not on other vessels is discriminatory.Response: Commercial fishing vessels have greater fishing power than recreational fishing vessels, which are limited by bag limits. Therefore, commercial fishing vessels fishing within a restricted area are likely to do more harm to protected areas or stocks. In addition, because there are no federal permits for recreational fishermen, it is difficult to discern which recreational vessels would need to have VMS on board. Thus, recreational vessels were not considered for this measure.

Comment 9: Fisherman should not have to pay for VMS if they are charter fishing or operating outside the Gulf of Mexico EEZ waters.

Response: In some circumstances, a vessel owner can apply for a power-down exemption for VMS from NMFS. These circumstances include a vessel that is continuously out of the water for more than 72 consecutive hours, or a vessel fishing with both a valid commercial and a valid for-hire reef fish permit. Under these circumstances, the owner has the ability to sign out of the VMS program for a minimum period of 1 calendar month. The vessel would not be allowed to conduct commercial fishing operations until the VMS unit is reactivated and NMFS personnel verify consistent position reports. Regarding fishing in state waters or outside the Gulf of Mexico EEZ, VMS must be active for a vessel to participate in the commercial reef fish fishery because a vessel can easily transit between jurisdictional boundaries.

Comment 10: With requirements for emergency position indicating radio beacons (EPIRBs) on commercial fishing vessels, VMS will provide little additional protection for commercial reef fish fishermen.

Response: As indicated above, the primary purpose of VMS is to improve the enforcement of restricted fishing areas. A secondary purpose of VMS is to improve safety at sea. Some VMS models provide an optional safety mechanism with a ''panic button'' that can be activated during a vessel emergency so that USCG assets can be directed to the vessel's last known position. Additionally, should a vessel stop sending a signal or not arrive as scheduled, its cruise track can be monitored by NMFS personnel to determine whether the vessel may need assistance.

Comment 11: With the requirement for VMS, position information can be compromised and sold to the public.

Response: VMS location data for vessels are confidential and will not be shared with anyone without written authorization for their release from the vessel owner, except to those responsible for federal fisheries management and/or enforcement, or when required by a court order. Individuals can request location data only for their permitted vessel(s). Computers and monitors showing vessel location data are kept in secured rooms with restricted access to authorized personnel.

Comment 12: Given the cost of VMS and the rare occurrence of turtle interactions with reef fish gear, the additional cost of turtle release gear will create an untenable burden on commercial reef fish fishermen.

Response: A NMFS-issued biological opinion dated February 15, 2005, determined a reasonable and prudent measure to minimize the impacts of the incidental take of sea turtles and smalltooth sawfish during reef fish fishing was to ''ensure that any caught sea turtle or smalltooth sawfish is handled in such a way as to minimize stress to the animal to increase its survival.'' One of the terms and conditions of the opinion to address this reasonable and prudent measure states that ''use of the sea turtle handling and release protocols recently implemented for highly migratory species (HMS) pelagic longline vessels must be considered (50 CFR 635.21(c)(5)(i) and (ii))'' and ''at a minimum, regulations similar to those currently in place for Atlantic HMS bottom longline vessels must be implemented (50 CFR 635.21(a)(3) and 635.21(d)(3)).'' In addition, ''implementation of these requirements and guidelines must occur as soon as operationally feasible and no later than 2007.'' NMFS worked with the Council to develop requirements appropriate for the reef fish fishery. Although the biological opinion estimates that anticipated interactions in the Gulf of Mexico fishery are much less common than in the HMS fisheries, particularly in the HMS pelagic longline fishery, the same techniques for handling and removing gear from any hooked endangered sea turtle or smalltooth sawfish are pertinent.

The total cost for release gear per vessel is estimated to be between $267 and $459. Vessel sizes were taken into consideration, with fewer gear requirements required for vessels having a freeboard height less than 4 feet (1.23 m). For some vessels, the gear costs may be less because they already have some of the required equipment aboard. For example, life rings and life vests are already required items. Additionally, a list of NMFS-approved release gear, including descriptions of turtle release gear, can be found in the final rule implementing sea turtle bycatch and bycatch mortality mitigation measures for Atlantic pelagic longline vessels (69 FR 40734, July 6, 2004). Some of these gears can be constructed rather than purchased, allowing further savings.

Comment 13: The handles on short-handled dehookers are not long enough to release turtles from a vessel with a four foot freeboard or less, and by requiring either an internal or external dehooker, fishermen could damage sea turtles by using the wrong dehooking device to remove a hook.

Response: The requirements specified for vessels with a freeboard height of less than four feet incorporate the best available scientific information, while accounting for differences between HMS commercial longline vessels (for which the release gear was developed) and reef fish vessels. Freeboard height (i.e., the working distance between the top rail of the gunwale to the water's surface) and available deck space, if a turtle were to be boated to remove the hook, were the two main factors believed to affect the way a captured turtle might be handled and what types of measures would be practical. Exempting vessels with a lower freeboard height from the requirement of the long-handled line cutters or long-handled dehooking devices reduces some of the burden to fishermen in terms of the amount of release gear that must be on board, while still increasing the likelihood of successfully releasing sea turtles, provided that the fishermen are proficient in the selection and use of the appropriate gear.

In selecting dehooking devices, internal or external dehookers are allowed because both can remove external hooks. This gives fishermen the option of selecting a dehooker that can remove external hooks, or having a dual-purpose dehooker. Allowing fishermen to use one dehooker reduces some of the burden to fishermen in terms of the amount of release gear that must be carried.

Comment 14: Changing the permit renewal system from biannual to annual will create more paperwork and cost for fishermen.

Response: NMFS believes requiring annual permit renewal provides better

permit accountability. Fees for annual renewal would be half of the current biennial fee; therefore, there would be no increased cost to applicants. The annual renewal requirement will apply to all permits, including those for highly migratory species. The changes will also simplify the income qualification documentation requirements for fisheries having income criteria, thus reducing paperwork requirements.

Classification

The Regional Administrator, Southeast Region, NMFS, determined that Amendment 18A is necessary for the conservation and management of the Gulf reef fish fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a final regulatory flexibility analysis (FRFA) for this final rule, based on the regulatory impact review (RIR), initial regulatory flexibility analysis (IRFA) and public comments. NMFS received several public comments on the proposed rule during the comment period. These comments and NMFS' responses are included in the final rule. None of the comments are specific to the IRFA, but some relate to economic and other issues affecting small entities. An outline of these issues and NMFS' responses are included below as part of the FRFA summary.

A major economic issue raised in the comments pertains to the cost of VMS. One comment considered the VMS cost as excessive and could put commercial fishermen out of business. A second comment indicated VMS should be required only on larger vessels or vessels fishing with longlines and should not be required for commercial fishermen below a certain income level. Another comment stated that fishermen should not have to pay for VMS if they are charter fishing or operating outside the Gulf EEZ. NMFS is aware of the cost of VMS and stated in the RIR and IRFA for the proposed rule that the VMS requirement would adversely affect many small entities, particularly the smaller and marginal operations. NMFS, however, concurs with the Council when it considered the necessity of VMS on all commercial reef fish vessels, including dually permitted charter/commercial vessels, in order to enforce area-specific regulations. There are many such areas in the Gulf where fishing is restricted or prohibited to protect habitat, protect spawning aggregations, or reduce fishing pressure. Most of these areas apply to all gear types. Also, if NMFS did not require VMS on charter fishing or fishing outside the Gulf EEZ, it would complicate enforcement as vessels can easily shift from charter to commercial fishing or transit from one jurisdictional area to another. One mitigating factor on these issues is that if funds become available, as in other fisheries requiring VMS, NMFS will pay for part of the VMS cost. Another mitigating factor is the power-down exemption certain vessels may be eligible to obtain from NMFS. In particular, vessels that are continuously out of the water for more than 72 consecutive hours or dually permitted charter/commercial vessels can sign out of the VMS program for 1 calendar month. But these vessels would not be allowed to fish commercially until the VMS unit is verified to be properly functioning.

Another comment stated that given the cost of VMS, the additional cost of turtle release gear will create an untenable burden on commercial reef fish fishermen. As discussed above, the cost of VMS would adversely affect many commercial reef fish vessels. The additional cost of turtle release gear (between $267 and $459 per vessel) is not as large, but nevertheless, would impinge on the profitability of vessels, as discussed in the RIR and IRFA. NMFS worked with the Council to develop requirements appropriate for the reef fish fishery. It should be noted, though, that less gear is required for vessels having a freeboard height of less than 4 feet (1.23 m). In addition, some vessels are already equipped with some of the required gear, such as life rings and life vests, so the additional cost to them would be less than estimated in the RIR and IRFA.

One other comment contended the change in permit renewal from biannual to annual will create more paperwork and cost for fishermen. To an extent, the change from biannual to annual permit renewal would increase paperwork, but not the permit renewal fee since the annual fee is just half of the biannual fee currently charged by NMFS. One should note that accompanying the annual permit requirement is the simplification of income documentation for renewing permits subject to certain qualifying income criteria.

These and other comments have not resulted in changes to final rule, so the economic analysis conducted for the final rule has also not changed. The following completes the FRFA.

The Magnuson-Stevens Act provides the statutory basis for the final rule. The final rule will: (1) Continue allowing vessels to possess both commercial and for-hire vessel (charter vessel/headboat) permits, but disallow retention of reef fish species caught under recreational size and possession limits when the vessel has commercial harvests of any reef fish species aboard; (2) allow a for-hire vessel with a U.S. Coast Guard (USCG) Certificate of Inspection (COI) to increase its crew size but not in excess of its minimum manning requirements outlined in its COI when fishing for reef fish under its commercial fishing license; (3) prohibit the use as bait any species in the reef fish management unit or parts thereof, with certain exceptions; (4) require the use of VMS systems Gulf-wide for all gear types of commercially permitted reef fish vessels, including charter vessels with commercial reef fish permits; (5) modify the TAC framework procedure to incorporate the Southeast Data, Assessment and Review (SEDAR) process; and (6) require vessels with commercial and/or for-hire reef fish permits to comply with sea turtle and smalltooth sawfish release protocols, possess a set of release gear required by the NMFS Office of Protected Resources, and adopt specific guidelines for the proper care of incidentally caught sawfish.

The main objectives of the final rule are to resolve certain issues related to monitoring and enforcement of existing regulations, update the framework procedure for setting TAC to reflect current terminology and stock assessment procedures, and reduce bycatch mortality of incidentally caught endangered sea turtles and smalltooth sawfish.

The final rule would impact three types of businesses in the Gulf reef fish fishery, namely, commercial fishing vessels, recreational for-hire vessels, and fish dealers. At present, the commercial reef fish permits are under a license limitation program and for-hire reef fish permits are under a moratorium, which is proposed to be converted into a license limitation under a separate amendment. Hence, no new commercial or for-hire reef fish permits will be issued when Amendment 18A is implemented. Currently, there are 1,145 commercial and 1,574 for-hire active vessel permits for the Gulf reef fish fishery. Of these permittees, 237 vessels have both commercial and for-hire vessel permits. Reef fish dealers in the Gulf are required to obtain permits to handle reef fish caught in the Gulf. There are currently 227 dealers permitted to buy and sell reef fish caught in the Gulf. The final rule is expected to affect these commercial vessels, for-hire vessels, and fish dealers.

Average annual gross receipts of commercial reef fish vessels in the Gulf

range from $24,095 for low-volume vertical line vessels to $116,989 for high-volume longline vessels. The corresponding annual net incomes range from $4,479 for low-volume vertical line vessels to $28,466 for high-volume vertical line vessels. Permit records indicate that the maximum number of commercial reef fish permits owned by any single entity is six, so at the maximum this entity would generate a total of $701,934 in gross receipts. For the for-hire vessels, gross annual receipts range from $76,960 for charter vessels to $404,172 for headboats. The corresponding annual operating profits range from $36,758 for charter vessels to $338,209 for headboats. Permit records indicate a maximum of 12 permits held by any single entity. At a maximum, this entity would generate a total of $4,850,064 in gross receipts. A fishing business is considered a small entity if it is independently owned and operated and not dominant in its field of operation, and if it has annual receipts not in excess of $4.0 million in the case of commercial harvesting entities or $6.5 million in the case of for-hire entities. Relative to these thresholds, both the commercial vessel and for-hire vessel entities affected by the final rule may be considered small entities.

Employment (both part and full time) by all reef fish processors in the Southeast totaled 700 individuals. There is no information regarding employment by fish dealers, although it is safe to assume that dealers employ fewer individuals than processors. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis. A fish dealer is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 100 or fewer persons on a full-time, part-time, temporary, or other basis. Given the employment information, it is very unlikely for any processor that holds a reef fish dealer permit to employ 500 or more persons. Although there are no actual data on employment by fish dealers, between 1997 and 2000, on average, in excess of 100 reef fish dealers operated in the Gulf. It is assumed that all processors must be dealers, yet a dealer need not be a processor. Total dealer employment, therefore, is expected to be slightly more than 700 individuals. Given the number of reef fish dealers and estimates of dealer employment, it is unlikely that any dealer employs more than 100 persons. Therefore, each dealer may be considered a small entity.

Allowing vessels to be dually permitted (commercial and for-hire) would enable some 227 vessels to continue their usual operations. Disallowing these vessels to possess recreationally caught fish when commercial quantities of reef fish are aboard would improve enforcement without significantly impacting the operations of these dually permitted vessels. Allowing a for-hire vessel to increase its crew size, however, not in excess of its minimum manning requirements outlined in its COI, affords flexibility in operation and helps to ensure safety at sea of the crew, particularly for vessels using spearfish gear. This would also eliminate the discrepancy between current fishing rules and USCG requirements with respect to crew size of for-hire vessels. The prohibition on the use of reef fish, except sand perch and dwarf sand perch, as bait reinforces the current ban on cutting up reef fish at sea and regulations on bait. The economic impact of this provision on commercial and for-hire vessels cannot be quantified but is expected to be relatively small. The VMS requirement is expected to improve the efficacy of enforcement efforts and the effectiveness and timeliness of at-sea rescue efforts. All commercial reef fish vessels, including for-hire vessels with commercial permits, would incur one-time and recurring costs. First-year compliance costs range from $2,032 to $3,651 per vessel. These costs could be substantial, particularly relative to the profits of small-time vessel operations. The changes to the framework procedures are administrative in nature and are not expected to have substantial effects on fishing operations of reef fish vessels. The various requirements addressing the bycatch issue relative to sea turtles and smalltooth sawfish would affect all commercial and for-hire vessels in the reef fish fishery. Out-of-pocket expenses are estimated to be between $267 and $459 per vessel. These are mainly costs for equipping vessels with the required gear. Because some of the gear would last for some time, costs would in effect be spread over a number of years.

The final rule would alter some of the reporting, record-keeping, and other compliance requirements in the reef fish fishery. In particular, the VMS requirement would affect all vessels with commercial and/or for-hire reef fish permits. Including installation by a qualified marine electrician, equipment costs range from $1,600 to $2,900 per vessel. In addition, yearly communication costs range from $432 to $751 per vessel. Compliance with sea turtle and smalltooth sawfish release protocols would also affect all vessels with commercial and/or for-hire reef fish permits. Costs range from $267 to $459 per vessel. In addition, changing the permit renewal from biannual to annual would create additional paperwork from filling and submitting applications but would simplify the documentation of income requirement for permits that have income qualifying criteria.

Other than the provision on vessel manning requirements that removes the conflict between NMFS and USCG regulations, no other Federal rules have been uncovered that would duplicate, overlap, or conflict with the final rule.

The final rule is expected to affect a substantial number of small entities. A total of 908 solely permitted commercial vessels, 1,337 solely permitted for-hire vessels, and 237 dually permitted commercial/for-hire vessels would be affected. Because all entities affected by the final rule are small entities, the issue of disproportional effects on small versus large entities does not arise. Mainly because of the VMS requirement, for which compliance costs range from $1,600 to $2,900 per vessel, and the sea turtle and smalltooth sawfish release protocols, for which compliance costs range from $267 to $459 per vessel, the final rule would have substantial adverse impacts on the profitability of affected vessels, particularly the smaller and marginal operations.

This amendment considered several alternatives to the final rule. Regarding dually permitted vessels (vessels with both commercial and for-hire permits), two other alternatives have been considered. Alternative 1 (status quo) continues to allow vessels to be dually permitted, but it does not resolve the problem of identifying whether caught fish are saleable (commercial trip) or not saleable (charter trip). Alternative 3, which disallows a vessel to be dually permitted, would adversely affect the fishing operations of dually permitted vessels by forcing them to divest of either the commercial or for-hire permit. Regarding crew size of for-hire vessels fishing under their commercial permits, four other alternatives have been considered. Alternative 1 (status quo), which limits for-hire vessel crew size to three persons, would not be compatible with minimum USCG manning requirements. Alternative 3, which is similar to the final rule except for spearfishing vessels, would benefit the spearfishing vessels. However, the crew size for these vessels would be incompatible with USCG manning

requirements. Alternative 4, which allows a maximum crew size of four persons, would also be incompatible with Coast Guard manning requirements. Alternative 5, which removes the maximum crew size requirements for dually permitted vessels, creates the same enforcement problem as the status quo and at the same time affords a potential increase in fishing effort. Regarding use of reef fish as bait, two other alternatives (with various sub-alternatives) have been considered. Alternative 1 (status quo), which allows the use of whole reef fish that meet the specified requirements for bait or cut-up reef fish purchased at shore for bait, complicates the enforcement of the ban on cutting up reef fish at sea as well as potentially increases the mortality of certain reef fish species. Alternative 3, which requires enforcement officials to identify reef fish species used as bait before assessing any potential violation, could potentially complicate enforcement. On the VMS requirement, two other alternatives have been considered. Alternative 1 (status quo), which does not require VMS, is the least costly to small entities but does not address vital enforcement and at-sea rescue issues. Similar to the final rule, Alternative 3 requires VMS; however, this alternative would only require vessel owners to pay for yearly communication costs. If government resources are available, this alternative would be more favorable to the industry than the final rule. Regarding changes to the framework procedure, the only other alternative is the no action alternative, which could potentially create some confusion in the way a TAC is established by the Council. Regarding sea turtle and smalltooth sawfish bycatch, five other alternatives have been considered. Alternative 1 (status quo) is the least costly of all alternatives to small entities, but it would not address the bycatch of sea turtles and smalltooth sawfish in commercial and for-hire reef fish vessels. Alternative 2, which requires commercial vessels to abide by the release protocols in effect in the HMS longline fishery, would impose a compliance cost ranging from $202 to $380. Alternative 3, which requires the commercial reef fish fleet to comply with the more stringent requirement in place in the HMS pelagic longline fishery, would carry a compliance cost of $712 to $1,282 per vessel. Alternative 4 requires for-hire reef fish vessels to comply with either the less stringent release protocol as in Alternative 2 or the more stringent release protocol as in Alternative 3. The corresponding compliance costs per vessel would be similar to those in Alternative 2 or 3. Alternative 5, which requires commercial and for-hire reef fish vessels to comply with the sea turtle release protocols in place for the Atlantic HMS bottom longline vessels, would impose a compliance cost of $202 to $380 per vessel.

Copies of the FRFA are available from NMFS (see **ADDRESSES**).

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all vessel permit holders for the Gulf reef fish fishery.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under control number 0648–0544. Following are estimated average public reporting burdens, per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information: (1) VMS installation—4 hours; (2) completion and submission of certification of VMS installation and activation—15 minutes; (3) transmission of position reports—24 seconds; (4) fishing activity reports—1 minute; (5) annual maintenance of VMS—2 hours; (6) submission of requests for power down exemptions—10 minutes; and (7) annual renewal of all permits—15 minutes. Send comments regarding these burden estimates or any other aspect of the collection-of-information requirements, including suggestions for reducing burden hours, to NMFS (see **ADDRESSES**) and by email 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 a 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.

List of Subjects

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

50 CFR Part 635

Endangered and threatened species, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Statistics, Treaties.

Dated: August 3, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR parts 622 and 635 are amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.2, the definitions of ''Charter vessel'' and ''Headboat'' are revised in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Charter vessel means a vessel less than 100 gross tons (90.8 mt) that is subject to the requirements of the USCG to carry six or fewer passengers for hire and that engages in charter fishing at any time during the calendar year. A charter vessel with a commercial permit, as required under § 622.4(a)(2), is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew. However, a charter vessel that has a charter vessel permit for Gulf reef fish, a commercial vessel permit for Gulf reef fish, and a valid Certificate of Inspection (COI) issued by the USCG to carry passengers for hire will not be considered to be operating as a charter vessel provided—

(1) It is not carrying a passenger who pays a fee; and

(2) When underway for more than 12 hours, that vessel meets, but does not exceed the minimum manning requirements outlined in its COI for vessels underway over 12 hours; or when underway for not more than 12 hours, that vessel meets the minimum manning requirements outlined in its COI for vessels underway for not more than 12-hours (if any), and does not exceed the minimum manning requirements outlined in its COI for

vessels that are underway for more than 12 hours.

* * * * *

Headboat means a vessel that holds a valid Certificate of Inspection (COI) issued by the USCG to carry more than six passengers for hire.

(1) A headboat with a commercial vessel permit, as required under § 622.4(a)(2), is considered to be operating as a headboat when it carries a passenger who pays a fee or—

(i) In the case of persons aboard fishing for or possessing South Atlantic snapper-grouper, when there are more persons aboard than the number of crew specified in the vessel's COI; or

(ii) In the case of persons aboard fishing for or possessing coastal migratory pelagic fish, when there are more than three persons aboard, including operator and crew.

(2) However a vessel that has a headboat permit for Gulf reef fish, a commercial vessel permit for Gulf reef fish, and a valid COI issued by the USCG to carry passengers for hire will not be considered to be operating as a headboat provided—

(i) It is not carrying a passenger who pays a fee; and

(ii) When underway for more than 12 hours, that vessel meets, but does not exceed the minimum manning requirements outlined in its COI for vessels underway over 12 hours; or when underway for not more than 12 hours, that vessel meets the minimum manning requirements outlined in its COI for vessels underway for not more than 12-hours (if any), and does not exceed the minimum manning requirements outlined in its COI for vessels that are underway for more than 12 hours.

* * * * *

■ 3. In § 622.4, paragraph (h)(1) is revised, and a sentence is added at the end of paragraph (m)(1) to read as follows:

§ 622.4 Permits and fees.

* * * * *

(h) * * *

(1) *Vessel permits, licenses, and endorsements and dealer permits.* A vessel owner or dealer who has been issued a permit, license, or endorsement under this section must renew such permit, license, or endorsement on an annual basis. The RA will mail a vessel owner or dealer whose permit, license, or endorsement is expiring an application for renewal approximately 2 months prior to the expiration date. A vessel owner or dealer who does not receive a renewal application from the RA by 45 days prior to the expiration date of the permit, license, or endorsement must contact the RA and request a renewal application. The applicant must submit a completed renewal application form and all required supporting documents to the RA prior to the applicable deadline for renewal of the permit, license, or endorsement and at least 30 days prior to the date on which the applicant desires to have the permit made effective. If the RA receives an incomplete application, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the RA's letter of notification, the application will be considered abandoned. A permit, license, or endorsement that is not renewed within the applicable deadline will not be reissued.

* * * * *

(m) * * *

(1) * * * An application for renewal or transfer of a commercial vessel permit for Gulf reef fish will not be considered complete until proof of purchase, installation, activation, and operational status of an approved VMS for the vessel receiving the permit has been verified by NMFS VMS personnel.

* * * * *

■ 4. In § 622.7, paragraph (ff) is added to read as follows:

§ 622.7 Prohibitions.

* * * * *

(ff) Fail to comply with the protected species conservation measures as specified in § 622.10.

■ 5. Section 622.9 is revised to read as follows:

§ 622.9 Vessel monitoring systems (VMSs).

(a) *Requirements for use of a VMS*—(1) *South Atlantic rock shrimp.* An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic rock shrimp fishery on board when on a trip in the South Atlantic. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider.

(2) *Gulf reef fish.* An owner or operator of a vessel that has been issued a commercial vessel permit for Gulf reef fish, including a charter vessel/headboat issued such a permit even when under charter, must ensure that such vessel has an operating VMS approved by NMFS for use in the Gulf reef fish fishery on board at all times whether or not the vessel is underway, unless exempted by NMFS under the power down exemption of the NOAA Enforcement Draft Vessel Monitoring System Requirements as included in Appendix E to Final Amendment 18A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico. The NOAA Enforcement Draft Vessel Monitoring System Requirements document is available from NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800–758–4833. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider. Unless exempted under the power down exemption, a VMS must transmit a signal indicating the vessel's accurate position at least once an hour, 24 hours a day every day. Prior to departure for each trip, a vessel owner or operator must report to NMFS any fishery the vessel will participate in on that trip and the specific type(s) of fishing gear, using NMFS-defined gear codes, that will be on board the vessel. This information may be reported to NMFS using the toll-free number, 888–219–9228, or via an attached VMS terminal. The VMS requirements of this paragraph apply throughout the Gulf of Mexico. An owner or operator of a vessel that has been issued a commercial vessel permit for Gulf reef fish with a fish trap endorsement and that fishes exclusively with fish traps is exempt from the VMS requirements of this paragraph through February 7, 2007.

(b) *Installation and activation of a VMS.* Only a VMS that has been approved by NMFS for the applicable fishery may be used, and the VMS must be installed by a qualified marine electrician. When installing and activating the NMFS-approved VMS, or when reinstalling and reactivating such VMS, the vessel owner or operator must—

(1) Follow procedures indicated on a NMFS-approved installation and activation checklist for the applicable fishery, which is available from NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800–758–4833; and

(2) Submit to NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, a statement certifying compliance with

the checklist, as prescribed on the checklist.

(3) Submit to NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, a vendor-completed installation certification checklist, which is available from NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800–758–4833.

(c) *Interference with the VMS.* No person may interfere with, tamper with, alter, damage, disable, or impede the operation of the VMS, or attempt any of the same.

(d) *Interruption of operation of the VMS.* When a vessel's VMS is not operating properly, the owner or operator must immediately contact NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, phone: 800–758–4833, and follow instructions from that office. If notified by NMFS that a vessel's VMS is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating to a location designated by NMFS the vessel's positions or returning to port until the VMS is operable.

(e) *Access to position data.* As a condition of authorized fishing for or possession of fish in a fishery subject to VMS requirements in this section, a vessel owner or operator subject to the requirements for a VMS in this section must allow NMFS, the USCG, and their authorized officers and designees access to the vessel's position data obtained from the VMS.

■ 6. In subpart A, § 622.10 is added to read as follows:

§ 622.10 Conservation measures for protected resources.

(a) *Atlantic dolphin and wahoo pelagic longliners.* The owner or operator of a vessel for which a commercial permit for Atlantic dolphin and wahoo has been issued, as required under § 622.4(a)(2)(xii), and that has on board a pelagic longline must post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS. Such owner or operator must also comply with the sea turtle bycatch mitigation measures, including gear requirements and sea turtle handling requirements, as specified in § 635.21(c)(5)(i) and (ii) of this chapter, respectively. For the purpose of this paragraph, a vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, floats capable of supporting the mainline, and leaders (gangions) with hooks are on board. Removal of any one of these elements constitutes removal of pelagic longline gear.

(b) *Gulf reef fish commercial vessels and charter vessels/headboats*—(1) *Sea turtle conservation measures.* The owner or operator of a vessel for which a commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued, as required under §§ 622.4(a)(2)(v) and 622.4(a)(1)(i), respectively, must post inside the wheelhouse, or within a waterproof case if no wheelhouse, a copy of the document provided by NMFS titled, ''Careful Release Protocols for Sea Turtle Release With Minimal Injury,'' and must post inside the wheelhouse, or in an easily viewable area if no wheelhouse, the sea turtle handling and release guidelines provided by NMFS. Those permitted vessels with a freeboard height of 4 ft (1.2 m) or less must have on board a dipnet, short-handled dehooker, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in 50 CFR 635.21(c)(5)(i)(E) through (L) with the following modifications: the dipnet handle can be of variable length, only one NMFS approved short-handled dehooker is required (i.e., CFR 635.21(c)(5)(i)(G) or (H)); and life rings, seat cushions, life jackets, and life vests may be used as alternatives to tires for cushioned surfaces as specified in 50 CFR 635.21(c)(5)(i)(F). Those permitted vessels with a freeboard height of greater than 4 ft (1.2 m) must have on board a dipnet, long-handled line clipper, a short-handled and a long-handled dehooker, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in 50 CFR 635.21(c)(5)(i)(A) through (L) with the following modifications: only one NMFS approved long-handled dehooker (50 CFR 635.21(c)(5)(i)(B) or (C)) and one NMFS-approved short-handled dehooker (50 CFR 635.21(c)(5)(i)(G) or (H)) are required; and life rings, seat cushions, life jackets, and life vests may be used as alternatives to tires for cushioned surfaces as specified in 50 CFR 635.21(c)(5)(i)(F).

(2) *Smalltooth sawfish conservation measures.* The owner or operator of a vessel for which a commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued, as required under §§ 622.4(a)(2)(v) and 622.4(a)(1)(i), respectively, that incidentally catches a smalltooth sawfish must—

(i) Keep the sawfish in the water at all times;

(ii) If it can be done safely, untangle the line if it is wrapped around the saw;

(iii) Cut the line as close to the hook as possible; and

(iv) Not handle the animal or attempt to remove any hooks on the saw, except for with a long-handled dehooker.

■ 7. In § 622.31, paragraph (n) is added to read as follows:

§ 622.31 Prohibited gear and methods.

* * * * *

(n) Gulf reef fish other than sand perch or dwarf sand perch may not be used as bait in any fishery, except that, when purchased from a fish processor, the filleted carcasses and offal of Gulf reef fish may be used as bait in trap fisheries for blue crab, stone crab, deep-water crab, and spiny lobster.

■ 8. In § 622.34, a sentence is added at the end of paragraph (l) to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(l) * * * Also note that if commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, are on board the vessel, no bag limit of Gulf reef fish may be possessed, as specified in § 622.39(a)(5).

* * * * *

■ 9. In § 622.36, a sentence is added at the end of paragraph (a) to read as follows:

§ 622.36 Seasonal harvest limitations.

(a) * * * Also note that if commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, are on board the vessel, no bag limit of Gulf reef fish may be possessed, as specified in § 622.39(a)(5).

* * * * *

■ 10. In § 622.37, paragraph (d)(4) is added to read as follows:

§ 622.37 Size limits.

* * * * *

(d) * * *

(4) A person aboard a vessel that has a Federal commercial vessel permit for Gulf reef fish and commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, may not possess any Gulf reef fish that do not comply with the applicable commercial minimum size limit.

* * * * *

■ 11. In § 622.38, a sentence is added at the end of paragraph (d)(1) introductory text to read as follows:

§ 622.38 Landing fish intact.

* * * * *

(d) * * *

(1) * * * See § 622.31(m) regarding a prohibition on the use of Gulf reef fish as bait.

* * * * *

■ 12. In § 622.39, paragraph (a)(2)(iii) is revised, and paragraph (a)(5) is added to read as follows:

§ 622.39 Bag and possession limits.

(a) * * *

(2) * * *

(iii) For a species/species group when its quota has been reached and closure has been effected, provided that no commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, are on board as specified in paragraph (a)(5) of this section.

* * * * *

(5) A person aboard a vessel that has a Federal commercial vessel permit for Gulf reef fish and commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, may not possess Gulf reef fish caught under a bag limit.

* * * * *

§ 622.41 [Amended]

■ 13. In § 622.41, paragraph (l)(2) is removed and reserved.

■ 14. In § 622.43, paragraph (a)(1)(i) is revised to read as follows:

§ 622.43 Closures.

(a) * * *

(1) * * *

(i) *Commercial quotas.* The application of bag limits described in this paragraph (a)(1)(i) notwithstanding, bag limits of Gulf reef fish may not be possessed on board a vessel with commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, on board, as specified in § 622.39(a)(5).

(A) If the recreational fishery for the indicated species is open, the bag and possession limits specified in § 622.39(b) apply to all harvest or possession in or from the Gulf EEZ of the indicated species, and the sale or purchase of the indicated species taken from the Gulf EEZ is prohibited. In addition, the bag and possession limits for red snapper, when applicable, apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested.

(B) If the recreational fishery for the indicated species is closed, all harvest or possession in or from the Gulf EEZ of the indicated species is prohibited.

* * * * *

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 15. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 16. In § 635.4, the second sentence of paragraph (m)(1) is revised to read as follows:

§ 635.4 Permits and fees.

* * * * *

(m) * * *

(1) * * * A renewal application must be submitted to NMFS, at an address designated by NMFS, at least 30 days before a permit's expiration to avoid a lapse of permitted status. * * *

* * * * *

[FR Doc. E6–12984 Filed 8–8–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 153
Wednesday, August 9, 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.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1653

Court Orders and Legal Processes Affecting Thrift Savings Plan Accounts

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Agency) proposes to amend the Thrift Savings Plan's (TSP's) regulations to improve processing of court orders that seek to divide a TSP account pursuant to a divorce. The proposed change would limit the types of court orders the Agency would accept to either one that requires payment of a specific dollar amount or that requires payment of a stated percentage or fraction of the account. The change would no longer allow formula court orders.

DATES: Comments must be received on or before September 8, 2006.

ADDRESSES: Comments may be sent to Thomas K. Emswiler, General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005. The Agency's fax number is (202) 942–1676.

FOR FURTHER INFORMATION CONTACT: Megan Graziano on (202) 942–1659.

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

The Executive Director proposes to amend the Agency's regulations to limit acceptable court orders that divide a TSP account to those that either require payment of a specific dollar amount or that require payment of a stated percentage or fraction of the account.

Currently, the Agency will also accept a court order that requires payment of an amount determined by a formula that yields a mathematically possible result. All variables in the formula must have values that are readily ascertainable.

Formula-based court order are overly complex and often are not acceptable by the Agency or, if acceptable, would result in payments that were not anticipated by either party to the order. As a consequence, the parties must return to court and obtain an amended order. Additionally, the formula court order requires the Agency to interpret the order and results in considerable administrative expense. These expenses are borne by all TSP participants.

The proposed regulation will make it easier for the parties in a divorce to ensure that the Agency will divide a TSP account in accordance with their wishes. The proposed regulation simplifies the types of court orders the Agency will accept. The proposed regulation contains model paragraphs that attorneys can use to ensure that, in drafting orders, the language they select will both produce the intended result and meet the Agency's processing requirements.

Consequently, in order to ensure accuracy of court order payments and to ensure that the administrative expenses of the court order program are reasonable for a retirement savings plan, the Executive Director proposes to amend Agency regulations to limit the types of court orders the Agency will accept to those that either require payment of a specific dollar amount or that require payment of a stated percentage or fraction of the account.

Regulatory Flexibility Act

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

Paperwork Reduction Act

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

Unfunded Mandates Reform Act of 1995

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

Submission to Congress and the Government Accountability Office

Pursuant to 5 U.S.C. 801(a)(1)(A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. section 804(2).

List of Subjects in 5 CFR Part 1653

Court Orders and Legal Processes Affecting Thrift Savings Plan Accounts.

Gary A. Amelio,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set forth in the preamble, the Agency proposes to amend 5 CFR chapter VI as follows:

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

1. The authority citation for part 1653 continues to read as follows:

Authority: 5 U.S.C. 8435, 8436(d), 8437(e), 8439(a)(3), 8474(b)(5), and 8474(c)(1).

2. Amend § 1653.2 by revising paragraphs (a)(3)(iii) and (a)(3)(iv) to read as follows:

§ 1653.2 Qualifying retirement benefits court order.

(a) * * *

(3) * * *

(i) * * *

(ii) * * *

(iii) A survivor annuity as provided in 5 U.S.C. 8435(d).

(iv) The following examples would qualify to require payment from the TSP, although ambiguous or conflicting language used elsewhere could cause the order to be rejected.

Example (1). ORDERED: [payee's name, Social Security number (SSN), and address] is awarded $_____ from the [civilian or uniformed services] Thrift Savings Plan account of [participant's name, SSN, and address].

Example (2). ORDERED: [payee's name, SSN, and address] is awarded _____% of the [civilian and/or uniformed services] Thrift Savings Plan account[s] of [participant's name, SSN, and address] as of [date].

Example (3). ORDERED: [payee's name, SSN, and address] is awarded [fraction] of the [civilian and/or uniformed services] Thrift Savings Plan account[s] of [participant's name, SSN, and address] as of [date].

Note: The following optional language can be used in conjunction with any of the above examples. FURTHER ORDERED: Earnings will be paid on the amount of the entitlement under this ORDER until payment is made.

* * * * *

[FR Doc. E6–12895 Filed 8–8–06; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. APHIS–2006–0044]

Animal Welfare; Elephants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of petition and request for comments.

SUMMARY: We are notifying the public that the Animal and Plant Health Inspection Service has received a petition from In Defense of Animals requesting that we issue an interpretive rule or policy to clarify the space and living conditions required for captive elephants, and that we enforce the Animal Welfare Act and its implementing regulations by requiring that exhibitors fully comply with the regulations. We are soliciting comments from the public regarding the petition, and whether we should continue to regulate the handling, care, treatment, and transport of elephants covered by the Animal Welfare Act under the general standards in the regulations or promulgate specific standards for elephants. We are also requesting comments regarding what should be included in any such standards.

DATES: We will consider all comments that we receive on or before October 10, 2006.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0044 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0044, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0044.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 734–7833.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and other regulated entities. The Secretary of Agriculture has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. Currently, part 3 consists of subparts A through E, which contain specific standards for dogs and cats, guinea pigs and hamsters, rabbits, nonhuman primates, and marine mammals, respectively, and subpart F, which sets forth the general standards for warmblooded animals not otherwise specified in that part, including elephants.

In a petition [1] dated February 2, 2006, In Defense of Animals (the petitioner) stated that exhibited elephants have chronic foot and joint problems due to inadequate space (indoor and outdoor enclosures) and inadequate living conditions (including amount of time confined, type of substrate, and cleanliness of floors). The petitioner requested that APHIS issue an interpretive rule or policy that clarifies the space and living conditions required for captive elephants, and that APHIS enforce the AWA and its implementing regulations by requiring that exhibitors fully comply with the regulations.

We are requesting comments from the public on the petition. We are also requesting comments on whether specific standards should be promulgated for elephants and what should be included in such standards. In particular, we invite responses to the following questions:

1. What are the causes of arthritis in elephants?

2. What, if any, foot care practices have been used on captive elephants to maintain healthy feet?

3. What substrates are best for captive elephants? Are there any substrate conditions that promote foot problems?

4. Do captive elephants require a certain amount of exercise (*i.e.*, walking) to maintain healthy feet?

5. What industry/professional standards are available for elephant care and husbandry?

6. Are there any other health or care issues related to elephants that should be specifically addressed in the AWA standards?

We welcome all comments on the issues outlined above and encourage the submission of scientific data, studies, or research to support your comments and position, including scientific data or

[1] The petition is available on the Regulations.gov Web site. Go to *http://www.regulations.gov,* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0044. The petition will appear in the resulting list of documents. A copy of the petition may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

research that supports any industry or professional standards that pertain to elephant care. We also invite data on the costs and benefits associated with any recommendations. We will consider all comments and recommendations we receive.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 3rd day of August 2006.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–12935 Filed 8–8–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93, 94, and 95

[Docket No. APHIS–2006–0026]

Bovine Spongiform Encephalopathy; Minimal-Risk Regions, Identification of Ruminants and Processing and Importation of Commodities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In a final rule published in the **Federal Register** on January 4, 2005, we amended the regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy (BSE) into the United States via live ruminants and ruminant products and byproducts, and we added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions. In this document, we are proposing to remove several restrictions regarding the identification of animals and the processing of ruminant materials from BSE minimal-risk regions, as well as BSE-based restrictions on gelatin derived from bovine hides. We do not believe these restrictions are necessary to prevent the introduction of BSE into the United States.

DATES: We will consider all comments that we receive on or before October 10, 2006.

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

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0026 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

• *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0026, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0026.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information regarding ruminant products, contact Dr. Karen James-Preston, Director, Technical Trade Services, Animal Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

For information concerning live ruminants, contact Lee Ann Thomas, Director, Technical Trade Services, Animals, Organisms and Vectors, and Select Agents, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

In a final rule published in the **Federal Register** on January 4, 2005 (70 FR 460–553, Docket No. 03–080–3), we amended the regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy (BSE) into the United States via live ruminants and ruminant products and byproducts, and added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions. These regulations are in 9 CFR parts 93, 94, 95, and 96.

On November 28, 2005, we published in the **Federal Register** an interim rule (70 FR 71213–71218, Docket No. 03–080–8) that (1) broadened who is authorized to break the seals on a means of conveyance carrying certain ruminants from Canada and (2) amended the regulations regarding the transiting through the United States of certain ruminant products from Canada to allow for limited direct transloading of the products from one means of conveyance to another in the United States.

On March 14, 2006, we published in the **Federal Register** a technical amendment (71 FR 12994–12998, Docket No. 03–080–9) that clarified our intent with regard to certain provisions in the January 2005 final rule and corrected several inconsistencies within the rule.

In this proposed rule, we are proposing to further amend the BSE regulations to remove several restrictions related to the provisions of the January 2005 final rule that we believe are unnecessary to prevent the introduction of BSE from minimal-risk regions into the United States. We discuss those proposed changes below.

Means of Identification of Bovines, Sheep, and Goats Imported From BSE Minimal-Risk Regions

In our March 2006 technical amendment, we clarified that it was the intent of our January 2005 final rule that all live bovines, sheep, and goats imported from a BSE minimal-risk region be accompanied by a health certificate in accordance with § 93.405 and be individually identified in the region of export before being shipped to the United States. Because Canada was the only country categorized as a BSE minimal-risk region in our final rule, and because the standard means of individual livestock identification in Canada is an eartag, we specified in § 93.436 of the final rule that live bovines imported from a BSE minimal-risk region—in this case, Canada—must be individually identified by means of an official eartag of the country of origin. The eartag must be determined by the Administrator to meet standards equivalent to those for official eartags in the United States, as defined in 9 CFR part 71, and to be traceable to the

premises of origin of the animal. We included a similar requirement in § 93.419(d)(2) for sheep and goats, but because, even before our January 2005 final rule, § 93.419 referred only to sheep and goats from Canada, we specified that the sheep and goats must be individually identified by an official Canadian Food Inspection Agency eartag.

We recognize that there are effective means of individual identification other than eartags. However, as stated above, we provided in our January 2005 final rule that the means of individual identification must be an eartag because eartags are the required means of identification under Canada's national livestock identification program and Canada was the only country we were categorizing as a BSE minimal-risk region in the final rule. We now consider it advisable to amend the regulations in a way that allows for means of individual identification other than eartags. This change would make it clear to any other regions requesting BSE minimal-risk status what we consider acceptable with regard to individual identification and would give exporters the option of individually identifying bovines, sheep, and goats being exported to the United States by means other than eartags.

Therefore, instead of requiring in § 93.436 that live bovines imported into the United States from a BSE minimal-risk region must be individually identified by means of an official eartag of the country of origin, and instead of requiring in § 93.419 that sheep and goats imported into the United States from Canada must be individually identified by an official Canadian Food Inspection Agency eartag, we are proposing to provide instead in §§ 93.419(c) and 93.436(a)(3) and (b)(4) that the animals must be officially identified with individual identification before the animals' arrival at the port of entry into the United States. We are also proposing to amend § 93.405(a)(4), which currently requires that the health certificate accompanying cattle, sheep, or goats imported from a BSE minimal-risk region record the eartag required under § 93.419 or § 93.436. We are proposing to require instead that the health certificate record the required official identification.

We are proposing to define *officially identified* in § 93.400 of the regulations to mean ''individually identified by means of an official identification device or method.'' In § 93.400, *official identification device or method* is currently defined as a means of officially identifying an animal or group of animals using devices or methods approved by the Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority.

We are not proposing to change that wording. However, we are proposing to add a sentence at the end of the definition to make it clear that, for animals intended for importation into the United States, the particular device or method of identification must have been approved by the Administrator for that type of import before the animal is exported to the United States.

We are proposing to add that wording in order to clarify that, although a particular kind of identification may have been approved by the Administrator for use in particular situations or for particular types of animals, that doesn't necessarily mean it can be used for all types of animals and in all situations. For instance, due to an animal's anatomy, it might not be possible to affix certain types of tags to the animal in a way that ensures the tags will not fall off. As another example, although the current definition of *official identification device or method* includes ''registered brands'' as an example of such identification, a brand in itself might not provide adequate identification with regard to BSE. Although a registered brand would enable traceback of an animal to its herd of origin, in the case of BSE form of identification that provides more detailed information about an individual cow, such as an eartag, would be necessary.

In the event that an importer or importing country seeks and is granted approval to use a device or method of identification other than one specifically provided for in the regulations, the record of that approval and the requirements, if any, for that device or method will be included in the protocol for imports from the exporting region, which will be made available on the APHIS Web site at *http://www.aphis.usda.gov/vs/ncie*.

Hide-Derived Gelatin

The regulations at § 94.18(c) address the importation of gelatin derived from ruminants from regions listed in § 94.18(a) as regions in which BSE exists (§ 94.18(a)(1)), regions that present an undue risk of introducing BSE into the United States (§ 94.18(a)(2)), and BSE minimal-risk regions (§ 94.18(a)(3)).

With certain specified exceptions, § 94.18(c) prohibits the importation of gelatin derived from ruminants that have been in any region listed in § 94.18(a). One of the exceptions is for gelatin derived from the bones of bovines subject to a ruminant feed ban equivalent to the requirements established by the U.S. Food and Drug Administration at 21 CFR 589.2000 and from which specified risk materials (SRMs) and small intestine were removed. We set forth the conditions for that exception in § 94.19(f) of the January 2005 final rule.

As currently written, the exception in § 94.19(f) applies exclusively to gelatin derived from the bones of bovines and not to gelatin derived from bovine hides, even the hides of the same bovines whose bones are used for gelatin that is allowed importation into the United States. However, we believe there is no scientific reason to prohibit the importation of gelatin derived from the hides of bovines. Bovine hides have not demonstrated BSE infectivity, even in infected animals. The safety of bovine hides with regard to BSE is recognized internationally. The World Organization for Animal Health (commonly referred to as the OIE) recommends in Article 2.3.13.1 of the OIE Terrestrial Animal Health Code, 2005, that gelatin derived exclusively from the hides of bovines not be subject to import restrictions. The European Commission Scientific Steering Committee's *Updated Opinion on the Safety with Regard to TSE Risk of Gelatine Derived from Ruminant Bones or Hides* (adopted by the Scientific Steering Committee at its December 5–6, 2002, meeting) states in section B(c) of that document:

> ''When ruminant hides are used for the production of gelatine, they are usually obtained from bovines. On the basis of current knowledge, it can be considered that the parts of the bovine hides used for the production of gelatine do not present a risk with regard to TSE's [transmissible spongiform encephalopathies, which include BSE], provided contamination with potentially infected materials is avoided.''

Although APHIS considers gelatin derived from bovine hides a commodity that does not present a risk of transmitting the BSE agent, by oversight we did not include in our January 2005 final rule such gelatin as an exception to the general prohibition on the importation of gelatin derived from ruminants from BSE minimal-risk regions. Because there appears to be no scientific reason to prohibit the importation of such gelatin from BSE minimal-risk regions, we are proposing to amend § 94.19(f) to add that gelatin derived from the hides of bovines that have been in any region listed in § 94.18(a)(3) may be imported into the United States. In order to help ensure that such gelatin is not contaminated with the BSE agent, we are also proposing as a condition for such

importation that the gelatin was not commingled with materials ineligible for entry into the United States. We would also apply the non-commingling requirement to gelatin derived from bones from bovines from BSE minimal-risk regions. Such gelatin is already allowed importation, with specified conditions, under § 94.19(f).

Nonruminant Material

The regulations in § 95.4 prohibit the importation of certain materials derived from nonruminants, as well as materials derived from ruminants. Specifically, the following nonruminant materials may not be imported into the United States from regions listed in § 94.18(a)—or be derived from nonruminant animals that have been in a region listed in § 94.18(a)—unless certain conditions are met:

- Processed animal protein, tankage, and offal;
- Tallow other than tallow derivatives, unless, in the opinion of the Administrator, the tallow cannot be used in feed; and
- Processed fats and oils, and derivatives of processed animal protein, tankage, and offal.

Among the conditions for the importation of these nonruminant materials is that all steps of processing and storing the material must have been carried out in a foreign facility that has not been used for the processing and storage of materials from ruminants that have been in any region listed in § 94.18(a). The purpose of this requirement is to eliminate the possibility that the nonruminant material could become commingled with or contaminated by ruminant material containing the BSE agent and therefore itself become contaminated with the BSE agent.

We continue to consider this restriction necessary with regard to nonruminant materials that are processed in regions listed in § 94.18(a)(1) or (2) (regions in which BSE exists and regions that present an undue risk of introducing BSE into the United States). However, requiring that nonruminant materials be processed in separate facilities from ruminant materials in BSE minimal-risk regions is inconsistent with other provisions in our January 2005 final rule. Therefore, we are proposing to eliminate that inconsistency, for the reasons explained below.

Our January 2005 final rule allowed the importation of certain ruminant meat, products, and byproducts from Canada (at this time Canada is the only region recognized by APHIS as a BSE minimal-risk region). APHIS determined that such commodities present a low risk of introducing BSE into the United States, based on a number of factors. These factors include the measures Canada has in place to detect and prevent BSE within Canadian cattle and the commodity-specific mitigation measures in the final rule. For meat (including whole or half carcasses), meat byproducts, and meat food products derived from bovines, the regulations require that the bovines be subject to a ruminant feed ban, prohibit the use of an air-injected stunning process at slaughter, and require that SRMs and the small intestine of the bovines be removed at slaughter. Research has shown that BSE infectivity in infected bovines is localized in specific tissues, and removal of SRMs is an effective risk mitigation measure for bovines. Therefore, the regulations do not require that bovine meat eligible for entry into the United States from a BSE minimal-risk region be processed in a facility that processes only bovine commodities eligible for entry into the United States.[1]

In sheep and goats, research has not identified SRMs that could be removed to eliminate any potential infectivity from infected animals. Infectivity has not been demonstrated in most tissues in sheep and goats until at least 16-months post-exposure to the BSE agent. Therefore, for meat (including whole or half carcasses), meat byproducts, and meat food products from sheep or goats or other ovines or caprines, the regulations require that the animals, among other things, be less than 12 months of age when slaughtered and be slaughtered at a facility that either slaughters only sheep and/or goats or other ovines and caprines less than 12 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the meat with products not eligible for importation into the United States.

In both cases, however—for products derived from bovines and for products derived from sheep or goats—the regulations do not require that the animals necessarily be slaughtered in a facility dedicated only to ruminant products eligible for entry into the United States. Because products derived from nonruminants pose even less of a BSE risk than those derived from ruminants, it is inconsistent with the January 2005 final rule to require in § 95.4 that, in a region listed in § 94.18(a)(3) (i.e., a BSE minimal-risk region), all steps of processing nonruminant protein, tankage, offal, and tallow other than tallow derivatives, as well as processed fats and oils, and derivatives of processed animal protein, tankage, and offal derived from nonruminants, be carried out in a facility that has not been used for the processing and storage of materials from ruminants that have been in any region listed in § 94.18(a)(3) (a BSE minimal-risk region). Therefore, we are proposing to amend § 95.4 by adding a new paragraph (c)(3) to require that, for facilities in regions listed in § 94.18(a)(3), steps of processing and storing the nonruminant material are carried out in a facility that has not been used for the processing and storage of materials derived from ruminants that have been in any region listed in § 94.18(a)(1) or (a)(2).

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. We have prepared an initial regulatory flexibility analysis, which is set forth below.

In a final rule published in January 2005, we established a category of regions that present a minimal risk of introducing BSE into the United States via live ruminants and ruminant products and byproducts, and added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions.

In this proposed rule, we are proposing to remove certain restrictions on imports from BSE minimal-risk

[1] Pursuant to an announcement by the Secretary of Agriculture on February 9, 2005, APHIS published in the **Federal Register** on March 11, 2005, a document (70 FR 12112–12113, Docket No. 03–080–6) delaying until further notice the applicability of the provisions of the final rule as they apply to the importation from Canada of certain commodities derived from bovines 30 months of age or older. While the delay in applicability is in effect, commodities from Canada derived from bovines less than 30 months of age when slaughtered will be required to be processed in an establishment that operates in compliance with an approved Canadian Food Inspection Agency program to prevent commingling of ruminant products eligible for export to the United States with ruminant products ineligible for export to the United States. This is to ensure that only products from bovines less than 30 months of age are exported to the United States, however; not to prevent contamination.

regions that concern animal identification, the derivation of bovine gelatin, and the processing of ruminant and nonruminant materials. We do not believe these restrictions are necessary to prevent the introduction of BSE into the United States.

Instead of limiting the type of allowable individual identification on bovines, sheep, and goats imported from a BSE minimal-risk region to an official eartag of the country of origin, we are proposing to allow individual identification of animals by means other than eartags, provided the APHIS Administrator has approved the manner of identification for the type of animal intended for importation.

Instead of limiting the importation of bovine-derived gelatin from BSE minimal-risk regions to gelatin derived from bones, we are proposing to also allow the importation of hide-derived gelatin, provided certain conditions are met.

We are also proposing to allow nonruminant material that is processed in BSE minimal-risk regions—such as processed animal protein, tankage, offal, certain tallow, processed fats and oils, and derivatives of processed animal protein, tankage, and offal—to be processed in facilities that also process material derived from ruminants from the minimal-risk region.

We address below the potential economic effect of each of these changes.

Animal Identification

Giving owners of bovines, sheep, and goats in BSE minimal-risk regions the option of individually identifying animals being exported to the United States by means other than eartags is not expected to affect U.S. small entities. This amendment simply acknowledges that there are effective means of individual identification other than eartags. However, APHIS welcomes information that the public may offer on ways this amendment may impact small entities, and the type and number of small entities that would be affected.

Hide-Derived Gelatin

This amendment, by allowing the importation of gelatin derived from bovine hides, in addition to gelatin derived from bovine bones, could affect U.S. entities by providing for an additional source of gelatin imported from Canada.

Gelatin is derived from collagen, an insoluble fibrous protein that is the principal constituent of connective tissues and bones. The main raw materials used in gelatin production are cattle bones, cattle hides, and porkskins. Gelatin recovered from bone is used primarily in photographic applications. Porkskin is currently the most significant raw material source for production of edible gelatin in North America. Cattle hides are the least used raw material for gelatin in North America today. Cattle hides sourced by member companies of the Gelatin Manufacturers Institute of America for the production of gelatin for food use are purchased from a small number of tanneries in the United States.

We do not have information about the quantity of hide-derived gelatin that would be imported from Canada because of this proposed rule, nor do we have an estimate of the number of U.S. small entities that would be affected. Production of animal hides is classified by the North American Industry Classification System (NAICS) under ''Animal (except Poultry) Slaughtering'' (NAICS 311611), for which the small entity definition is businesses with not more than 500 employees. We welcome information that would allow us to better understand the number and size of entities that could be affected by allowing the importation of hide-derived bovine gelatin from Canada, and the extent of the possible impact.

Nonruminant Material

This amendment would remove the requirement that nonruminant material that is processed in BSE minimal-risk regions be processed in a facility that does not also process material derived from ruminants from the minimal-risk region. If this amendment were to result in changes in the amounts of nonruminant material imported by the United States, then U.S. entities could be affected. Affected nonruminant material may include processed animal protein, tankage, offal, certain tallow, processed fats and oils, and derivatives of processed animal protein, tankage, and offal.

Facilities that produce these commodities are classified under ''Rendering and Meat By-product Processing'' (NAICS 311613), for which the small entity definition is businesses with not more than 500 employees. We do not have a basis for estimating the change in imports of Canadian nonruminant materials that may result from the proposed rule, nor do we know the number or size of U.S. entities that would be affected. APHIS welcomes information that the public may provide regarding the number of small entities that could be affected and the likely magnitude of the effect.

APHIS has not identified any Federal rules that may duplicate, overlap, or conflict with this proposed rule, and believes there are no significant alternatives to this proposed rule that would accomplish the stated objectives.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 95

Animal feeds, Hay, Imports, Livestock, Reporting and recordkeeping requirements, Straw, Transportation.

Accordingly, we are proposing to amend 9 CFR parts 93, 94, and 95 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 would continue to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

2. Section 93.400 would be amended by revising the definition of *official identification device or method* and adding a definition of *officially identified*, in alphabetical order, to read as follows:

§ 93.400 Definitions.

* * * * *

Official identification device or method. A means of officially identifying an animal or group of animals using devices or methods

approved by the Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority. For animals intended for importation into the United States, the device or method of identification used must have been approved by the Administrator for that type of import before the animal is exported to the United States.

* * * * *

Officially identified. Individually identified by means of an official identification device or method.

* * * * *

3. In § 93.405, paragraph (a)(4) would be amended by removing the word ''eartag'' and adding in its place the words ''official identification.''

4. Section 93.419 would be amended by revising paragraph (c), introductory text, and paragraphs (d)(2), (d)(5), (d)(7)(i), and (d)(7)(iii) to read as follows:

§ 93.419 Sheep and goats from Canada.

* * * * *

(c) Any sheep or goats imported from Canada must not be pregnant, must be less than 12 months of age when imported into the United States and when slaughtered, must be from a flock or herd subject to a ruminant feed ban equivalent to the requirements established by the U.S. Food and Drug Administration at 21 CFR 589.2000, and must be officially identified with individual identification before the animal's arrival at the port of entry into the United States. No person may alter, deface, remove, or otherwise tamper with the official identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at the time of slaughter. The animals must be accompanied by the certification issued in accordance with § 93.405 that states, in addition to the statements required by § 93.405, that the conditions of this paragraph have been met. Additionally, for sheep and goats imported for other than immediate slaughter, the certificate must state that the conditions of paragraph (d)(1) of this section have been met. For sheep and goats imported for immediate slaughter, the certificate must also state that:

* * * * *

(d) * * *

(2) The animals may be moved from the port of entry only to a feedlot designated in accordance with paragraph (d)(7) of this section and must be accompanied from the port of entry to the designated feedlot by APHIS Form VS 17–130 or other movement documentation deemed acceptable by the Administrator, which must identify the physical location of the feedlot, the individual responsible for the movement of the animals, and the individual identification of each animal, which includes the official identification required under paragraph (c) of this section and any other identification present on the animal, including registration number, if any:

* * * * *

(5) The animals must be accompanied to the recognized slaughtering establishment by APHIS Form VS 1–27 or other documentation deemed acceptable by the Administrator, which must identify the physical location of the recognized slaughtering establishment, the individual responsible for the movement of the animals, and the individual identification of each animal, which includes the official identification required under paragraph (c) of this section and any other identification present on the animal, including registration number, if any;

* * * * *

(7) * * *

(i) Will not remove official identification from animals unless medically necessary, in which case new official identification will be applied and cross referenced in the records;

* * * * *

(iii) Will maintain records of the acquisition and disposition of all imported sheep and goats entering the feed lot, including the official identification number and all other identifying information, the age of each animal, the date each animal was acquired and the date each animal was shipped to slaughter, and the name and location of the plant where each animal was slaughtered. For Canadian animals that die in the feedlot, the feedlot will remove the official identification device if affixed to the animal, or will record any other official identification on the animal and place the official identification device or record of official identification in a file with a record of the disposition of the carcass;

* * * * *

5. Section 93.436 would be amended as follows:

a. Paragraphs (a)(3) and (b)(4) would be revised to read as set forth below.

b. In paragraphs (b)(8) and (b)(11), the word ''eartag'' would be removed and the words ''official identification'' would be added in its place.

§ 93.436 Ruminants from regions of minimal risk for BSE.

* * * * *

(a) * * *

(3) Each bovine must be officially identified with individual identification before the animal's arrival at the port of entry into the United States. No person may alter, deface, remove, or otherwise tamper with the official identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at slaughter;

* * * * *

(b) * * *

(4) Each bovine must be officially identified with individual identification before the animal's arrival at the port of entry into the United States. No person may alter, deface, remove, or otherwise tamper with the official identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at slaughter;

* * * * *

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

6. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

7. In § 94.19, paragraph (f) would be revised to read as follows:

§ 94.19 Restrictions on importation from BSE minimal-risk regions of meat and edible products from ruminants.

* * * * *

(f) *Gelatin other than that allowed importation under § 94.18(c).* The gelatin is derived from:

(1) The bones of bovines subject to a ruminant feed ban equivalent to the requirements established by the U.S. Food and Drug Administration at 21 CFR 589.2000 and from which SRMs and small intestine were removed, and the gelatin has not been commingled with materials ineligible for entry into the United States; or

(2) The hides of bovines, and the gelatin has not been commingled with materials ineligible for entry into the United States.

* * * * *

PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW, OFFERED FOR ENTRY INTO THE UNITED STATES

8. The authority citation for part 95 would continue to read as follows:

Authority: 7 U.S.C. 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

9. Section 95.4 would be amended as follows:

a. Paragraph (c)(2) would be revised to read as set forth below.

b. Paragraphs (c)(3) through (c)(7) would be redesignated as paragraphs (c)(4) through (c)(8), respectively.

c. A new paragraph (c)(3) would be added to read as set forth below.

d. Newly designated paragraph (c)(7) would be revised to read as set forth below.

§ 95.4 Restrictions on the importation of processed animal protein, offal, tankage, fat, glands, certain tallow other than tallow derivatives, and serum due to bovine spongiform encephalopathy.

(c) * * *

(2) Except for material processed or stored in regions listed in § 94.18(a)(3) of this subchapter, all steps of processing and storing the material are carried out in a facility that has not been used for the processing and storage of materials derived from ruminants that have been in any region listed in § 94.18(a) of this subchapter.

(3) For material processed or stored in regions listed in § 94.18(a)(3) of this subchapter, all steps of processing and storing the material are carried out in a facility that has not been used for the processing and storage of materials derived from ruminants that have been in any region listed in § 94.18(a)(1) or (a)(2) of this subchapter.

* * * * *

(7) Each shipment to the United States is accompanied by an original certificate signed by a full-time, salaried veterinarian of the government agency responsible for animal health in the region of export certifying that the conditions of paragraphs (c)(1) through (c)(4) of this section have been met; *except that,* for shipments of animal feed from a region listed in § 94.18(a)(3) of this subchapter, the certificate may be signed by a person authorized to issue such certificates by the veterinary services of the national government of the region of origin.

* * * * *

Done in Washington, DC, this 3rd day of August 2006.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–12944 Filed 8–8–06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 98

[Docket No. APHIS–2006–0120]

Importation of Sheep and Goat Semen

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations regarding the importation of animal germplasm by removing specific restrictions on sheep semen from regions where scrapie exists and requiring the inclusion of additional information on the international health certificate accompanying sheep and goat semen. Experience and research have convinced us that sheep and goat semen pose a minimal risk of transmitting scrapie. This action would relieve restrictions on imported sheep semen while continuing to provide safeguards against the introduction and dissemination of scrapie.

DATES: We will consider all comments that we receive on or before October 10, 2006.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0120 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0120, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0120.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Arnaldo Vaquer, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8074.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 98 govern the importation of animal germplasm to prevent the introduction of contagious diseases of livestock and poultry into the United States. Subparts A and B of part 98 apply to animal embryos, and subpart C (§§ 98.30 through 98.38, referred to below as the regulations) applies to animal semen.

Currently, the regulations in § 98.37 restrict, due to scrapie concerns, the importation of sheep semen into the United States from any region of the world other than Australia, Canada, and New Zealand. These restrictions include provisions that the semen must be transferred only to females in a U.S. flock that is participating in the voluntary Scrapie Flock Certification Program (SFCP), that the semen must originate from a donor animal participating in a program equivalent to the SFCP or the SFCP flock status must be lowered, and that the semen must be accompanied by a certificate attesting to the above conditions. The importer is also required to provide the Animal and Plant Health Inspection Service (APHIS) with information concerning control programs, surveillance, and disease incidence in the exporting region, as well as information concerning the health status of other ruminants in the region.

The regulations in § 98.35 deal with declarations, health certificates, and other documents required for the importation of all animal semen into the United States. All animal semen

intended for importation to the United States must be accompanied by a health certificate that provides certain specific information about the origin and handling of the semen. Paragraph (e) lists additional requirements for the health certificate accompanying sheep and goat semen, which must include an attestation that the semen donor has not been in any flock or herd nor had contact with sheep or goats which have been in any flock or herd where scrapie has been diagnosed or suspected during the 5 years prior to the date of collection of the semen, that the semen donor showed no evidence of scrapie at the time of collection, and that the parents of the semen donor are not, nor were not, affected with scrapie.

These requirements are more restrictive than those recommended by the World Organization for Animal Health (OIE) in Chapter 2.4.8, Article 2.4.8.8 of the Terrestrial Animal Health Code. The OIE standards for importing sheep and goat semen from a region not free from scrapie state that importing countries should require an international veterinary certificate attesting that in the region of origin, scrapie is compulsorily notifiable, a surveillance and monitoring system is in place, affected sheep and goats are slaughtered and completely destroyed, and the feeding of sheep and goats with meat-and-bone meal or greaves potentially contaminated with an animal transmissible spongiform encephalopathy (TSE) has been banned and the ban effectively enforced in the whole region. The certificate should also attest that donor animals are permanently identified to enable traceback to their establishment of origin, have been kept since birth in establishments in which no case of scrapie has been confirmed during their residency, and showed no clinical sign of scrapie at the time of semen collection.

Experience and research have convinced APHIS that sheep semen poses a minimal risk of transmitting and disseminating scrapie in the United States. Through the SFCP, flocks using imported semen from scrapie-affected regions have been monitored and no first generation (F1) progeny resulting from the imported semen have been implicated in scrapie outbreaks. Furthermore, research studies, though limited in scope, have not revealed transmission through semen or detected the infective agent in semen, testes, or seminal vesicles of affected rams.[1]

[1] *See* L.A. Detwiler and M. Baylis, ''The Epidemiology of Scrapie,'' *Rev. sci. tech. Off. int. Epiz.* 2003, 22 (1), 131.

Therefore, we are proposing to ease the restrictions on the importation of sheep semen by removing the provisions of § 98.37 from our regulations. In lieu of these regulations, we would amend § 98.35(e) to require that imported sheep or goat semen be accompanied by an international veterinary certificate consistent with the OIE standards describe above. In § 98.35, paragraph (e) already contains some certificate requirements for imported sheep and goat semen; the changes we are proposing would bring them further into alignment with international standards.

Specifically, we would amend § 98.35(e) to require imported sheep and goat semen to be accompanied by an international veterinary certificate attesting that in the region where the semen originates certain conditions are met. These conditions would include that scrapie is a compulsorily notifiable disease and that there is an effective surveillance and monitoring system for scrapie in the region where the semen originates. In addition, the region where the semen originates would have to require that affected sheep and goats are slaughtered and completely destroyed. The region where the semen originates must also enforce a ruminant-to-ruminant feed ban; that is, the feeding of sheep and goats with meat-and-bone meal or greaves derived from ruminants must also be banned and the ban effectively enforced in the whole region. The certificate would have to attest that the donor animals are permanently identified to enable traceback to their premises of origin, have been kept since birth on premises in which no case of scrapie had been confirmed during their residency, showed no clinical sign of scrapie at the time of semen collection, and did not subsequently develop scrapie between the time of collection and the time the semen was exported to the United States. The certificate would also have to attest that donor animals were not the offspring of scrapie-affected dams.

This certificate would be required for all sheep and goat semen imported into the United States. In addition, the distribution of imported semen within the United States could be limited, depending on the status of the region of origin of the semen. Semen from regions free of scrapie could be distributed throughout the United States, but semen from regions not scrapie free could only be distributed to a flock that is listed as a flock/herd premises in the Scrapie National Database as part of either the regulatory or voluntary flock certification scrapie programs described in 9 CFR part 79 and 9 CFR part 54 subpart B, respectively. Flock owners would also be required to sign a written agreement that all first generation (F1) progeny resulting from imported semen from a region that is not free of scrapie would be identified with a permanent official identification consistent with the provisions in § 79.2, and records of any sale of F1 progeny, including the name and address of the buyer, would be kept for a period of 5 years. This would ease some restrictions on where imported semen may be used while still enabling traceback of the progeny resulting from the imported semen. While the risk of scrapie transmission from sheep semen is believed to be minimal, no studies have been done regarding the transmissibility through semen of other animal TSEs and certain other diseases in small ruminants. For this reason, traceback of progeny is essential.

Under the proposed rule, we would recognize Australia and New Zealand as regions free of scrapie. The regulations in § 98.37 currently allow imported sheep semen from Australia, Canada, and New Zealand to be distributed to any flock in the United States. When these regulations were established in 1996, Canada was included in the list of regions from which semen could be imported without additional restrictions even though Canada is not scrapie free. At that time, Canada had a scrapie control program equivalent to the one in the United States, and it was determined to be unlikely that new strains of scrapie would be spread into the United States from Canada. In 2001, the United States went from a control program to an eradication program, which is now in full implementation. However, Canada's scrapie program has not advanced at the same speed as the one in the United States. For these reasons, under the proposed rule semen imported from Canada would be subject to the same restrictions as semen from all other regions except Australia and New Zealand, *i.e,* it could be distributed only to females in a flock that is listed as a flock/herd premises in the Scrapie National Database, as described above.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The regulations in § 98.37 restrict the importation of sheep semen from regions other than Australia, Canada, and New Zealand due to scrapie

concerns. These restrictions include provisions requiring the semen to be transferred only to females in a United States flock that participates in the SFCP, the semen originates from a donor animal participating in a program equivalent to the United States SFCP, and that the semen is accompanied by a certificate attesting to the above conditions. Additionally, the regulations require the importer to provide APHIS with information regarding control programs, surveillance, and disease incidence in the exporting region, as well as information on the health status of other ruminants in the region in order to export sheep semen to the United States.

All of these restrictions on imports of sheep and goat semen were put in place due to scrapie concerns and with the goal of preventing the spread of scrapie in domestic animals. However, further scientific research, as well as experience, has demonstrated to APHIS that sheep and goat semen pose a minimal risk of transmitting scrapie. Therefore, this proposed rule would eliminate restrictions on sheep semen being imported from regions other than Australia, Canada, and New Zealand by removing the provisions of § 98.37 from our regulations. In their place, we would require that sheep or goat semen from scrapie-affected regions be accompanied by an international veterinary certificate as recommended in OIE's Terrestrial Animal Health Code. Consequently, this proposed rule would bring the United States' import standards for sheep semen in harmony with recognized international standards, while still protecting against scrapie introduction to the United States.

These proposed changes in the regulations would have a direct effect on importers of sheep semen and those businesses involved in support activities for animal production, which includes, among other activities, establishments providing breeding services. The number of establishments engaged in support activities for animal production is tracked by the U.S. Census Bureau. In 2001, the latest available year, there were 3,999 establishments in the North American Industry Classification System (NAICS) subsector 1152, which comprises establishments primarily engaged in performing support activities related to raising livestock.[2] The annual payroll for these 3,999 establishments was $452.3 million, which translates into an average annual payroll per establishment of $113,106. The U.S. Small Business Administration's (SBA) size standard for this particular sector is $6 million or less in annual receipts.[3] Unfortunately, the Census data do not include annual receipts for these establishments; however, based on the average annual payroll per establishment, it is reasonable to conclude that the majority of these businesses would be considered small by SBA definitions.

A variety of animal production support activities other than artificial insemination for sheep are included in NAICS subsector 1152. APHIS does not have specific information on the number or size of businesses providing artificial insemination services. Based on the data for all NAICS 1152 businesses, we believe they are primarily small entities with annual receipts of not more than $6 million. APHIS welcomes public comment that would support or contradict this understanding.

Additionally, it is possible the proposed rule may indirectly affect domestic sheep and goat producers. The Census of Agriculture for 2002, the most recent year for which we have data, estimated that there were 43,891 farms engaged in sheep and goat farming.[4] The SBA size standard for sheep and goat farming (NAICS subsector 1124) is $750,000 or less in annual receipts. The 2002 Census estimates the total market value of all agricultural products sold by domestic sheep and goat farmers to be over $445 million, which translates into an average of $10,147 per farm. When combined with government payments, the average per farm market value of agricultural products sold is $10,815.[5] Only 114 farms are classified as having $500,000 or more in market value of agricultural products sold and government payments. So, at least 43,777, or 99 percent, of farms engaged in sheep and goat farming would be considered small by SBA standards.

Foreign exporters of sheep semen from countries other than Australia, Canada, and New Zealand might also benefit from the removal of import restrictions on sheep semen. However, as non-U.S. entities, they lie outside the scope of the Regulatory Flexibility Act and are not considered in this economic analysis.

As this proposed rule would lift some of the import restrictions on imported semen from regions that are not considered scrapie-free, there would be a reduction in compliance requirements. In place of current requirements, imported sheep or goat semen would have to be accompanied by an international veterinary certificate consistent with OIE standards. This certificate would have to be completed by a veterinary officer prior to being exported to the United States, and as such would not pose any compliance requirements for domestic entities.

Benefits

Importers of sheep semen, as well as firms engaged in agricultural support activities, specifically those providing artificial insemination services, could possibly benefit from the proposed changes. Imports of sheep semen are not tracked as a separate line item by USDA's Foreign Agricultural Service. However, Veterinary Services of APHIS tracks raw data and estimates there were 2,491 straws of sheep semen imported in 2004 and only 1 straw in 2003, with Australia being the primary exporter.[6] It is possible that the proposed changes would encourage exports of sheep and goat semen to the United States in response to reduced import restrictions. Laws of supply and demand dictate that increased supply will result in lower prices. However, if this happens, it would be over the long run because currently there is not a large demand for sheep semen in the United States, as is evidenced by the number of imports. In fact, domestic sheep and goat producers rarely rely on artificial insemination as a means for breeding animals, as it is too expensive. Artificial insemination technology is primarily practiced by the seedstock industry. Thus, the market for imported sheep semen is small, consisting primarily of producers that raise less common breeds and desire imported semen to improve and diversify their genetics.[7]

Costs

It is possible the proposed changes could have an indirect effect on domestic sheep and goat breeders over the long run. However, a variety of conditions would have to be met for this

[2] *Statistics of U.S. Businesses: 2001: Support Activities for Animal Production—United States.* Washington, DC: U.S. Census Bureau.

[3] Table of Size Standards based on NAICS 2002. Washington, DC: U.S. Small Business Administration, 2004.

[4] USDA, *2002 Census of Agriculture-United States Data*, Table 50. Washington, DC: National Agricultural Statistics Service.

[5] USDA, *2002 Census of Agriculture*, Table 59, under column heading ''Sheep and Goat Farming (1124).''

[6] Elizabeth McKenna, Data Manager (APHIS).

[7] Susan Schoenian, Area Agent, Sheep & Goats Western Maryland Research & Education Center, University of Maryland Cooperative Extension; via e-mail communication and article ''An Update on Sheep A.I.'' Maryland Small Ruminant page. *http://www.sheepandgoat.com/articles/ai.html*, Maryland Sheep News, 1999.

situation to materialize. These conditions include, but are not limited to, artificial insemination technology becoming a more cost-effective approach to sheep and goat production versus using breeding animals. Essentially, the only way sheep and goat breeders would be affected over the long run is if the process of artificial insemination becomes cheaper than purchasing or maintaining replacement breeding animals. As of January 1, 2005, there were inventories of 4.53 million head of breeding sheep and 2.1 million head of breeding goats in the United States. Thus, it is possible that, as the process of artificial insemination becomes more cost-effective and as imported sheep semen becomes more readily available and technologies improve, sheep and goat producers will substitute away from buying replacement breeding animals and use artificial insemination instead. However, as stated previously, this situation is long-term in nature and highly conditional.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 98

Animal diseases, Imports.

Accordingly, we propose to amend 9 CFR part 98 as follows:

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

1. The authority citation for part 98 would continue to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

2. In § 98.35, paragraphs (e)(1), (e)(2), and (e)(3) would be revised to read as follows:

§ 98.35 Declaration, health certificate, and other documents for animal semen.

* * * * *

(e) * * *

(1) The donor animals:

(i) Are permanently identified, to enable trace back to their establishment of origin; and

(ii) Have been kept since birth in establishments in which no case of scrapie had been confirmed during their residency; and

(iii) Neither showed clinical signs of scrapie at the time of semen collection nor developed scrapie between the time of semen collection and export of the semen to the United States; and

(iv) The dam of the semen donor is not, nor was not, affected with scrapie.

(2) In the region where the semen originates:

(i) Scrapie is a compulsorily notifiable disease; and

(ii) An effective surveillance and monitoring system for scrapie is in place; and

(iii) Affected sheep and goats are slaughtered and completely destroyed; and

(iv) The feeding of sheep and goats with meat-and-bone meal or greaves derived from ruminants has been banned and the ban effectively enforced in the whole region; and

(3) Semen originating in regions other than Australia and New Zealand is to be transferred to females in a flock that is listed as a flock/herd premises in the Scrapie National Database as part of the Scrapie Program in the United States, and the flock owner has agreed, in writing, that:

(i) All first generation (F1) progeny resulting from imported semen will be identified with a permanent official identification consistent with the provisions in § 79.2 of this chapter; and

(ii) Records of any sale of F1 progeny, including the name and address of the buyer, will be kept for a period of 5 years.

* * * * *

§ 98.37 [Removed and reserved]

3. Section 98.37 would be removed and reserved.

Done in Washington, DC, this 3rd day of August 2006.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–12934 Filed 8–8–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25554; Directorate Identifier 2006–NM–123–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Lockheed Model L–1011 series airplanes. This proposed AD would require a one-time detailed inspection of the C112 harness clamp assembly for proper installation, a one-time detailed inspection of the C112 and C162 harness assemblies for damage, and corrective actions if necessary. This proposed AD results from a report of electrical arcing of the essential bus feeder cables behind hinged circuit breaker panel CB3 P–K. We are proposing this AD to prevent arcing of essential bus feeder cables due to improper installation of the harness C112 clamp assembly, which could result in loss of electrical systems and smoke and/or fire behind the CB3 P–K hinged circuit breaker panel in the flight compartment.

DATES: We must receive comments on this proposed AD by September 25, 2006.

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

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

Contact Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Robert Chupka, Aerospace Engineer, Systems and Equipment Branch, ACE–119A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone (770) 703–6070; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–25554; Directorate Identifier 2006–NM–123–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received a report of electrical arcing of the essential bus feeder cables behind hinged circuit breaker panel CB3 P–K that occurred during maintenance, causing extensive damage to the surrounding area, on a Lockheed Model L–1011 series airplane. Investigation of the arcing revealed that the cushion clamp securing wire harness assembly C112 was installed incorrectly, with the clamp loop on the forward side instead of the aft side of the clamp screw. The improper installation of the cushion clamp allowed the clamp to chafe against the C162 wire harness. We have also received a report indicating that two additional airplanes have been found with improperly installed cushion clamps at this location. This condition, if not corrected, could result in loss of electrical systems and smoke and/or fire behind the CB3 P–K hinged circuit breaker panel in the flight compartment.

Relevant Service Information

We have reviewed Lockheed L–1011 Service Bulletin 093–24–142, dated November 16, 2005. The service bulletin describes procedures for a one-time detailed inspection of the circuit breaker panel clamp assembly for harness C112 just outboard of terminal block 2400 TB17 in the hinged circuit breaker panel CB3 P–K to verify the position of the clamp assembly. It also describes procedures for a one-time detailed inspection of the C112 and C162 harness assemblies for damage (e.g., evidence of chafing, arcing, or deterioration), and corrective actions if necessary. The corrective actions include repositioning the clamp assembly to the correct position and correcting damage found in the C112 and C162 harness assemblies. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and the Service Bulletin.''

Difference Between the Proposed AD and the Service Bulletin

Although the service bulletin recommends accomplishing the inspection of the circuit breaker panel clamp assembly for harness C112 ''at the next scheduled maintenance visit,'' we have determined that this imprecise compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but also the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection. In light of all of these factors, we find a compliance time of 90 days for completing the required actions to be warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. This difference has been coordinated with Lockheed.

Costs of Compliance

There are about 126 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection of clamp assembly	2	$80	$0	$160	53	$8,480

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Lockheed: Docket No. FAA–2006–25554; Directorate Identifier 2006–NM–123–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by September 25, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Lockheed Model L–1011–385–1, L–1011–385–1–14, L–1011–385–1–15, and L–1011–385–3 series airplanes, certificated in any category; having serial numbers (S/N) 193A through 193Y inclusive and 293A through 293F inclusive: –1002 through –1250 inclusive.

Unsafe Condition

(d) This AD results from a report of electrical arcing of the essential bus feeder cables behind hinged circuit breaker panel CB3 P-K. We are issuing this AD to prevent arcing of essential bus feeder cables due to improper installation of the harness C112 clamp assembly, which could result in loss of electrical systems and smoke and/or fire behind the CB3 P-K hinged circuit breaker panel in the flight compartment.

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.

Detailed Inspection of the C112 Harness Clamp Assembly

(f) Within 90 days after the effective date of this AD: Do the actions in paragraphs (f)(1) and (f)(2) of this AD by accomplishing all the actions specified in the Accomplishment Instructions of Lockheed L–1011 Service Bulletin 093–24–142, dated November 16, 2005. Do all applicable corrective actions before further flight.

(1) Perform a one-time detailed inspection of the C112 harness clamp assembly to find incorrectly installed harness clamps, and do all applicable corrective actions.

(2) Perform a one-time detailed inspection of the C112 and C162 harness assemblies to find evidence of chafing, arcing, or deterioration, and do all applicable corrective actions.

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

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on August 2, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12948 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25259; Directorate Identifier 2006–CE–36–AD]

RIN 2120–AA64

Airworthiness Directives; Fuji Heavy Industries, Ltd. FA–200 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an airworthiness authority of another country to identify and correct an unsafe condition on an aviation product. The proposed AD would require actions that are intended to address an unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by September 8, 2006.

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

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

For service information identified in the proposed AD, contact Fuji Heavy Industries, Ltd., AEROSPACE COMPANY, 1–11 YOUNAN 1 CHOME UTSUNOMIYA TOCHIGI, JAPAN 320–

8564; telephone: +81–28–684–7253; facsimile: +81–28–684–7260.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, Small Airplane Directorate, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. We are prototyping this process and specifically request your comments on its use. You can find more information in FAA draft Order 8040.2, ''Airworthiness Directive Process for Mandatory Continuing Airworthiness Information'' which is currently open for comments at *http://www.faa.gov/aircraft/draft_docs.* This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public.

This process continues to follow all existing AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to follow our technical decision-making processes in all aspects to meet our responsibilities to determine and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

The comment period for this proposed AD is open for 30 days to allow time for comment on both the process and the AD content. In the future, ADs using this process will have a 15-day comment period. The comment period is reduced because the airworthiness authority and manufacturer have already published the documents on which we based our decision, making a longer comment period unnecessary.

Comments Invited

We invite you to send any written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2006–25259; Directorate Identifier 2006–CE–36–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We are also inviting comments, views, or arguments on the new MCAI process. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this proposed AD.

Discussion

The Japan Civil Aviation Bureau, which is the airworthiness authority for Japan, has issued AD No. TCD–6832–2006, Date of Issue: April 10, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states that that the aircraft manufacturer has identified field reports indicating corrosion of the flanges of the main wing spars. If not corrected, the corrosion could cause deterioration of wing strength. The MCAI requires creation of inspection holes, corrosion inspection of the flange of wing spar, repair of corrosion if necessary and removal of the sealing compound. You may obtain further information by examining the MCAI in the docket.

Relevant Service Information

Fuji Heavy Industries, Ltd. has issued Service Bulletin No. 200–015, dated February 28, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product is manufactured outside the United States and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral agreement. Pursuant to this bilateral airworthiness agreement, the State of Design's airworthiness authority has notified us of the unsafe condition described in the MCAI and service information referenced above. We have examined the airworthiness authority's findings, evaluated all pertinent information, and determined an unsafe condition exists and is likely to exist or develop on all products of this type design. We are issuing this proposed AD to correct the unsafe condition.

Differences Between the Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable in a U.S. court of law. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the proposed AD. These proposed requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 3 products of U.S. registry. We also estimate that it would take about 128 work-hours per product to do the action and that the average labor rate is $80 per work-hour. Required parts would cost about $100 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $31,020, or $10,340 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies 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 FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Fuji Heavy Industries, Ltd.: FAA–2006–25259; Directorate Identifier 2006–CE–36–AD.

Comments Due Date

(a) We must receive comments on this proposed airworthiness directive (AD) by September 8, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all FA–200 series airplanes, certificated in any U.S. category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that the aircraft manufacturer has identified field reports indicating corrosion of the flanges of the main wing spars. If not corrected, the corrosion could cause deterioration of wing strength. The MCAI requires creation of inspection holes, corrosion inspection of the flange of wing spar, repair of corrosion if necessary and removal of the sealing compound. You may obtain further information by examining the MCAI in the docket.

Actions and Compliance

(e) Unless already done, do the following except as stated in paragraph (f) below.

(1) Within 1 year after the effective date of this AD, carry out creation of inspection holes, corrosion inspection of the flange of wing spar, repair of corrosion if necessary and removal of the sealing compound in accordance with Fuji Heavy Industries, Ltd. (FHI) Service Bulletin No. 200–015, dated February 28, 2006 (SB).

(2) Within intervals not to exceed 5 years from the previous inspection of paragraph (e)(1) of this AD, carry out repetitive corrosion inspection of the flange of wing spar and repair of corrosion if necessary in accordance with the SB.

FAA AD Differences

(f) The SB calls out contacting Fuji Heavy Industries Ltd. for a structural integrity evaluation if measured thickness exceeds minimum allowable limits or if corrosion is found on main spar flange in areas other than fuel tank bay. Per paragraph (g)(2) of this AD, any corrective action in this aspect or any other aspect per this AD must be FAA-approved before returning the airplane to service.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Doug Rudolph, Aerospace Engineer, Small Airplane Directorate, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Return to Airworthiness:* When complying with this AD, perform FAA-approved corrective actions before returning the product to an airworthy condition.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) This AD is related to Japan Civil Aviation Bureau AD TCD–6832–2006, Date of Issue: April 10, 2006, which references Fuji Heavy Industries Ltd Service Bulletin No. 200–015, dated February 28, 2006.

Issued in Kansas City, Missouri, on August 3, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12953 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25260; Directorate Identifier 2006–CE–37–AD]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Models AT–502, AT–502A, AT–502B, AT–602, AT–802, and AT–802A Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Air Tractor, Inc. (Air Tractor) Models AT–502, AT–502A, AT–502B, AT–602, AT–802, and AT–802A airplanes. This proposed AD would require you to repetitively visually inspect the rudder and vertical fin hinge attaching structure for loose fasteners, any cracks in the rudder or vertical fin skins, spars, hinges or brackets, or corrosion. The AD would also require you to replace any damaged parts found as a result of the inspection and install an external doubler at the upper rudder hinge. Installation of the external doubler at the upper rudder hinge is terminating action for the repetitive inspection requirements. This proposed AD results from two reports (one Model AT–602 airplane and one Model AT–802A airplane) of in-flight rudder separation from the vertical fin at the upper attach hinge area, and other reports of Models AT–502B, AT–602, and AT–802/802A airplanes with loose hinges, skin cracks, or signs of repairs to the affected area. We are proposing this AD to detect and correct loose fasteners; any cracks in the rudder or vertical fin skins, spars,

hinges or brackets, or corrosion of the rudder and vertical fin hinge attaching structure. Hinge failure adversely affects ability to control yaw and has led to the rudder folding over in flight. This condition could allow the rudder to contact the elevator and affect ability to control pitch with consequent loss of control of the airplane.

DATES: We must receive comments on this proposed AD by October 10, 2006.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; facsimile: (940) 564–5612.

FOR FURTHER INFORMATION CONTACT: Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2006–25260; Directorate Identifier 2006–CE–37–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this proposed AD.

Discussion

We have received two reports (one Air Tractor Model AT–602 airplane and one Model AT–802A airplane) of in-flight rudder separation at the upper attach hinge area and other reports of Models AT–502B, AT–602, and AT–802/802A airplanes with loose hinges, skin cracks, or signs of repairs to the affected area.

Hinge failure adversely affects ability to control yaw and has led to the rudder folding over in flight. This condition could allow the rudder to contact the elevator and affect ability to control pitch with consequent loss of control of the airplane.

Relevant Service Information

We have reviewed Snow Engineering Co. Service Letter #247, dated August 14, 2005, revised May 17, 2006, and Snow Engineering Co. Process Specification Number 145, dated December 6, 1991. The service information describes procedures for:

- Inspecting (visually) the rudder and fin hinge attaching structure for loose fasteners, any cracks in the rudder or vertical fin skins, spars, hinges or brackets, or corrosion;
- Replacing any damaged parts found as a result of the inspection;
- Installing an external doubler at the upper rudder hinge; and
- Balancing of the rudder.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require you to repetitively visually inspect the rudder and vertical fin hinge attaching structure for loose fasteners, any cracks in the rudder or vertical fin skins, spars, hinges or brackets, or corrosion. This AD would also require you to replace any damaged parts found as a result of the inspection and install an external doubler at the upper rudder hinge. Installation of the external doubler at the upper rudder hinge is terminating action for the repetitive inspection requirements.

Costs of Compliance

We estimate that this proposed AD would affect 945 airplanes in the U.S. registry.

We estimate the following costs to do the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × $80 per hour = $80	Not Applicable	$80	$75,600

We have no way of determining the number of airplanes that may need any replacements that would be required based on the results of the proposed inspection.

We estimate the following costs to do the installation of the external doubler at the upper rudder hinge:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
5 work-hours × $80 per hour = $400	$217	$617	$583,065

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39 Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Air Tractor, Inc.: Docket No. FAA–2006–25260; Directorate Identifier 2006–CE–37–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by October 10, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
(1) AT–502 and AT–502B	502/502B–0003 through 502/502B–2600.
(2) AT–502A	502A–0003 through 502A–2582.
(3) AT–602	602–0337 through 602–1138.
(4) AT–802 and AT–802A	802/802A–0001 through 802/802A–0215.

Unsafe Condition

(d) This AD results from two reports (one Model AT–602 airplane and one Model AT–802A airplane) of in-flight rudder separations at the upper attach hinge area and other reports of Models AT–502B, AT–602, and AT–802/802A airplanes with loose hinges, skin cracks, or signs of repairs to the affected area. We are issuing this AD to detect and correct loose fasteners; any cracks in the rudder or vertical fin skins, spars, hinges or brackets, or corrosion of the rudder and vertical fin hinge attaching structure. Hinge failure adversely affects ability to control yaw and has led to the rudder folding over in flight. This condition could allow the rudder to contact the elevator and affect ability to control pitch with consequent loss of control of the airplane.

Compliance

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect visually the rudder and vertical hinge attachment for loose fasteners; any cracks in the rudder or vertical fin skins, spars, hinges or brackets, or corrosion.	Initially inspect upon reaching 3,500 hours time-in-service (TIS), or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already done. Thereafter, repetitively inspect every 100 hours TIS. Installation of the external doubler at the upper rudder hinge required by paragraph (e)(2)(ii) or (e)(3) of this AD is terminating action for the repetitive inspections required by this AD.	Follow Snow Engineering Co. Service Letter #247, dated August 14, 2005, revised May 17, 2006.
(2) If you find any damage as a result of any inspection required by paragraph (e)(1) of this AD, you must: (i) Replace any damaged parts with new parts; and (ii) Do the installation of the external doubler at the upper rudder hinge.	Before further flight after any inspection required by paragraph (e)(1) of this AD where you find any damaged parts. The installation of the external doubler at the upper rudder hinge required by paragraph (e)(2)(ii) or (e)(3) of this AD is the terminating action for the repetitive inspections required by this AD.	Follow Snow Engineering Co. Service Letter #247, dated August 14, 2005, revised May 17, 2006, and Snow Engineering Co. Process Specification Number 145, dated December 6, 1991.

Actions	Compliance	Procedures
(3) Do the installation of the external doubler at the upper rudder hinge.	Upon accumulating 5,000 hours TIS or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already done. The installation of the external doubler at the upper rudder hinge required by paragraph (e)(2)(ii) or (e)(3) of this AD is the terminating action for the repetitive inspections required by this AD.	Follow Snow Engineering Co. Service Letter #247, dated August 14, 2005, revised May 17, 2006, and Snow Engineering Co. Process Specification Number 145, dated December 6, 1991.
(4) Do not install any rudder without the external doubler at the upper rudder hinge required by paragraph (e)(3) of this AD.	As of the effective date of this AD	Not Applicable.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Fort Worth Aircraft Certification Office, FAA, ATTN: Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) To get copies of the service information referenced in this AD, contact Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; facsimile: (940) 564–5612. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http ://dms.dot.gov*. The docket number is Docket No. FAA–2006–25260; Directorate Identifier 2006–CE–37–AD.

Issued in Kansas City, Missouri, on August 3, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12940 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25261; Directorate Identifier 2006–CE–38–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H airplanes. This proposed AD would require you to install Modification Kit MN172–25–10B or a steel lock rod/bar on both crew seat back cylinder lock assemblies. If a steel lock rod/bar has already been installed on the crew seat back cylinder lock assembly, no further action is required. If Modification Kit MK172–25–10A has previously been installed, this proposed AD would require you to do an installation inspection and correct any discrepancies found. This proposed AD results from reports of the crew seat back cylinder lock assembly failing at the aft end and other cylinder lock assemblies found cracked. We are proposing this AD to prevent the crew seat cylinder lock assembly from bending, cracking, or failing. This failure could cause uncontrolled movement of the seat back, resulting in possible backward collapse during flight. Backward collapse of either crew seat back could result in an abrupt pitch-up if the affected crew member continues to hold on to the control yoke during this failure and could cause difficulty in exiting the airplane from an aft passenger seat after landing.

DATES: We must receive comments on this proposed AD by October 10, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 942–9006.

FOR FURTHER INFORMATION CONTACT: Gary Park, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4123; facsimile: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2006–25261; Directorate Identifier 2006–CE–38–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http:// dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this proposed AD.

Discussion

We have received reports of the crew seat back cylinder lock bending at the aft end and failing. We have also received reports of cracks found in the cylinder lock assembly.

This condition, if not corrected, could result in failure of the crew seat back cylinder lock assembly. This failure could cause uncontrolled movement of the seat back, resulting in possible backward collapse during flight. Backward collapse of either crew seat back could result in an abrupt pitch-up

if the affected crew member continues to hold on to the control yoke during this failure and could cause difficulty in exiting the airplane from an aft passenger seat after landing.

Relevant Service Information

We have reviewed Cessna Single Engine Service Bulletin SB04–25–01, Revision 3, dated July 24, 2006.

This service bulletin describes procedures for installing Modification Kit MK172–25–10B on both crew seat back cylinder lock assemblies to replace the cylinder lock with a new model cylinder lock. This service bulletin also described procedures for doing an installation inspection on airplanes that have Modification Kit MK172–25–10A installed following Cessna Single Engine Service Bulletin SB04–25–01, Revision 2, dated June 5, 2006.

We have also reviewed Cessna Single Engine Service Bulletin SB04–25–02 Revision 1, dated October 17, 2005, and Revision 2, dated June 5, 2006.

These service bulletins describe procedures for installing a steel lock rod/bar on the crew seat to replace the crew seat back cylinder lock assembly.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require you to install a modification kit on both crew seat back cylinder lock assemblies, which replaces the cylinder lock with a new model cylinder lock, or install a steel lock rod/bar on both crew seat back cylinder lock assemblies.

Costs of Compliance

We estimate that this proposed AD would affect 4,039 airplanes in the U.S. registry. We provide below total fleet costs for both the proposed modification and the proposed steel lock rod/bar installation; however, only one of these proposed actions would be required.

We estimate the following costs to do the proposed installation of the modification kit:

Labor cost	Parts cost for both seats	Total cost per airplane for both seats	Total cost on U.S. operators
3.5 work-hours × $80 an hour = $280 for each modification kit.	$590 for each modification kit. One modification kit required for each airplane. Total parts cost for both seats would be $590.	$280 + $590 = $870.	$870 × 4,039 = $3,513,930.

We estimate the following costs to do the proposed fabrication and installation of a steel lock rod/bar:

Labor cost	Parts cost for both seats	Total cost per airplane for both seats	Total cost on U.S. operators
1.5 work-hours × $80 an hour = $120 for each crew seat. Total labor cost for both seats would be $240.	Not applicable	$240	$240 × 4,039 = $969,360

We estimate the following costs to do the proposed installation inspection on airplanes that have Modification Kit MK172–25–10A installed:

Labor cost	Parts cost for both seats	Total cost per airplane for both seats
1 work-hour × $80 an hour = $80 for both crew seats	Not applicable	$80

We have no method of determining the number of airplanes that may have the previously installed Modification Kit MK172–25–10A.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Cessna Aircraft Company: Docket No. FAA–2006–25261; Directorate Identifier 2006–CE–38–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by October 10, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
172R	17280001 through 17281262.
172S	172S8001 through 172S9994.
182S	18280001 through 18280944.
182T	18280945 through 18281701.
T182T ...	T18208001 through T18208453.
206H	20608001 through 20608250.
T206H ..	T20608001 through T20608570.

Unsafe Condition

(d) This AD results from reports of the crew seat back cylinder lock assembly failing at the aft end area and other cylinder lock assemblies found cracked. We are issuing this AD to prevent the crew seat cylinder lock assembly from bending, cracking, or failing. This failure could cause uncontrolled movement of the seat back, resulting in possible backward collapse during flight. Backward collapse of either crew seat back could result in an abrupt pitch-up if the affected crew member continues to hold on to the control yoke during this failure and could cause difficulty in exiting the airplane from an aft passenger seat after landing.

Compliance

(e) To address this problem, you must do the following, unless already done:

(1) *Airplanes that do not have Modification Kit MK172–25–10A installed:*

Action	Compliance	Procedures
For each crew seat (pilot and copilot), install Modification Kit MK172–25–10B or fabricate and install a steel lock rod/bar.	*For airplanes that have over 1,000 hours time-in-service (TIS) on the effective date of this AD*, do the action within the next 4 months after the effective date of this AD. *For airplanes that have from 501 to 1,000 hours TIS on the effective date of this AD*, do the action within the next 8 months after the effective date of this AD. *For airplanes that have from 0 to 500 hours TIS on the effective date of this AD*, do the action within the next 12 months after the effective date of this AD.	Follow Cessna Single Engine Service Bulletin SB04–25–01, Revision 3, dated July 24, 2006, for installing Modification Kit MK172–25–10B. Follow Cessna Single Engine Service Bulletin SB04–25–02 Revision 1, dated October 17, 2005, or Revision 2, dated June 5, 2006, for fabricating and installing a steel lock rod/bar.

(2) *Airplanes that have Modification Kit MK172–25–10A installed:*

Action	Compliance	Procedures
(i) For each crew seat (pilot and copilot), do an installation inspection.	Within the next 30 days after the effective date of this AD.	Follow Cessna Single Engine Service Bulletin SB04–25–01, Revision 3, dated July 24, 2006.
(ii) If you do not find any discrepancies during the inspection required in paragraph (e)(2)(i) of this AD, make a log book entry showing compliance with this AD and no further action is required.	Before further flight after the inspection required in paragraph (e)(2)(i) of this AD.	Follow Cessna Single Engine Service Bulletin SB04–25–01, Revision 3, dated July 24, 2006.
(iii) If you find discrepancies during the inspection required in paragraph (e)(2)(i) of this AD, make all necessary corrective actions.	Before further flight after the inspection required in paragraph (e)(2)(i) of this AD.	Follow Cessna Single Engine Service Bulletin SB04–25–01, Revision 3, dated July 24, 2006.

Note: Although not required by this AD, you may replace the steel lock rod/bar with Modification Kit MK172–25–10B.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office, FAA, ATTN: Gary Park, Aerospace Engineer, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4123; facsimile: (316) 946–4107, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) To get copies of the service information referenced in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 942–9006. To view the AD docket, go to the Docket Management

Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov.* The docket number is Docket No. FAA–2006–25261; Directorate Identifier 2006–CE–38–AD.

Issued in Kansas City, Missouri, on August 3, 2006.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12946 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19961; Directorate Identifier 2004–CE–48–AD]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: The FAA proposes to revise an earlier proposed airworthiness directive (AD) that applies to certain Air Tractor, Inc. (Air Tractor) Models AT–502, AT–502A, AT–502B, and AT–503A airplanes, which proposes to supersede AD 2002–26–05. AD 2002–26–05 lowers the safe life for the wing lower spar caps for Models AT–502, AT–502A, AT–502B, and AT–503A airplanes and those that incorporate or have incorporated Marburger Enterprises, Inc. (Marburger) winglets. AD 2002–26–05 also requires you to eddy-current inspect the wing lower spar caps immediately before modifying to correct any crack in a bolt hole before it extends to the modified center section of the wing and report the results of the inspection to the FAA if cracks are found. AD 2002–11–05 R1 currently requires similar action on Model AT–501 airplanes. Since issuing the earlier NPRM, we determined that Model AT–501 airplanes should be added to the Applicability section of this proposed AD and that this proposed AD should also supersede AD 2002–11–05 R1. We have revised the alternative method of compliance (AMOC) to include inspection procedures for airplanes that have or have had Marburger winglets installed. We have also updated the safe life of the replacement and new production spar cap based on additional data we have received from the manufacturer. Since these actions impose an additional burden over that proposed in the earlier NPRM, we are reopening the comment period to allow the public the chance to comment on these additional actions.

DATES: We must receive any comments on this proposed AD by October 10, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801; telephone: (800) 893–1420 or (701) 774–0230; facsimile: (701) 572–2602.

FOR FURTHER INFORMATION CONTACT: Direct all questions to:

- For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960; e-mail: *robert.a.romero@faa.gov;* and
- For airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2004–19961; Directorate Identifier 2004–CE–48–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this proposed AD.

Discussion

Prior to issuing this supplemental notice of proposed rulemaking (NPRM), we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Air Tractor Models AT–502, AT–502A, AT–502B, and AT–503A airplanes. That proposal was published in the **Federal Register** as an NPRM on February 9, 2005 (70 FR 6786). The NPRM proposed to supersede AD 2002–26–05 with a new AD that would retain the actions required in AD 2002–26–05, add additional airplanes to the applicability, and incorporate an AMOC to the actions retained from AD 2002–26–05.

AD 2002–26–05, Amendment 39–12991 (68 FR 18, January 2, 2003), currently applies to certain Air Tractor Models AT–502, AT–502A, AT–502B, and AT–503A airplanes. AD 2002–26–05 supersedes AD 2002–11–03 and requires the following:

- Maintaining the original requirements from AD 2002–11–03 for a lowered safe life, inspection, replacement/modification, and if cracks are found, reporting the results to the FAA;
- Further lowering the safe life for the wing lower spar cap established in AD 2002–11–03 for Models AT–502, AT–502B, and AT–503A airplanes; and
- Expanding the applicability of Models AT–502A and AT–502B airplanes to account for future manufactured airplanes.

With this supplemental NPRM we are also proposing to supersede AD 2002–11–05 R1, Amendment 39–14564 (71 FR 19629, April 17, 2006), which currently applies to certain Air Tractor Model AT–501 airplanes. We issued AD 2002–11–05 R1 to revise AD 2002–11–05 to remove AT–400 series and Models AT–802 and AT–802A airplanes from the applicability because separate AD actions were issued for those airplanes.

AD 2002–11–05 R1 retains the actions required in AD 2002–11–05 for Model AT–501 airplanes.

The following is a list of ADs that have been issued to date that are related to the wing spar inspection and safe life on Air Tractor airplanes:

AD No.	Affected air tractor model airplanes	Status
2000–14–51	AT–501, AT–502, and AT–502A	Superseded by AD 2001–10–04.
2001–10–04	AT–400, AT–500, and AT–800 Series	Revised by AD 2001–10–04 R1.
2001–10–04 R1	AT–400, AT–500, and AT–800 Series	Superseded by AD 2002–11–05.
2002–11–05	AT–400, AT–401, AT–401B, AT–402, AT–402A, AT–402B, AT–501, AT–802, and AT–802A.	Revised by AD 2002–11–05 R1.
2002–13–02	AT–300, AT–301, AT–302, AT–400, and AT–400A Airplanes	Superseded by AD 2003–06–01.
2002–11–03	AT–502, AT–502A, AT–502B, and AT–503A	Superseded by AD 2002–26–05.
2002–26–05	AT–502, AT–502A, AT–502B, and AT–503A	Current.
2003–06–01	AT–300, AT–301, AT–302, AT–400, and AT–400A	Current.
2002–11–05 R1	AT–501	Current.
2006–08–08	AT–400, AT–401, AT–401B, AT–402, AT–402A, and AT–402B	Current.
2006–08–09	AT–802 and AT–802A	Current.

You may view these ADs at the following Internet Web site addresses: *http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAD.nsf/MainFrame?OpenFrameSet* or *http://www.gpoaccess.gov/fr/index.html.*

Comments

We provided the public the opportunity to participate in developing the proposed AD on Air Tractor Models AT–502, AT–502A, AT–502B, and AT–503A airplanes. The following presents the comments received on this earlier proposed AD and FAA's response to each comment:

Comment Issue No. 1: Allow Repetitive Inspection and an Upper Life Limit on the New Cap

Lewis Air Service states there is a need to incorporate an alternative solution that includes repetitive inspections and an upper life limit on the new cap. Based on the way the NPRM is currently written, the commenter believes the low cap replacement time is too burdensome and not cost effective.

Although we agree that repetitive inspections may reduce the economic impact and minimize the risk of reduced agricultural production, this will not meet the safety intent of this proposed AD. We determined that reliance on critical repetitive inspections carries an unnecessary safety risk when parts replacement or modifications exist. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection, such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

Since the initial publication of the earlier proposed AD, Air Tractor has completed fatigue testing on the replacement spar cap. The life of the cap has been updated in this proposed AD to reflect the results of this testing and subsequent analysis.

We are not changing this proposed AD based on this comment but are changing it based on new data from the manufacturer.

Comment Issue No. 2: Proposed AD Is Not Necessary

M&M Air Service states that they operate eight different Air Tractor airplanes and to date have not found any cracks. The commenter indicates that the proposed rulemaking is confusing, not cost beneficial, and excessive.

Based on these comments, we infer that the commenter wants the NPRM withdrawn.

We do not agree with the commenter. Fatigue analysis/testing/fleet history shows that the wing spar will crack and fail over time. The commenter's airplanes not cracking to date does not prevent the unsafe condition from developing on the commenter's airplanes or other airplanes of the same type design in the future.

To date, we have received over 50 reports of cracked spar caps on AT–502 series airplanes and one report of complete wing separation. We realize that there are many different wing configurations in-service on these airplanes and each has different requirements. However, analysis shows that the airplane could fail in the affected area based on the design and normal utilization of the type design airplanes.

We are not changing this proposed AD based on this comment.

Comment Issue No. 3: Compliance Time To Accommodate Flying Schedules

The National Agricultural Aviation Association requests the FAA consider the flying schedules of the airplanes and accommodate a program that can be done during the off-season. The commenter suggests the FAA allow repetitive inspections until an ultimate solution is reached, assuming no cracks are found.

We have considered the importance of the financial and operational impact this proposed rulemaking may have on owners and operators and, in this specific case, aerial application businesses. This proposed AD uses inspections to manage the safety of the wing centerline joint instead of reducing the compliance times for replacing parts. However, this approach cannot be used indefinitely. Extending the service life of fatigue-critical, primary structure areas requires not only ensuring the safety of the area being inspected or modified, but also ensuring the safety of the complete structure when extending the service life.

Fatigue analysis shows that the safe life is the solution to the unsafe condition, not repetitive inspections over the life of the airplane. For eligible airplanes, we are providing an AMOC that provides an aggressive repetitive inspection program until 8,000 hours time-in-service (TIS), provided no cracks are found.

The FAA has shown a history of accommodating flying schedules through AMOCs on previous ADs for this subject. We will continue to consider AMOCs provided they maintain a level of safety acceptable to the FAA.

For the replacement spar cap, we have received new data that justifies a much higher safe life than was previously published in the NPRM.

We are not changing this proposed AD based on this comment.

Comment Issue No. 4: Lack of Wing Life-Limit Information

Julie Broussard of Lewis Flying and Maintenance Service, Inc., states that she was never informed in writing of a 1,600 hour safe life or replacement life of 8,000 hours TIS for the AT–502 wing. The commenter also urges the FAA to make the manufacturer ''fix the wing.''

We issued AD 2002–26–05, Amendment 39–12991 (68 FR 18, January 2, 2003), which applies to Air Tractor Models AT–502, AT–502A, AT–502B, and AT–503A airplanes. That AD lowers the safe life for the wing lower spar caps to 1,650 hours TIS. AD 2002–26–05 supersedes AD 2002–11–03, Amendment 39–12764 (67 FR 38371, June 4, 2002). We also issued Special Airworthiness Information Bulletin (SAIB) CE–05–28, dated January 21, 2005, announcing an AMOC to AD 2002–26–05. The AMOC allows an inspection program instead of the safe life replacement program required by AD 2002–26–05, which allows operation of a modified wing up to 8,000 hours TIS, provided no cracks are found during required inspections.

We are legally bound to notify the public of an AD through publication in the **Federal Register**. AD 2002–26–05 was published in the **Federal Register** on January 2, 2003. In the past, we have sent copies of ADs and SAIBs to registered owners of the affected airplanes, which could be a bank or holding company. This may be the reason the commenter did not receive notification of the change in the safe life limit and replacement schedule.

This supplemental NPRM is still only a proposal at this time. The previous NPRM on this subject was published in the **Federal Register** on February 9, 2005 (70 FR 6786).

We will always encourage modifications that incorporate design changes that make critical parts stronger and safer. However, our responsibility is to address the continued operational safety of the airplane fleet, ensure that current design regulations are met, and correct any unsafe conditions.

Establishing a safe life and an option of an aggressive repetitive inspection schedule until 8,000 hours TIS (provided no cracks are found) meets the FAA's responsibility. Further, the replacement spar cap has been substantiated to a much higher safe life than previously published.

We are not changing this proposed AD based on this comment.

Comment Issue No. 5: New Production Airplanes Have a 27 Percent Increase in Safe Life

The National Transportation Safety Board (NTSB) questions the rationale for new production AT–502B airplanes having a 27 percent increase in the safe life limit on the wing from 1,650 hours TIS to 2,100 hours TIS. The commenter also states a concern for the conservatism in the initial and repetitive inspection program.

Other items of concern to the commenter are:

- The wording proposed in section (e)(2) of the earlier proposed AD may allow for inspections to continue indefinitely. The commenter states that airplanes using the AMOC who find cracks should report them to the FAA.
- Airplanes that have been modified with a replacement cap should follow the inspection program for later serial number airplanes.
- There has been nothing done to address the use of winglets as it applies to inspection intervals.

The safe life for new production AT–502B airplanes was determined as a result of fatigue testing performed by the manufacturer. The initial and repetitive inspection program was based on a thorough damage tolerance analysis using a validated load spectrum and coupon testing.

It should be noted that since publication of the earlier NPRM, the manufacturer has completed more extensive testing, and we are now proposing a safe life for new production AT–502B airplanes that represents much more than the 27 percent increase the commenter states.

We do not agree that paragraph (e)(2) of the previously proposed AD allowed for indefinite inspections. Paragraph (e)(2) of the proposed AD refers to Appendix 2, which has clearly defined upper limits on inspection times (8,000 hours TIS for eligible airplanes).

We agree that any cracks detected should be reported to the FAA. We are retaining the reporting requirement from the earlier NPRM in this proposed AD.

Airplanes with replacement spar caps, as well as new production airplanes, are no longer required to follow an inspection program.

We agree that we did not address an inspection program for airplanes with winglets installed. We are revising this proposed AD to include an AMOC inspection program for airplanes that have or have had winglets installed. Further, this proposed AD states that airplanes with the new or replacement spar caps are not eligible to have the winglet STC installed without proper fatigue substantiation.

Comment Issue No. 6: Include Model AT–501 Airplanes in the Applicability

Leland Snow, President of Air Tractor, Inc., states that Model AT–501 airplanes should be included in the Applicability section and that new airplanes should not have a safe life limit of 3,100 hours TIS.

The commenter states the costs for doing the inspection is too low. The inspection typically costs from $450 to $550. Parts cost for the replacement spar cap is approximately $16,500 plus approximately $16,500 for labor (a total of $33,000).

The commenter also states that winglets should be removed before allowing the AMOC.

We agree with the commenter that Model AT–501 airplanes should be included in the Applicability section. We also agree to update the Cost Impact section. We are revising this proposed AD to include those changes.

We do not agree that airplanes with winglets installed should be excluded from the AMOC. We are adding an AMOC inspection program in this proposed AD to cover airplanes that have winglets installed following Supplemental Type Certificate (STC) SA00490LA.

Comment Issue No. 7: Torsion Loads

John R. Janssen states that torsion loads need to be accounted for to properly address the wing safe life limit for the affected airplanes.

We agree with the commenter that the torsion load is a contributing factor to the fatigue life of the wings, as are all the other loads (ground, gust, maneuver, etc.). These loads have been accounted for in the load spectrum that was used in developing the inspection program and the life of the new/replacement spar cap.

We are not changing this proposed AD based on this comment.

Comment Issue No. 8: Marburger Winglets

Lewis Broussard, Owner, Lewis Flying and Maintenance Service, Inc., states that installing Marburger Enterprise, Inc. winglets increases the safe life of the wing.

We do not agree with the commenter. We have data that shows adding winglets increases the operating stresses at the wing root and consequently leads to a reduced safe life.

We are not changing this proposed AD based on this comment.

Comment Issue No. 9: AMOC Should Apply to Airplanes With Winglets

Rick Marburger of Marburger Enterprises, Inc., states that airplanes

with winglets installed should be included in the AMOC repetitive inspection program.

We agree with the commenter. We included procedures in the AMOC repetitive inspection program to address airplanes that have or have had winglets installed.

We are revising this proposed AD to incorporate this change.

Comment Issue No. 10: Unfair Safe Life Limit for the New Spar Cap

Tom Miller of Ingalls Aerial Sprayers, Inc., states the safe life limit of 3,100 hours TIS for the new/replacement spar cap is unfair. Numerous other commenters have similar concerns. The commenters state the new design should be given a safe life limit that is equivalent to the old design, which is 8,000 hours TIS.

We agree with the commenters. The 3,100-hour TIS safe life limit was based on data submitted by Air Tractor and approved by the FAA. However, since the earlier proposed AD was published, Air Tractor began a new test program using a recently validated load spectrum to determine a new safe life for this design configuration. That testing has been completed and the new safe life limit is being published in this proposed AD.

We are revising this proposed AD to incorporate this change.

Relevant Service Information

The following service information from AD 2002–11–05 R1 and the previous NPRM are still valid for this supplemental NPRM:

- Snow Engineering Drawing Number 21050;
- Snow Engineering Service Letters #197 or #205, both revised March 26, 2001; and
- Snow Engineering Service Letter #244, dated April 25, 2005.

Snow Engineering Co. has a licensing agreement with Air Tractor that allows them to produce technical data for use on Air Tractor products.

FAA's Determination and Requirements of This Proposed AD

Since issuing the earlier NPRM, we determined that Model AT–501 airplanes should be added to the Applicability section. We also developed an AMOC to the requirements of AD 2002–26–05 for airplanes that have or have had winglets installed. We are extending the safe life for new production airplanes and replacement spar caps.

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

- The unsafe condition referenced in this document exists or could develop on other Air Tractor Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes of the same type design that are on the U.S. registry;
- We should change this proposed AD to include Model AT–501 airplanes in the Applicability section and revise the AMOC.
- We should take AD action to correct this unsafe condition.

The Supplemental NPRM

Adding additional models to the Applicability section goes beyond the scope of what was originally proposed in the earlier NPRM. Therefore, we are reopening the comment period and allowing the public the chance to comment.

This proposed AD would supersede AD 2002–26–05 and AD 2002–11–05 R1 with a new AD that would:

- Retain the actions required in AD 2002–26–05 and AD 2002–11–05 R1;
- Add additional airplanes to the Applicability section;
- Incorporate a revised AMOC to include inspection procedures for airplanes that have or have had winglets installed following STC SA00490LA; and
- Extend the safe life for new production airplanes and replacement spar caps.

The following table summarizes the effects this proposed AD would have on the airplane models affected by this proposed AD:

	Model
AT–501	• Supersede AD 2002–11–05 R1. • Retain the safe lives from AD 2002–11–05 R1. • Provide an AMOC that allows extension of the safe life through an inspection and modification program.
AT–502	• Supersede AD 2002–26–05. • Retain the safe lives from AD 2002–26–05 and add S/Ns to applicability. AD 2002–26–05 provided safe lives for S/Ns 0003 through 0236. Proposed action applies the same safe life to all S/Ns beginning with 0003. • Provide an AMOC that allows extension of the safe life through an inspection and modification program.
AT–502A	• Supersede AD 2002–26–05. • Retain the safe lives from AD 2002–26–05. • Provide an AMOC that allows extension of the safe life through an inspection and modification program.
AT–502B	• Supersede AD 2002–26–05. • Retain the safe lives from AD 2002–26–05 for S/Ns 0187 through 0654, except 0643. • Increase the safe lives beyond those listed in AD 2002–26–05 for S/Ns 0655 and greater, as well as S/N 0643. • Add requirement to cold work outboard wing center splice block bolt holes in the lower spar cap on S/Ns 0643 and 0655 through 0692. • Provide an AMOC that allows extension of the safe life through an inspection and modification program for S/Ns 187 through 654, except 643.
AT–503A	• Supersede AD 2002–26–05. • Retain the safe lives from AD 2002–26–05. • Provide an AMOC that allows extension of the safe life through an inspection and modification program.

Costs of Compliance

We estimate that this proposed AD affects approximately 500 airplanes in the U.S. registry.

We estimate the following costs to do each proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
8 work-hours × $80 per hour = $640	No parts required for inspection	$640	$640 × 500 = $320,000.

We estimate the following costs to do the proposed modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
120 work-hours × $80 per hour = $9,600.	Approximately $3,700	$9,600 + $3,700 = $13,300	$13,300 × 500 = $6,650,000.00.

We estimate the following costs to do the proposed replacement:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
254 work-hours × $80 per hour = $20,320 ..	Approximately $16,500	$20,320 + $16,500 = $36,820	$36,820 × 500 = $18,410,000.00.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

Examining This Proposed AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2002–26–05, Amendment 39–12991 (68 FR 18, January 2, 2003) and AD 2002–11–05 R1, Amendment 39–14564 (71 FR 19628, April 17, 2006), and by adding a new AD to read as follows:

Air Tractor, Inc.: Docket No. FAA–2004–19961; Directorate Identifier 2004–CE–48–AD.

Comment Due Date

(a) We must receive comments on this proposed airworthiness directive (AD) by October 10, 2006.

Affected AD

(b) This AD supersedes AD 2002–26–05, Amendment 39–12991, and AD 2002–11–05 R1, Amendment 39–14564.

Applicability

(c) This AD applies to certain Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes. Use Table 1 in paragraph (c)(1) of this AD for airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. (Marburger) winglets. Use Table 2 in paragraph (c)(4) of this AD for certain AT–500 series airplanes that incorporate or have incorporated Marburger winglets.

(1) The following table applies to airplanes (certificated in any category) that do not incorporate and never have incorporated Marburger winglets along with the safe life (presented in hours time-in-service (TIS)) of the wing lower spar cap for all affected airplane models and serial numbers:

TABLE 1.—SAFE LIFE FOR AIRPLANES THAT DO NOT INCORPORATE AND NEVER HAVE INCORPORATED MARBURGER WINGLETS

Model	Serial Nos.	Wing lower spar cap safe life
AT–501	0002 through 0061	4,531 hours TIS.
AT–501	All serial numbers beginning with 0062	7,693 hours TIS.
AT–502	All serial numbers beginning with 0003	1,650 hours TIS.
AT–502A	All serial numbers beginning with 0158	1,650 hours TIS.
AT–502B	0187 through 0654, except 0643	1,650 hours TIS.
AT–502B	0643, and 0655 through 0692	9,000 hours TIS.
AT–502B	0693 through 0701	9,500 hours TIS.
AT–502B	All serial numbers beginning with 0702	9,800 hours TIS.
AT–503A	All serial numbers beginning with 0067	1,650 hours TIS.

(2) If piston-powered airplanes have been converted to turbine power, you must use the limits for the corresponding serial number (S/N) turbine-powered airplanes.

(3) Airplanes that have been modified to install lower spar caps, part numbers (P/N) 21058–1 and 21058–2, should use a safe life of 9,800 hours TIS.

(4) The following table applies to airplanes (certificated in any category) that incorporate or have incorporated Marburger winglets. These winglets are installed following Supplemental Type Certificate (STC) SA00490LA. Use the winglet usage factor in Table 2 of this paragraph, the safe life specified in Table 1 in paragraph (c)(1) of this AD, and the instructions included in Appendix 1 to this AD to determine the new safe life of airplanes that incorporate or have incorporated Marburger winglets:

TABLE 2.—WINGLET USAGE FACTOR TO DETERMINE THE SAFE LIFE FOR AIRPLANES THAT INCORPORATE OR HAVE INCORPORATED MARBURGER WINGLETS INSTALLED FOLLOWING STC SA00490LA

Model	Serial Nos.	Winglet usage factor
AT–501	0002 through 0061	1.6
AT–501	All serial numbers beginning with 0062	1.6
AT–502	0003 through 0236	1.6
AT–502A	0158 through 0238	1.6
AT–502A	All serial numbers beginning with 0239	1.2
AT–502B	All serial numbers beginning with 0187	1.2

(5) Model AT–502B airplanes, S/N 0643, all S/Ns beginning with 0655, and all other airplanes that have been modified with replacement spar caps, P/N 21058–1 and P/N 21058–2, are not eligible to have STC SA00490LA installed without additional fatigue data being provided to the FAA at the address in paragraph (f) of this AD.

Unsafe Condition

(d) This AD is the result of service reports and analysis done on wing lower spar caps of Air Tractor, Inc. airplanes. The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in failure of the spar cap and lead to wing separation and loss of control of the airplane.

Compliance

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) For all affected airplanes: Modify the applicable airplane records (logbook) as follows to show the reduced safe life for the wing lower spar cap (use the information from Table 1 in paragraph (c)(1), Table 2 in paragraph (c)(4), and Appendix 1 of this AD, as applicable): (i) Incorporate the following into the airplane logbook "In accordance with AD **–**–** (AD 2002–26–05 or AD 2002–11–05, as applicable) the wing lower spar cap is life limited to ____." Insert the applicable safe life number from the applicable tables in paragraphs (c)(1) and (c)(4) of this AD and Appendix 1 of this AD. (ii) If, as of the time of the logbook entry requirement of paragraph (e)(1)(i) of this AD, your airplane is over or within 50 hours of the safe life, an additional 50 hours TIS after the effective date of this AD is allowed to do the replacement.	*For airplanes previously affected by AD 2002–26–05:* Do the logbook entry within the next 10 hours TIS after January 15, 2003 (the effective date of AD 2002–26–05). *For airplanes not previously affected by AD 2002–26–05:* Do the logbook entry within the next 10 hours TIS after the effective date of this AD, unless already done. The logbook language for AT–501 airplanes is referenced as AD 2002–11–05 instead of AD 2002–11–05 R1 to maintain continuity and assures no further action is necessary.	*Airplane Records Modification:* The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the airplane records as specified in paragraph (e)(1) of this AD. Make an entry into the airplane records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). *Spar Cap Replacement:* Do the replacement when the safe life is reached following Snow Engineering Drawing Number 21050, Snow Engineering Service Letters #197 or #205, both revised March 26, 2001, as applicable. The owner/operator may not do the spar cap modification/replacement, unless he/she holds the proper mechanic authorization.

Actions	Compliance	Procedures
(2) For all affected airplanes: To extend the safe life of the wing lower spar cap, you may eddy-current inspect and modify the wing lower spar cap. The inspection schedule and modification procedures are included in Appendix 2 to this AD.	Inspection schedule included as part of the alternative method of compliance (AMOC) in Appendix 2 to this AD.	Procedures included as part of the AMOC in Appendix 2 to this AD.
(3) For all affected airplanes: Report to the FAA any cracks detected as the result of each inspection required by paragraph (e)(2) of this AD on the form in Figure 1 of this AD. The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act and assigned OMB Control Number 2120–0056.	Only if cracks are found, send the report within 10 days after the inspection required in paragraph (e)(2) of this AD.	Send the form (Figure 1 of this AD) to FAA, Fort Worth Airplane Certification Office, Attn: Rob Romero, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960.
(4) For Model AT–502B airplanes, S/Ns 502B–0643, and 502B–0655 through 502B–0692: Cold work the left-hand and right-hand two outboard wing center splice block bolt holes (4 total) in the lower spar cap.	Before accumulating 2,000 hours TIS or within the next 100 hours TIS after the effective date of this AD, whichever occurs later.	Following Snow Engineering Service Letter #244, dated April 25, 2005.
(5) For all affected airplanes: Airplanes that have the two-part modification done following the applicable service bulletins (Snow Engineering Service Letters #197 or #205, both revised March 26, 2001; or Snow Engineering Service Letter #244, dated April 25, 2005), but have over-sized outboard bolt holes at the splice block, must obtain an AMOC from FAA as specified in paragraph (f) of this AD to determine applicable inspection intervals.	Not applicable.	Not applicable.

BILLING CODE 4910–13–P

DOCKET NO. FAA-2004-19961 INSPECTION REPORT

(REPORT ONLY IF CRACKS ARE FOUND)

1. Inspection Performed By:	2. Phone:
3. Airplane Model:	4. Airplane Serial Number:
5. Engine Model Number:	6. Airplane Total Hours TIS:
7. Wing Total Hours TIS:	8. Lower Spar Cap Hours TIS:
9. Has the lower spar cap been inspected before? (eddy-current, dye penetrant, magnetic particle, ultrasound) ☐ Yes ☐ No	9a. If yes, Date: _____ Inspection Method: _____ Lower Spar Cap Hours TIS: _____ Cracks found? ☐ Yes ☐ No
10. Has there been any major repair or alteration performed to the spar cap? ☐ Yes ☐ No	10a. If yes, specify (Description and Hours TIS)
11. Date of AD inspection: _____	
12. Inspection Results: (Note: Report **only** if cracks are found)	12a. ☐ Left Hand ☐ Right Hand
12b. Crack Length: _____	12c. Does drilling hole to next larger size remove all traces of the crack(s)? ☐ Yes ☐ No
12d. Corrective Action Taken:	

Mail report to: Rob Romero, Fort Worth ACO, ASW-150, 2601 Meacham Blvd., Fort Worth, TX 76193-0150; or fax to (817) 222-5960

Figure 1

BILLING CODE 4910–13–C

Alternative Methods of Compliance (AMOC)

(f) The Manager, Fort Worth or Los Angeles Airplane Certification Office (ACO), as applicable (see paragraphs (f)(1)(i) and (f)(2)(ii) of this AD below for specific contacts), has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(1) For information on any already approved AMOCs, contact:

(i) For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960; e-mail: *robert.a.romero@faa.gov.*

(ii) For airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA,

3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

(2) AMOCs approved for AD 2001–10–04 and/or AD 2000–14–51 are not considered approved for this AD.

(3) AMOCs approved for AD 2001–10–04 R1, AD 2002–11–03, AD 2002–11–05, AD 2002–11–05 R1, or AD 2002–26–05 are considered approved for this AD.

Special Flight Permit

(g) Under 14 CFR part 39.23, we are limiting the special flight permits for this AD by the following conditions:

(1) Operate only in day visual flight rules (VFR).

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

Related Information

(h) To get copies of the documents referenced in this AD, contact Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2004–19961.

Appendix 1 to Docket No. FAA–2004–19961

The following provides procedures for determining the safe life for those Models AT–501, AT–502, AT–502A, and AT–502B airplanes that incorporate or have incorporated Marburger Enterprises, Inc. (Marburger) winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) No. SA00490LA.

If you have removed the Marburger winglets before further flight after the effective date of this AD or before the effective date of this AD, do the following:

1. Review your airplane's logbook to determine your airplane's time-in-service (TIS) with winglets installed per Marburger STC No. SA00490LA. This includes all time spent with the winglets currently installed and any previous installations where the winglet was installed and later removed.

Example: A review of your airplane's logbook shows that you have accumulated 350 hours TIS since incorporating the Marburger STC. Further review of the airplane's logbook shows that a previous owner had installed the STC and later removed the winglets after accumulating 150 hours TIS. Therefore, your airplane's TIS with the winglets installed is 500 hours.

If you determine that the winglet STC has never been incorporated on your airplane, then your safe life is presented in Table 1 in paragraph (c)(1) of this AD. Any future winglet installation will be subject to a reduced safe life per these instructions.

2. Determine your airplane's unmodified safe life from Table 1 in paragraph (c)(1) of this AD.

Example: Your airplane is a Model AT–502B, serial number (S/N) 0292. From Table 1 in paragraph (c)(1) of this AD, the unmodified safe-life of your airplane is 1,650 hours TIS.

All examples from hereon will be based on the Model AT–502B, S/N 0292 airplane.

3. Determine the winglet usage factor from Table 2 in paragraph (c)(4) of this AD.

Example: Again, your airplane is a Model AT–502B, S/N 0292. From Table 2 in paragraph (c)(4) of this AD, your winglet usage factor is 1.2.

4. Adjust the winglet TIS to account for the winglet usage factor. Multiply the winglet TIS (result of Step 1 above) by the winglet usage factor (result of Step 3 above).

Example: Winglet TIS is 500 hours × a winglet usage factor of 1.2. The adjusted winglet TIS is 600 hours.

5. Calculate the winglet usage penalty. Subtract the winglet TIS (result of Step 1 above) from the adjusted winglet TIS (result of Step 4 above).

Example:

Adjusted winglet TIS − the winglet TIS = Winglet usage penalty.

(600 hours TIS) − (500 hours TIS) = (100 hours TIS).

6. Adjust the safe life of your airplane to account for winglet usage. Subtract the winglet usage penalty (result of Step 5 above) result from the unmodified safe life from Table 1 in paragraph (c)(1) of this AD (the result of Step 2 above).

Example:

Unmodified safe life − winglet usage penalty = Adjusted safe life.

(1,650 hours TIS) − (100 hours TIS) = (1,550 hours TIS).

7. If you remove the winglets from your airplane before further flight or no longer have the winglets installed on your airplane, the safe life of your airplane is the adjusted safe life (result of Step 6 above). Enter this number in paragraph (e)(1)(i) of this AD and the airplane logbook.

If you have the Marburger winglets installed as of the effective date of this AD and plan to operate your airplane without removing the winglets, do the following:

1. Review your airplane's logbook to determine your airplane's TIS without the winglets installed.

Example: A review of your airplane's logbook shows that you have accumulated 1,500 hours TIS, including 500 hours with the Marburger winglets installed. Therefore, your airplane's TIS without the winglets installed is 1,000 hours.

2. Determine your airplane's unmodified safe life from Table 1 in paragraph (c)(1) of this AD.

Example: Your airplane is a Model AT–502B, S/N 0292. From Table 1 in paragraph (c)(1) of this AD, the unmodified safe life of your airplane is 1,650 hours TIS.

All examples from hereon will be based on the Model AT–502B, S/N 0292 airplane.

3. Determine the winglet usage factor from Table 2 in paragraph (c)(4) of this AD.

Example: Again, your airplane is a Model AT–502B, S/N 0292. From Table 2 in paragraph (c)(4) of this AD, your winglet usage factor is 1.2.

4. Determine the potential winglet TIS. Subtract the TIS without the winglets installed (result of Step 1 above) from the unmodified safe life (result of Step 2 above).

Example:

Unmodified safe life − TIS without winglets = Potential winglet TIS.

(1,650 hours TIS) − (1,000 hours TIS) = (650 hours TIS).

5. Adjust the potential winglet TIS to account for the winglet usage factor. Divide the potential winglet TIS (result of Step 4 above) by the winglet usage factor (result of Step 3 above).

Example:

Potential winglet TIS ÷ winglet usage factor = Adjusted potential winglet TIS.

(650 hours TIS) ÷ (1.2) = (541 hours TIS).

6. Calculate the winglet usage penalty. Subtract the adjusted potential winglet TIS (result of Step 5 above) from the potential winglet TIS (result of Step 4 above).

Example:

Potential winglet TIS − adjusted potential winglet TIS = Winglet usage penalty.

(650 hours TIS) − (541 hours TIS) = (109 hours TIS).

7. Adjust the safe life of your airplane to account for the winglet installation. Subtract the winglet usage penalty (result of Step 6 above) from the unmodified safe life from Table 1 in paragraph (c)(1) of this AD (the result of Step 2 above).

Example:

Unmodified safe life − winglet usage penalty = Adjusted safe life.

(1,650 hours TIS) − (109 hours TIS) = (1,541 hours TIS).

8. Enter the adjusted safe life (result of Step 7 above) in paragraph (e)(1)(i) of this AD and the airplane logbook.

If you install or remove the Marburger winglets from your airplane in the future, do the following:

If, at anytime in the future, you install or remove the Marburger winglets STC from your airplane, you must repeat the procedures in this Appendix to determine the airplane's safe life.

APPENDIX 2—ALTERNATIVE METHOD OF COMPLIANCE (AMOC) TO DOCKET NO. FAA–2004–19961

Optional Inspection Program

For all airplanes listed in this AD; except for Model AT–502B airplanes, serial number (S/N) 0643 and all S/Ns beginning with 0655, and those airplanes that have been modified with the replacement spar caps, part number (P/N) 21058–1 and P/N 21058–2; you may begin a repetitive inspection interval program as an alternative to the safe life requirement of this AD with the following provisions:

For the Model AT–501 airplanes affected by this AD, you may elect to follow this AMOC program and continue to operate your airplane up to 8,000 hours TIS, provided you comply with this AMOC in its entirety. If at the time of the effective date of this AD, you are over 1,600 hours TIS (the time required for the first inspection), you must inspect within 50 hours TIS. If at the time of the

effective date of this AD, you are over 4,000 hours TIS (the time required for 2-part modification), you must have the modification done within 50 hours TIS. If you choose not to follow this inspection program, then you must replace your lower spar caps and associated hardware at the applicable safe life listed in this AD following the procedures in paragraph (e).

For airplanes that do not and never have had Marburger Enterprise, Inc. winglets installed following Supplemental Type Certificate (STC) SA00490LA:

1. Upon accumulating 1,600 hours time-in-service (TIS) or within the next 50 hours TIS after [effective date] (the effective date of AD **–**–**), whichever occurs later, eddy-current inspect the outboard two lower spar cap bolt holes following Snow Engineering Process Specification #197, page 1, revised June 4, 2002; pages 2 through 5, revised May 3, 2002. The inspection must be done by one of the following:

a. A Level 2 or Level 3 inspector that is certified for eddy-current inspection using the guidelines established by the American Society for Nondestructive Testing or MIL–STD–410; or

b. A person authorized to do AD work and has completed and passed the Air Tractor, Inc. training course on Eddy Current Inspection on wing lower spar caps.

2. Repeat these inspections at intervals of (as applicable):

a. 800 hours TIS (all S/Ns except as noted in b); or

b. 600 hours TIS (S/Ns 502B–0187 through 502B–0618 that do not have P/N 20998–1/2 web plate installed).

c. If the outboard two lower spar cap bolt holes have been cold worked following Snow Engineering Service Letter #233, dated May 18, 2004, then you may double (1,600 hours TIS or 1,200 hours TIS, as applicable) the inspection interval (See Step 8—re: mid cycle cold work).

d. Your logbook entry must include the work done and the inspection intervals that are upcoming, as follows:

Following AD **–**–**, at XXXX {insert hours TIS of the initial pre-modification inspection} hours TIS an eddy-current inspection has been performed. As of now, the safe life listed in the AD no longer applies to this airplane. This airplane must be eddy-current inspected at intervals not to exceed {800/600/1,600/1,200, as applicable} hours TIS. The first of these inspections is due at {insert the total number of hours TIS the first of these inspections is due} hours TIS.''

3. If at any time a crack is found, and:

a. The crack indication goes away by doing the modification following the applicable sheet of Snow Engineering Modification—Wing Centersplice—502, Drawing Number 20989, then you may modify your center splice following Snow Engineering Drawing 20989. After modification, proceed to Step 5.

b. The crack indication does not go away by doing the modification following the applicable sheet of Snow Engineering Modification—Wing Centersplice—502, Drawing Number 20989, you must replace all parts and hardware listed in Step 7.

c. Report to the FAA any cracks found using the form in Figure 1 of this AD.

4. For all S/Ns, upon accumulating 4,000 hours TIS, you must:

a. Modify your center splice connection following the applicable sheet of Snow Engineering Modification—Wing Centersplice—502, Drawing Number 20989, unless already done following Snow Engineering Service Letter #197 or #205, both revised March 26, 2001, as applicable. The owners/operator may not do the spar cap modification unless that person holds the proper mechanic authorization. If, as of [effective date] (the effective date of AD **–**–**), your airplane is over or within 50 hours of reaching the 4,000 hour TIS modification requirement, do the modification within the next 50 hours TIS.

b. Before doing the modification, do an eddy-current inspection following Snow Engineering Process Specification #197, page 1, revised June 4, 2002; pages 2 through 5, revised May 3, 2002, unless already done following the applicable Snow Engineering Service Letter #197 or #205, both revised March 26, 2001.

c. Your logbook entry must include the work done and the inspection intervals that are upcoming, as follows:

*''Following AD **–**–**, at XXXX {insert hours TIS of the modification} hours TIS an eddy-current inspection has been done. As of now, the safe life listed in the AD no longer applies to this airplane. This airplane must be eddy-current inspected at {insert the number of hours TIS at modification plus 1,600 hours TIS} hours TIS.*

5. For all S/Ns, upon accumulating 1,600 hours TIS after modification, inspect the left-hand and right-hand outboard two lower spar cap bolt holes following Snow Engineering Process Specification #197, page 1, revised June 4, 2002; pages 2 through 5, revised May 3, 2002.

6. Repeat the inspection at intervals of:

a. 800 hours TIS; or

b. 1,600 hours TIS if the outboard two lower spar cap bolt holes have been cold worked following Snow Engineering Service Letter #234, dated May 18, 2004 (See Step 8).

c. Your logbook entry must include the work done and the post-modification inspection intervals that are upcoming, as follows:

''This airplane must be eddy-current inspected at intervals not to exceed {800/1,600, as applicable} hours TIS. The first of these inspections is due at {insert the total number of hours TIS the first of these inspections is due} hours TIS.''

d. If a crack is found at any time, before further flight you must replace the lower spar caps, splice blocks, and wing attach angles and hardware. You must also notify the FAA using the form in Figure 1 of this AD.

7. Upon accumulating 8,000 hours TIS, before further flight you must replace the lower spar caps, splice blocks, and wing attach angles (P/N 20693–1), and associated hardware. No additional time will be authorized for airplanes that are at or over 8,000 hours TIS (see Step 9).

8. (OPTIONAL): If you decide to cold work your bolt holes following Snow Engineering Service Letter #233 or #234, both dated May 18, 2002, at a TIS that does not coincide with a scheduled inspection following this AD, then eddy-current inspect at the time of cold working and then begin the 1,600/1,200 hour TIS inspection intervals (2 times the intervals listed in Steps 2.a., 2.b., and 6.a. listed above).

9. (OPTIONAL): If you have modified your airplane in accordance with Step 4 above before accumulating 4,000 hours TIS, then you may continue to fly your airplane past (modification + 4,000 hours TIS) provided you cut your inspection intervals in half. Make a logbook entry following Step 6.c. above to reflect these reduced inspection intervals. Upon accumulating 8,000 hours TIS, you must comply with Step 7 above.

EXAMPLE: An AT–502B airplane had the two-part modification installed at 3,000 hours TIS and the bolt holes have not been cold worked.

The first inspection would occur at 4,600 hours TIS. From Step 5, this is modification plus 1,600 hours TIS.

Inspections would follow at 5,400 hours TIS, 6,200 hours TIS, and 7,000 hours TIS. From Step 6.a. above, this is 800-hour TIS inspection intervals.

Regarding the inspection at 7,000 hours TIS (modification plus 4,000 hours TIS), this relates to the 8,000-hour TIS inspection from Step 7 above, which is modification plus 4,000 hours TIS, except in this example the modification took place at 3,000 hours TIS instead of 4,000 hours TIS as specified in Step 4 above.

This airplane may continue to fly if inspected again at 7,400 hours TIS and 7,800 hours TIS, which is 400-hour TIS inspection intervals. This 400-hour TIS inspection interval corresponds to Step 9 where you cut your inspection interval from Step 6.a. in half.

Upon accumulating 8,000 hours TIS (this is the same as Step 7 above), you must replace the parts listed in Step 7.

For airplanes that have or have had Marburger Enterprise, Inc. winglets installed following Supplemental Type Certificate (STC) SA00490LA:

If you *have* removed the winglets, calculate new, reduced hours for Steps 1, 4, 5, and 7, as applicable, based on the winglet usage factor listed in Table 2 of paragraph (c)(4) and Appendix 2 of this AD.

You may repetitively inspect at the same intervals listed in Step 2 above provided that you do not re-install the winglets.

EXAMPLE: An AT–502 airplane, S/N 502–0200, had winglets installed at 200 hours TIS and removed at 800 hours TIS.

The winglet usage factor is: 1.6

Calculate equivalent hours: 600 hours TIS with winglets X 1.6 = 960 hours TIS

Winglet usage penalty = 960 – 600 = 360

New Step 1 Pre-Modification Initial Inspection Time = 1,600 – 360 = 1,240 hours TIS

Retained Step 2 Pre-Modification Inspection Interval: Since the winglets are removed, the Pre-Modification Inspection Interval remains 800 hours TIS.

New Step 4 Modification time = 4,000 – 360 = 3,640 hours TIS

New Step 5 Post-Modification Initial Inspection time = 3,640 + 1,600 = 5,240 hours TIS.

Retained Step 6 Post-Modification Inspection interval: Since the winglets are removed

the Post-Modification Inspection interval remains at 800/1,600 hours TIS.

New Step 7 replacement time = 8,000 – 360= 7,640 hours TIS

Use the Retained Step 2 interval, the New Step 5 time, and the Retained Step 6 interval to make appropriate logbook entries for the pre- and post-modification intervals, using the format presented in Steps 2.d., 4.c., and 6.c.

If you *have not* removed the winglets, then calculate new, reduced hours for Step 1, 2, 4, 5, 6, and 7 above, as applicable, based on the winglet usage factor listed in Table 2 of paragraph (c)(4) of this AD and Appendix 2 of this AD.

Repetitively inspect at the appropriate interval listed in the step above divided by the winglet usage factor.

EXAMPLE: An AT–502B, S/N 502B–0550, that has not had P/N 20998–1/-2 web plate installed and has had winglets on since new.

The winglet usage factor is: 1.2

New Step 1 Pre-modification initial inspection time: 1,600 ÷ (1.2 = 1,333 hours TIS.

New Step 2 Pre-modification inspection interval: 600 ÷ (1.2 = 500 hours TIS.

New Step 4 Modification time: 4,000 ÷ (1.2 = 3,333 hours TIS.

New Step 5 Post-modification initial inspection time: 3,333 + 1,333 (1,600 ÷ (1.2) = 4,666 hours TIS.

New Step 6 Post-modification inspection interval: 800 ÷ (1.2 = 667 hours TIS.

New Step 7 Replacement time: 8,000 ÷ (1.2 = 6,667 hours TIS

Use the reduced hours you calculate in New Step 2, New Step 5, and New Step 6 to make appropriate logbook entries for the pre- and post-modification inspection intervals, using the format presented in Steps 2.d., 4.c., and 6.c above.

Issued in Kansas City, Missouri, on August 3, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12945 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–20007; Directorate Identifier 2004–CE–50–AD]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Model AT–602 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: The FAA proposes to revise an earlier proposed airworthiness directive (AD) that applies to all Air Tractor, Inc. (Air Tractor) Model AT–602 airplanes. The earlier NPRM would have required you to repetitively inspect (using the eddy current method) the wing center splice joint two outboard fastener holes on both of the wing main spar lower caps for fatigue cracking; repair or replace any wing main spar lower cap where fatigue cracking is found; and report any fatigue cracking found. The NPRM resulted from fatigue cracking at the wing center splice joint outboard fastener hole in one of the wing main spar lower caps. Since issuing the NPRM, the FAA has received and evaluated new information that decreases the compliance time to initially inspect certain serial numbers. This proposed AD includes the new compliance times in the table located in paragraph (e)(2) of this AD. Since these actions impose an additional burden over that proposed in the earlier NPRM, we are reopening the comment period to allow the public the chance to comment on these additional actions.

DATES: We must receive any comments on this proposed AD by October 10, 2006.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *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.

To get service information identified in this AD, contact Air Tractor, Inc. at P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; or facsimile: (940) 564–5612.

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

FOR FURTHER INFORMATION CONTACT: Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include the docket number, ''FAA–2004–20007; Directorate Identifier 2004–CE–50–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking.

Discussion

The FAA received a report of fatigue cracking of the wing main spar lower cap at the wing center splice joint outboard fastener hole on one Air Tractor Model AT–602 airplane. The airplane had 2,895 hours time-in-service (TIS) at the time the cracking was discovered. The fatigue cracking is similar to that found on other Air Tractor airplane model wings.

Cracks in the wing main spar lower cap could result in failure of the spar cap and lead to wing separation and loss of control of the airplane.

The following table contains AD actions that address the wing spar safe life of the Air Tractor airplane fleet:

RELATED AD ACTIONS

AD No.	Affected Air Tractor model airplanes	Status
2000–14–51	AT–501, AT–502, and AT–502A	Superseded by AD 2001–10–04.
2001–10–04	AT–400, AT–500, and AT–800 Series	Revised by AD 2001–10–04 R1.

RELATED AD ACTIONS—Continued

AD No.	Affected Air Tractor model airplanes	Status
2001–10–04 R1	AT–400, AT–500, and AT–800 Series	Superseded by AD 2002–11–05.
2002–11–05	AT–400, AT–401, AT–401B, AT–402, AT–402A, AT–402B, AT–501, AT–802, and AT–802A.	Revised by AD 2002–11–05 R1.
2002–13–02	AT–300, AT–301, AT–302, AT–400, and AT–400A Airplanes.	Superseded by AD 2003–06–01.
2002–11–03	AT–502, AT–502A, AT–502B, and AT–503A ..	Superseded by AD 2002–26–05.
2002–26–05	AT–502, AT–502A, AT–502B, and AT–503A ..	Current.
2003–06–01	AT–300, AT–301, AT–302, AT–400, and AT–400A.	Current.
2002–11–05 R1	AT–501	Current.
2006–08–08	AT–400, AT–401, AT–401B, AT–402, AT–402A, and AT–402B.	Current.
2006–08–09	AT–802 and AT–802A	Current.

You may view these ADs at the following Internet Web site addresses: *http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAD.nsf/MainFrame?OpenFrameSet* or *http://www.gpoaccess.gov/fr/index.html.*

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Air Tractor Model AT–602 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 22, 2005 (70 FR 8549). The NPRM proposed to require you to repetitively inspect (using the eddy current method) the wing center splice joint two outboard fastener holes on both of the wing main spar lower caps for fatigue cracking; repair or replace any wing main spar lower cap where fatigue cracking is found; and report any fatigue cracking found.

The FAA encouraged interested persons to participate in developing this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Maintenance Required During the Peak Spraying Season

The National Agricultural Aviation Association (NAAA), while recognizing immediate concerns to safety occur, requests the FAA consider the unique operating season of aerial application businesses and attempt to write ADs so compliance can be made during off-season maintenance. Deferring maintenance to the off-season minimizes the financial impact and loss of airplane availability to operators during the peak spraying season. The operators perceive that constant revisions of potential solutions to the wing spar cracking problems prevent them from prorating their potential expenses or planning the timing of required maintenance.

The FAA agrees with the NAAA. We should consider the importance of the financial and operational impact any rulemaking will have on owners and operators and, in this specific case, aerial application businesses. This proposed rule uses inspections to manage the safety of the wing centerline joint instead of reducing the compliance times for replacing parts. However, this approach can not be used indefinitely. Extending the service life of fatigue-critical, primary structure areas requires not only ensuring the safety of the area being inspected or modified, but also ensuring the safety of the complete structure when extending the service life.

We are not changing the proposed AD based on this comment.

Comment Issue No. 2: Incorrect Costs of Inspection and Modification

Leland Snow, President of Air Tractor, and Lewis Broussard, owner of Lewis's Flying Service, state that the costs associated with the inspection and modification in the NPRM are not correct.

The FAA partially agrees. We have revised the costs for the inspection and repairs or terminating actions. The proposed rulemaking does not reduce the current safe-life of the lower spar caps. Since the replacement time is not changed from the current safe-life approved at certification, the replacement costs are not applicable to this NPRM.

Comment Issue No. 3: Reference to Aluminum Spar Caps Should be Steel Spar Caps

Leland Snow, President of Air Tractor, states that there are references made to aluminum spar caps, and the Air Tractor Model AT–602 only uses steel spar caps. Also change ''lower wing spars caps'' to ''lower wing spar caps.'' The commenter believes this is a typographical error.

The FAA agrees. All references to aluminum spar caps have been removed. The typographical error has also been corrected.

Comment Issue No. 4: Incorrect Telephone Numbers

Leland Snow, President of Air Tractor, requests we change the contact telephone numbers for Air Tractor, Inc. They are incorrect.

The FAA agrees. Contact Air Tractor at telephone number (940) 564–5616 and facsimile number (940) 564–5612. The supplemental NPRM reflects this change.

Comment Issue No. 5: Snow Engineering Co. Process Specification #205

Leland Snow, President of Air Tractor, recommends deleting the reference to Snow Engineering Co. Process Specification #205, dated April 26, 2004, and using serial numbers (S/Ns) 602–0695 and subsequent to identify the factory cold-worked spar caps. Process Specification #205 contains the procedures for cold-working production airplanes and requires a CNC Mill. Airplanes starting with S/N 602–0695 are cold-worked in production using Process Specification #205.

The FAA partially agrees. Snow Engineering Co. Drawing 20776, sheet 2, Revision A, dated August 30, 2004, Note 19 refers to Process Specification #205 to cold work and line-ream the lower spar caps and attach blocks. The drawing applies to S/N 602–0695 and subsequent S/Ns that were cold worked in production, but according to Drawing Note 23, airplanes with S/Ns back to 602–0337 can also be retrofitted with cold worked parts. Therefore, it is possible that an early S/N airplane may

receive replacement spar caps cold-worked and line-reamed by Process Specification #205 according to Drawing 20776. Airplane S/Ns before 602–0695 may also receive cold working by Snow Engineering Co. Service Letter #244, dated April 25, 2005; or by Service Letter #240, dated September 30, 2004, if modified by Snow Engineering Drawing 20998, Revision B, dated September 28, 2004.

To simplify, we will revise the proposed AD as follows: For inspection, we will refer to airplane S/Ns where possible in the AD, refer to the Service Letter #244 for in-service cold working; Drawing Number 20998 and Service Letter #240 as terminating action for inspection and for repair; and Snow Engineering Co. Drawing 20776 for spar cap replacement.

Comment Issue No. 6: Unclear Drill Size and Intent of Repair

For paragraph (f)(1) of the previous proposed AD, Leland Snow, President of Air Tractor, believes the next larger drill size is unclear and the intent of the repair is unclear.

The FAA agrees. We have revised the wording to clarify the intent of the repair of cracks.

Comment Issue No. 7: Dates of Service Information

Leland Snow, President of Air Tractor, wants the AD to call out the date on all drawings and service letters and add the text ''or later FAA-approved revision.''

The FAA partially agrees. The AD will include dates with the reference materials. The FAA can not include the text ''or later FAA-approved revision'' since we can not approve data that does not already exist.

Air Tractor may work with the FAA to include a statement in future revisions that considers that service information as an alternative method of compliance.

Comment Issue No. 8: Modifying the wing versus replacing the lower spar caps

Leland Snow, President of Air Tractor, Inc., asks that we add installation of a steel plate at the wing splice joint, drilling the lower spar caps and installing extended splice blocks, and cold working critical fastener holes in lieu of lower spar cap replacement as a method to extend operating the wing past the current safe-life. The cost of modifying the wing is cheaper than replacing the lower spar caps and associated components and hardware. The manufacturer's resources to supply parts and change spar caps are limited, and the timeliness of spar cap replacement during the spray season when airplanes are operating makes doing this even more difficult.

The FAA disagrees. Extending the safe-life of primary structure requires not only substantiating the safety of the area being inspected or modified, but also ensuring the complete structure remains safe when extending the life. A full-scale fatigue test of the airplane's structure is the preferred method of extending the original safe-life, especially when the original design was substantiated by analysis, as in the case of the Model AT–602 airplane wing.

Based on the data that is currently available, the FAA is unable to extend the safe-life.

We are not changing the proposed AD based on this comment.

Comment Issue No. 9: Compliance Times

The National Transportation Safety Board (NTSB) requests we lower the initial inspection time for unmodified wing spars from 2,500 hours TIS to 2,000 hours TIS; and lower the recurring inspection intervals to a time unspecified by the commenter.

The FAA partially agrees. The manufacturer has provided new data since we published the original NPRM that confirms a fatigue life of 2,000 hours TIS for Model AT–602 airplanes, S/N 602–0337 through S/N 602–0584. This fatigue life is based on a recent FAA-approved usage spectrum and applies to airplanes not having a steel spar web plate installed. The same data show all other Model AT–602 airplanes are exempt from inspection. The FAA also did a Weibull analysis for the Model AT–602 fleet based on known service history that supports the 2,000-hour TIS fatigue life. We will establish the initial inspection time at 2,000 hours TIS for airplanes without the steel web plate based on this new information.

The recurring inspection intervals specified in the NPRM are based on FAA-approved damage tolerance testing and analysis. The specified intervals allow for performing at least two inspections before a detectable crack would grow to critical length. For further conservatism, the crack growth testing and analysis and resultant intervals are based on a usage spectrum that the FAA believes represents usage more severe than would be expected in routine service.

Relevant Service Information

We have reviewed the following Snow Engineering Co. service information:

- Process Specification #197, revised June 4, 2002, Drawing 20776, Sheet 2, Revision A, dated August 30, 2004;
- Service Letter #204, revised March 26, 2001;
- Service Letter #240, dated September 30, 2004;
- Drawing 20998, Revision B, dated September 28, 2004; and
- Service Letter #244, dated April 25, 2005.

The service information includes procedures for:

- Preparing the airplane and the eddy current machine for inspection of the lower wing spar caps;
- Inspecting the lower wing spar caps for cracks;
- Verifying suspected cracks for steel lower wing spar caps;
- Repairing the cracks by installing a web plate and 8-bolt splice block; and
- Replacing the spar caps and associated hardware.

Snow Engineering Co. has a licensing agreement with Air Tractor that allows them to produce technical data for use on Air Tractor products.

FAA's Determination and Requirements of This Proposed AD

Since issuing the earlier NPRM, the FAA has received and evaluated new information that decreases the compliance time to initially inspect on certain S/Ns. This proposed AD includes the new compliance times in the table located in paragraph (e)(2) of this proposed AD.

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

- The unsafe condition referenced in this document exists or could develop on other Air Tractor Model AT–602 airplanes of the same type design that are on the U.S. registry;
- We should change the NPRM to eliminate the inspection requirements for all S/Ns beginning with 602–0585, to shorten the compliance times for the initial inspection on S/Ns 602–0337 through S/N 602–0584, and to provide terminating action for repetitive inspections on S/Ns 602–0337 through S/N 602–0584; and
- We should take AD action to correct this unsafe condition.

The Supplemental NPRM

Proposing a shorter compliance time for the initial inspection for certain airplanes goes beyond the scope of what was originally proposed in the NPRM. Therefore, we are reopening the comment period and allowing the public the chance to comment on these additional actions.

The proposed AD would require you to repetitively inspect (using the eddy current method) the wing center splice joint two outboard fastener holes in the wing main spar lower caps for cracks and repair or replace any cracked spar cap.

Costs of Compliance

We estimate that this proposed AD affects 107 airplanes in the U.S. registry.

We estimate the following costs to do this proposed inspection:

Labor cost	Parts cost	Eddy current inspection	Total cost per airplane	Total cost on U.S. operators
Initial inspection and installation of access panels − 24 work-hours × $80 = $1,920	$645	*$500	$3,065	$327,955
Repetitive Inspection (each)	$60	*$800	$860	$92,020

* Eddy current inspections are an estimated flat cost that includes labor and use of equipment.

We estimate the following costs to do any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need this repair:

Labor cost	Parts cost	Total cost per airplane
Install web plate, 8-bolt splice blocks, and cold work fastener holes: Air Tractor estimated a labor cost of $12,100. When broken down into work-hours, we estimated 151 work-hours to complete the task. 151 work-hours × $80 = $12,080	$6,900	$18,980
Cold work fastener holes following Snow Engineering Co. Service Letter #244, dated April 25, 2005: 19 work-hours × $80 = $1,520	$1,350	$2,870

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 airplanes 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 AD.

Regulatory Findings

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

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

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

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

3. 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 proposed AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket FAA–2004–20007; Directorate Identifier 2004–CE–50–AD'' in your request.

Examining the Dockets

You may examine the docket that contains the proposal, any comments received, and any final disposition on the Internet at *http://dms.dot.gov*, or in person at the DOT Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) 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 Docket Management Facility receives them.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Air Tractor, Inc.: Docket No. FAA–2004–20007; Directorate Identifier 2004–CE–50–AD.

Comments Due Date

(a) We must receive comments on this proposed airworthiness directive (AD) by October 10, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD affects Model AT–602 airplanes, all serial numbers beginning with 602–0337, that are certificated in any category.

Unsafe Condition

(d) This AD is the result of fatigue cracking of the wing main spar lower cap at the centerline splice joint outboard fastener hole. The actions specified in this AD are intended to detect and correct cracks in the wing main spar lower cap, which could result in failure

of the spar cap and lead to wing separation and loss of control of the airplane.

Compliance

(e) To address the problem, do the following:

(1) Before doing the initial eddy current inspection required in paragraph (e)(2) of this AD, gain access for the inspection by cutting inspection holes, modifying the vent tube, and installing cover plates; unless already done. Follow Snow Engineering Co. Service Letter #204, dated October 25, 2000, Drawing titled ''602 Spar Inspection Holes and Vent Tube Mod.,'' dated November 13, 2003.

(2) Eddy current inspect the wing center splice joint outboard two fastener holes in both the right and left wing main spar lower caps for cracks. Follow Snow Engineering Co. Process Specification #197, Revised June 4, 2002. For the following airplanes, use the wing spar lower cap hours time-in-service (TIS) schedule below in Table 1.—Compliance Times for Inspection to do the initial and repetitive inspections:

TABLE 1.—COMPLIANCE TIMES FOR INSPECTION

Serial Nos.	Condition	Initially inspect	Repetitively inspect thereafter at the following intervals
(i) 602–0337 through 602–0584	As manufactured	Upon accumulating 2,000 hours TIS or within 50 hours TIS after the effective date of this AD, whichever occurs later, unless already done.	1,000 hours TIS.
(ii) 602–0337 through 602–0584	Modified with cold-worked fastener holes following Snow Engineering Co. Service Letter #244, dated April 25, 2005.	If performing the cold-working procedure in Service Letter #244, it includes the eddy current inspection.	2,000 hours TIS.

(3) Do an eddy current inspection as part of the cold working procedure in Service Letter #244, dated April 25, 2005, even if the wing spar was previously inspected.

(4) One of the following must do the inspection:

(i) A level 2 or 3 inspector certified in eddy current inspection using the guidelines established by the American Society for Nondestructive Testing or NAS 410; or

(ii) A person authorized to perform AD maintenance work and who has completed and passed the Air Tractor, Inc. training course on Eddy Current Inspection on wing lower spar caps.

(f) For the airplanes listed in paragraph (e)(2) of this AD, as terminating action for the inspection requirements, you may modify your wing by installing part number (P/N) 20996–2 steel web plate and P/N 20985–1/2 8-bolt splice blocks following Snow Engineering Co. Drawing 20998, Revision B, dated September 28, 2004, and cold work the lower spar cap two outboard fastener holes at the wing center section splice connection following Snow Engineering Co. Service Letter #240, dated September 30, 2004.

(g) For all affected airplanes listed in paragraph (e)(2) of this AD, repair or replace any cracked spar cap before further flight. For repair or replacement, do one of the following:

(1) For cracks that can be removed by performing the terminating action listed in paragraph (f) of this AD above, perform the actions in paragraph (f) of this AD.

(2) For cracks that can not be removed by performing the terminating action in paragraph (f) of this AD, you must replace the lower spar caps and associated parts listed in paragraph (h) of this AD before continued flight.

(h) For all Model AT–602 airplanes, upon accumulating 6,500 hours TIS on the wing spar lower caps or within the next 50 hours TIS after the effective date of this AD, whichever occurs later, replace the wing lower spar caps, splice blocks and hardware, wing attach angles and hardware, and install the steel web plate, P/N 20996–2, if not already installed, following Snow Engineering Co. Drawing 20776, Sheet 2, Revision A, dated August 30, 2004. Compliance with this paragraph terminates the inspection requirements of paragraph (e)(2) of this AD.

(i) Report any cracks you find within 10 days after the cracks are found or within 10 days after the effective date of this AD, whichever occurs later. Include in your report the airplane serial number, airplane TIS, wing spar cap TIS, crack location and size, corrective action taken, and a point of contact name and phone number. Send your report to Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370. The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 and those following sections) and assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance (AMOCs)

(j) The Manager, Fort Worth Airplane Certification Office, FAA, ATTN: Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(k) To get copies of the documents referenced in this AD contact Air Tractor, Inc. at address P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; or facsimile: (940) 564–5612. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2004–20007.

Issued in Kansas City, Missouri, on August 3, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12949 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24956; Directorate Identifier 2006–CE–32–AD]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. AG Model STEMME S10–VT Sailplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an airworthiness authority of another country to identify and correct an unsafe condition on an aviation product. The proposed AD would require actions that are intended to address an unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by September 8, 2006.

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

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

For service information identified in the proposed AD, contact Stemme GmbH & Co. AG (Stemme), Flugplatzstra(e F 2, Nr. 7, D–15344 Strausberg, Germany; telephone: + 49 33 41 36 12 0; facsimile: + 49 33 41 36 12 30.

FOR FURTHER INFORMATION CONTACT: Gregory A. Davison, Aerospace Engineer, ACE–112, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. We are prototyping this process and specifically request your comments on its use. You can find more information in FAA draft Order 8040.2, ''Airworthiness Directive Process for Mandatory Continuing Airworthiness Information'' which is currently open for comments at *http://www.faa.gov/aircraft/draft_docs*. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public.

This process continues to follow all existing AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to follow our technical decision-making processes in all aspects to meet our responsibilities to determine and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

The comment period for this proposed AD is open for 30 days to allow time for comment on both the process and the AD content. In the future, ADs using this process will have a 15-day comment period. The comment period is reduced because the airworthiness authority and manufacturer have already published the documents on which we based our decision, making a longer comment period unnecessary.

Comments Invited

We invite you to send any written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2006–24956; Directorate Identifier 2006–CE–32–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We are also inviting comments, views, or arguments on the new MCAI process. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this proposed AD.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, has issued German AD D–2005–228, dated June 24, 2005 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The mandatory continuing airworthiness information (MCAI) states that Stemme has identified ripped pressure lines for the airbox, carburetor, and differential fuel pressure sensor. The unsafe condition was found during a requested maintenance check after in-flight engine trouble in the range between maximum continuous power and take off power.

The material used in these pressure lines may not meet the required temperature specifications. This type of pressure line was installed between July 27, 2004 and June 22, 2005, inclusive. It was used for serial production and for spare parts. If not corrected, the cracks could result in a loss of engine power during critical phases of flight. The MCAI requires that you inspect and replace the pressure lines. You may obtain further information by examining the MCAI in the docket.

Relevant Service Information

Stemme has issued STEMME F&D Design Org. Service Bulletin A31–10–073, Am. Index 01.a, dated June 22, 2005. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product is manufactured outside the United States and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral agreement. Pursuant to this bilateral airworthiness agreement, the State of Design's airworthiness authority has notified us of the unsafe condition described in the MCAI and service information referenced above. We have examined the airworthiness authority's findings, evaluated all pertinent information, and determined an unsafe condition exists and is likely to exist or develop on all products of this type design. We are issuing this proposed AD to correct the unsafe condition.

Differences Between the Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable in a U.S. court of law. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the proposed AD. These proposed requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 43 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to do the action and that the average labor rate is $80 per work-hour. Required parts would cost about $10 per product. Where the service information lists required parts costs that are covered

under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $14,190 or $330 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies 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 FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Stemme GmbH & Co. AG: FAA–2006–24956; Directorate Identifier 2006–CE–32–AD.

Comments Due Date

(a) We must receive comments on this proposed airworthiness directive (AD) by September 8, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to STEMME Model S10–VT sailplanes; certificated in any U.S. category:

(1) Serial numbers (S/Ns) 11–089 through 11–096; and

(2) All S/Ns where pressure lines were replaced between July 27, 2004 and June 22, 2005, inclusive, and the parts were provided by Stemme Gmbh & Co. AG (Stemme).

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that Stemme has identified ripped pressure lines for the airbox, carburetor, and differential fuel pressure sensor. The unsafe condition was found during a requested maintenance check after in-flight engine trouble in the range between maximum continuous power and take off power. The material used in these pressure lines may not meet the required temperature specifications. This type of pressure line was installed between July 27, 2004 and June 22, 2005, inclusive, and was used for serial production and spare parts. If not corrected, the cracks could result in a loss of engine power during critical phases of flight. The MCAI requires an inspection of the pressure lines for cracks or leaks, and if any leaks or cracks are found, replacement of all pressure lines.

Actions and Compliance

(e) Unless already done, do the following except as stated in paragraph (f) below.

(1) Within 30 days after the effective date of this AD, inspect all 0.15×0.27 inch (4×7 mm) pressure lines for porousness or cracks in particular areas of T-split parts, clamps, or connections. The free areas between the white plastic covers must also be checked. If cracks or porosity are found, before further flight, replace all pressure lines with ROTAX part number (P/N) 860 660 or Stemme P/N HZ–KLS041 (or FAA-approved equivalent P/Ns) pressure lines following STEMME F&D Design Org. Service Bulletin A31–10–073, Am. Index 01.a, dated June 22, 2005.

(2) Within 60 days after the effective date of this AD, unless already done, replace all installed 0.15×0.27 inch (4×7 mm) pressure lines with ROTAX P/N 860 660 or Stemme P/N HZ–KLS041 (or FAA-approved equivalent P/Ns) pressure lines following STEMME F&D Design Org. Service Bulletin A31–10–073, Am. Index 01.a, dated June 22, 2005.

FAA AD Differences

(f) None.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Gregory A. Davison, Aerospace Safety Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Return to Airworthiness:* When complying with this AD, do the FAA-approved corrective actions before returning the product to an airworthy condition.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

(4) *Parts Manufacturer Approval (PMA):* 14 CFR 21.303 allows for replacement parts through parts manufacturer approval (PMA). The phrase '' or FAA-approved equivalent part number'' in this AD is intended to allow for PMA parts approved through identicality to the design of the replacement parts identified in this AD. Equivalent replacement parts to correct the unsafe condition under PMA (other than identicality) may also be installed provided they meet current airworthiness standards, which include those actions cited in this AD.

Related Information

(h) This AD is related to German AD D–2005–228, dated June 24, 2005, which references STEMME F&D Design Org. Service Bulletin A31–10–073, Am. Index 01.a, dated June 22, 2005.

Issued in Kansas City, Missouri, on August 3, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–12943 Filed 8–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–118775–06]

RIN 1545–BF64

Revisions to Regulations Relating to Repeal of Tax on Interest of Nonresident Alien Individuals and Foreign Corporations Received From Certain Portfolio Debt Investments; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Changes of date and location for public hearing.

SUMMARY: This document provides changes of date and location for a public hearing on proposed regulations under sections 871 and 881 of the Internal Revenue Code (Code) relating to the exclusion from gross income of portfolio interest paid to a nonresident alien individual or foreign corporation.

DATES: The public hearing originally scheduled for Thursday, September 7, 2006, at 10 a.m. is rescheduled for Friday, October 6, 2006, at 10 a.m. Outlines of topics to be discussed at the public hearing will be due by August 24, 2006.

ADDRESSES: The public hearing was originally being held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC. The hearing location has changed. The public hearing will be held in the IRS Auditorium, New Carrollton Federal Building, 5000 Ellin Road, Lanham, Maryland 20706.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, (301) 922–0539 (not a toll free number) or Richard Hurst at *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION:

A notice of proposed rulemaking and notice of public hearing (REG–118775–06) appearing in the **Federal Register** on Tuesday, June 13, 2006 (71 FR 34047), announced that a public hearing on proposed regulations relating to the exclusion from gross income of portfolio interest paid to a nonresident alien individual or foreign corporation would be held on Thursday, September 7, 2006, beginning at 10 a.m. in the IRS Auditorium, 1111 Constitution Avenue, NW., Washington, DC.

The date and location of the hearing have changed. The hearing is rescheduled for Friday, October 6, 2006, beginning at 10 a.m. in the IRS Auditorium, New Carrollton Federal Building, 5000 Ellin Road, Lanham, Maryland 20706.

A period of 10 minutes is allotted to each person for presenting oral comments. The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Guy R. Traynor,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–12887 Filed 8–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[REG–118788–06]

RIN 1545–BF63

Definition of Essential Governmental Function Under Section 7871 and Limitation to Activities Customarily Performed by States and Local Governments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document applies to Indian tribal governments and to State and local governments that issue bonds for the benefit of Indian tribal governments. This document describes rules that the IRS and the Treasury Department anticipate proposing, in a notice of proposed rulemaking, regarding the definition of an essential governmental function under section 7871(c) of the Internal Revenue Code and the limitation of that term to activities customarily performed by State and local governments for purposes of section 7871(e) of the Internal Revenue Code. This document also invites comments from the public regarding this proposed standard.

DATES: Written or electronic comments must be submitted by November 7, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–118788–06), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–118788–06).

FOR FURTHER INFORMATION CONTACT: Concerning submissions, Kelly Banks, (202) 927–1443; concerning the proposed rules, Timothy L. Jones or Aviva M. Roth, (202) 622–3980 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 7871(a)(4) of the Internal Revenue Code of 1986 provides that an Indian tribal government is to be treated as a State ''subject to subsection (c), for purposes of section 103 (relating to State and local bonds)''. Section 7871(c)(1) provides that ''section 103(a) shall apply to any obligation (not described in paragraph (2)) issued by an Indian tribal government (or subdivision thereof) only if such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function''. Section 7871(e) provides that ''[f]or purposes of this section, the term 'essential governmental function' shall not include any function which is not customarily performed by State and local governments with general taxing powers''.

Section 7871 was originally enacted in 1982 by The Indian Tribal Government Tax Status Act, Public Law 97–473, 96 Stat. 2605 § 202 (1983). In the legislative history to that Act, the Senate Finance Committee indicated that tax-exempt bond financing was not intended to be available to Indian tribal governments for ''commercial or industrial activities (or other activities other than essential governmental functions).'' S. Rep. No. 97–646, at 13–14 (1982).

Section 7871(e) was added to the statute by The Omnibus Budget Reconciliation Act of 1987, Public Law 100–203, 101 Stat. 1330, § 10632(a) (1987). In the legislative history to this provision, the House Ways and Means Committee criticized 1984 Temporary Treasury Regulations interpreting the term essential governmental function in section 7871(c) for including certain activities eligible for Federal funding in that definition. The House Ways and Means Committee stated that the reason for this amendment was that the Committee was concerned about reports that Indian tribal governments were issuing tax-exempt bonds for interests in

''commercial and industrial enterprises''. The Committee further included the following statement about section 7871(e):

The bill clarifies that, with respect to bonds issued by Indian tribal governments, the term 'essential governmental function' does not include any governmental function that is not customarily performed (and financed with governmental tax-exempt bonds) by State and local governments with general taxing powers. For example, issuance of bonds to finance commercial or industrial facilities (e.g., private rental housing, cement factories, or mirror factories) which bonds technically may not be private activity bonds is not included within the scope of the essential governmental function exception.

Additionally, the committee wishes to stress that only those activities that are customarily financed with governmental bonds (e.g., schools, roads, governmental buildings, etc.) are intended to be within the scope of this exception, notwithstanding that isolated instances of a State or local government issuing bonds for another activity may occur.

H.R. Rep. No. 100–391, at 1139 (1987).

The 1987 Conference Committee adding the limited manufacturing facility provision of section 7871(c)(3)(A), noted that:

A facility which does not qualify as a manufacturing facility for purposes of this provision may nonetheless be financed with tax-exempt bonds issued by a tribal government provided that the facility satisfies the 'essential governmental function' standard (i.e., the facility is comparable to facilities that are customarily acquired or constructed and operated by States and local governments). For example, a building used for offices for a tribal government itself would be comparable to State or local government office buildings, and therefore, could be financed with tax-exempt bonds. As another example, a lodge owned and operated by a tribal government may be eligible for tax-exempt financing if it is comparable to lodges customarily owned and operated by State park or recreation agencies.

H.R. Rep. No. 100–495, at 1012 n.5 (1987) (Conf. Rep.).

The IRS has become aware of an increasing number of instances in which taxpayers have raised questions about the application of section 7871(e). Accordingly, the Treasury Department and the IRS have determined to seek public comment in advance of issuing proposed regulations in this area.

Explanation of Provisions

The Treasury Department and the IRS anticipate that the proposed regulations will provide that for purposes of section 7871(c) and section 7871(e), an activity will be considered an essential governmental function that is customarily performed by State and local governments if: (1) There are numerous State and local governments with general taxing powers that have been conducting the activity and financing it with tax-exempt governmental bonds, (2) State and local governments with general taxing powers have been conducting the activity and financing it with tax-exempt governmental bonds for many years, and (3) the activity is not a commercial or industrial activity. The proposed regulations will further provide that examples of activities customarily performed by State and local governments include, but are not limited to, public works projects such as roads, schools, and government buildings.

Request for Comments

Before the notice of proposed rulemaking is issued, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying.

Drafting Information

The principal authors of this advance notice of proposed rulemaking are Aviva M. Roth and Timothy L. Jones, Office of the Chief Counsel (Tax-exempt and Government Entities), however, other personnel from the IRS and Treasury Department participated in its development.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E6–12884 Filed 8–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 537

RIN 0702–AA55

[Docket No. USA–2006–0023]

Claims on Behalf of the United States

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule; request for comments.

SUMMARY: The Department of the Army proposes to amend its regulation to reflect a substantial revision of AR 27–20, an Army publication which governs the processing of claims worldwide. The purpose of this revision is to make AR 27–20 clearer and easier to use, after years of piecemeal amendments. This rewrite also ensures that AR 27–20 is in keeping with current statutes, legal opinions and Department of Justice guidance pertaining to claims processing. This updated rule will expedite payment of meritorious claims throughout the world. AR 27–20 includes rules for processing affirmative claims, i.e., recovery actions on behalf of the United States.

DATES: Comments submitted on or before October 10, 2006 will be considered.

ADDRESSES: You may submit comments, identified by ''32 CFR Part 537, Docket No. USA–2006–0023 and or RIN 0702–AA55'' in the subject line, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: George Westerbeke (301) 677–7009, x220.

SUPPLEMENTARY INFORMATION:

A. Background

This rule was previously published. The Administrative Procedure Act, as amended by the Freedom of Information Act requires that certain policies and procedures and other information concerning the Department of the Army be published in the **Federal Register**. The policies and procedures covered by this regulation fall into that category.

Rules for processing affirmative claims are found mostly in Chapter 14 of AR 27–20; however, rules for processing maritime affirmative claims are contained in Chapter 8. For purposes of this **Federal Register** publication and its corresponding codification in the Code of Federal Regulations, all rules for affirmative claims processing have been incorporated into 32 CFR part 537. AR 27–20 and its companion DA Pam 27–162 will be available on the Web site of the U.S. Army Publications Directorate, *http://www.apd.army.mil*, within a few months of the date of this **Federal Register** publication of 32 CFR part 537.

Users are encouraged to consult the online versions, whose structure and paragraph numbering are comparable.

B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the proposed rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the proposed rule does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of $100 million or more.

D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the proposed rule does not have an adverse impact on the environment.

E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the proposed rule does not involve collection of information from the public.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the proposed rule does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 this proposed rule is not a significant regulatory action. As such, the proposed rule is not subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 this proposed rule does not apply.

I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 this proposed rule does not apply because it will not have a substantial 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.

Dale Woodling,

Commander, United States Army Claims Service.

List of Subjects in 32 CFR Part 537

Claims, Government employees, Health care, Military personnel.

For the reasons stated in the preamble the Department of the Army proposes to revise 32 CFR part 537 to read as follows:

PART 537—CLAIMS ON BEHALF OF THE UNITED STATES

Sec.

Authority: 31 U.S.C. 3711–3720E; 42 U.S.C. 2651–2653; 10 U.S.C. 1095; 10 U.S.C. 4803–4804; 33 U.S.C. 408.

§ 537.1 Statutory authority for non-maritime claims.

(a) *The Federal Claims Collection Act.* The Federal Claims Collection Act (FCCA), is set forth at 31 U.S.C. 3711–3720E, as amended by the Debt Collection Act of 1982, Public Law 97–365, 96 Stat. 1749 (October 1982), Public Law 101–552, 104 Stat. 2746 (November 1990).

(b) *Federal Medical Care Recovery Act.* The Federal Medical Care Recovery Act (FMCRA) is set forth at 42 U.S.C. 2651–53, as amended by the National Defense Authorization Act for Fiscal Year 1997, Public Law 104–202, section 1075, 110 Stat. 2422.

(c) *Title 10 United States Code Section 1095.* 10 U.S.C. 1095, Public Law 101–510, section 713, 107 Stat. 1547, 1689 (1993), as amended by Public Law 103–160, 104 Stat. 1485 (November 1990).

Note to § 537.1: All of these statutes may be viewed on the USARCS Web site, *https://www.jagcnet.army.mil/85256F33005C2B92/(JAGCNETDocID)/HOME?OPENDOCUMENT. Select the link ''Claims Resources.''*

§ 537.2 Scope of non-maritime affirmative claims statutes.

(a) *Recovery for government property loss or damage.* The FCCA, originally passed in 1966, gives federal agencies the authority to collect a claim of the United States government for money or property arising out of the activities of the agency in question. However, the broad authority is limited for purposes of this regulation to claims for loss of or damage to property, as the FMCRA takes precedence for medical care recoveries.

(b) *Recovery for medical expenses and lost military pay.* (1) The FMCRA, passed in 1962, authorizes recovery from a third person of the expenses for medical care the United States furnishes to a person who is injured or suffers a disease when such care is authorized or required by law. Likewise the United States is authorized to recover the cost of pay for members of the uniformed services unable to perform duties. Recovery normally arises out of a third-party tort under local law as to which the United States has an independent cause of action.

(2) Under 10 U.S.C. 1095 the United States is also deemed a third-party beneficiary or subrogee under an alternative system of computations such as workers' compensation; hospital lien laws; contract rights under the terms of insurance policies including medical payment coverage; uninsured, underinsured and no-fault coverage; and no-fault laws.

(c) *Recovery of health insurance.* 10 U.S.C. 1095 permits recovery of health insurance for medical care furnished at military medical treatment facilities (MTFs), including supplemental policies. This third-party collection program has been delegated to the Surgeon General of the Army by the Judge Advocate General (TJAG).

(d) *Worldwide applicability.* The foregoing authorities are worldwide in application, except for intergovernmental claims waived by treaty, for example, North Atlantic Treaty Association Status of Forces

Agreement (NATO SOFA), Article VIII, paragraph 1.

§ 537.3 Claims collectible.

(a) *Claims for medical expenses.* Claims for the value of medical care furnished to active or retired members of the uniformed services, family members of either category, employees of the Department of the Army (DA) or Department of Defense (DOD), or other persons to whom care was furnished because authorized or required by law and resulting in injury, death or disease, including those:

(1) Arising out of a tort under local law,

(2) Arising out of an on-the-job injury compensable under workers' compensation law except for Federal Employees Compensation Act (FECA) recoveries,

(3) Based on the United States being a third-party beneficiary of the insurance contract of the injured party to include medical payment coverage, lost wages, as well as uninsured, underinsured, and no-fault coverage.

(b) *Claims for lost military pay.* Claims for the value of lost pay of active members of the uniformed services arising out of a tort under local law resulting in injury, death or disease.

(c) *Claims for property loss.* Claims arising out of a tort under local law for the value of lost or missing DA or DOD property, including non-appropriated fund instrumentality (NAFI) property, or for the cost of repairs of such property, including damage to assigned quarters, are not collectable under 10 U.S.C. 2775. (See § 537.4).

§ 537.4 Claims not collectible.

(a) Where the tortfeasor is a department, agency or instrumentality of the United States. (See § 536.27(g) of this chapter).

(b) Where the tortfeasor is a member of the uniformed services or an employee of the DA or DOD, acting within the scope of employment, who damages or loses property. See AR 735–5, chapter 13.

(c) Where the damage or loss of property falls under a contractor bill of lading and recovery is pursued by the contracting agency, e.g., Surface Deployment and Distribution Command (SDDC), formerly the Military Traffic Management Command (MTMC), for lost or destroyed shipments.

(d) Where damage to assigned quarters, or equipment or furnishings therein, is collectible from a member of the uniformed services under 10 U.S.C. 2775.

(e) Where the medical care is furnished by a Department of Veterans Affairs facility to other than active duty members of the uniformed services for service-connected disabilities.

§ 537.5 Applicable law.

(a) *Basis for recovery.* (1) Most recovery assertions are based on the negligence or wrongful acts or omissions of the person or entity that caused the loss. These actions or omissions must constitute a tort as determined by the law of place of occurrence, except in no-fault jurisdictions where the no-fault law permits recovery. Where the tort is not complete within the jurisdiction where it originally occurred, the law of the original jurisdiction is nevertheless applicable. For example, if a plane crashes in Virginia due to the negligence of a Federal Aviation Administration controller in Maryland, Maryland law determines the extent and nature of the tort. However, as to what law of damages is applicable, Maryland or Virginia depecage (choice of law) theory may apply. For example, if the flight originated in Indiana and the destination was Virginia, the conflict law of both Maryland and Virginia must be applied. See DA Pam 27–162, paragraph 2–35.

(2) Recovery assertions based on the United States being a third-party beneficiary or subrogee are not based on tort, but on the right to recover under local law, For example, the right of a third party to recover workers' compensation benefits is based on local law. However, the right of a third-party beneficiary to recover under an insurance contract may turn on whether an exclusionary clause is valid under the law of the jurisdiction where the contract was made.

(b) *Statute of limitations.* (1) Federal law determines when a recovery assertion must be made. Assertions for the value of medical expenses, lost military pay or property loss or damage based on a tort must be made not later than three years from the date of accrual, 28 U.S.C. 2415(b). The date of accrual is usually the date of the occurrence giving rise to the recovery, for example, the date of injury or death for medical expenses and lost military pay or the date of damage or loss for a government property assertion. There are exceptions. For example, the loss of property in rightful possession of another accrues when that person claims ownership or converts the property to his own use.

(2) Recovery assertions based on an implied-in-law contract against a no-fault or personal-injury-protection insured must be brought no later than six years from the date of accrual, 28 U.S.C. 2415(a), *United States* v. *Limbs*, 524 F.2d 799 (9th Cir. 1975). The date of accrual is usually the date of occurrence.

(3) Actions asserted on a third-party beneficiary basis against an insurer or workers compensation fund must comply with the state notice requirement, which varies from one to six years, or the insurer's notice requirement set forth in the policy. *United States* v. *Hartford Acci. & Indem. Co.*, 460 F.2d 17 (9th Cir. 1972), cert. den. 409 U.S. 979 (1972).

(4) The statute of limitations is tolled or does not start running until the responsible federal official is notified of the existence of a recoverable loss, *Jankowitz* v. *United States*, 533 F.2d 538 (D.C. Cir. 1976), *United States* v. *Golden Acres, Inc.*, 684 F. Supp. 96 (D. Del. 1986). The responsible federal official can be the area claims office (ACO), the claims processing office (CPO), a command claims service or USARCS, depending on who receives the notice under this regulation. However, because of the responsibility to notify the MTF or TRICARE fiscal intermediary, and by regulation the notice must be expeditious, delayed notification could start the statute of limitations running. Additionally, when an ACO or CPO discovers the existence of an assertion, the statute of limitations will begin to run regardless of when the MTF or the TRICARE intermediary sends a notice. The date of receipt of a notice must be entered into the affirmative claims management program/database (ACMP) and the notice must be date-stamped and initialed.

§ 537.6 Identification of recovery incidents.

(a) *Responsibilities.* Each command claims service and ACO will develop means to identify recovery incidents arising in its geographic area of responsibility. See §§ 536.10 and 536.11 of this chapter and paragraph 2–2 of DA Pam 27–162. This requires publication of a claims directive to all DOD and Army installations, units and activities in its area, emphasizing the importance of reporting serious incidents to recovery judge advocates (RJAs) or civilian recovery attorneys.

(b) *Screening procedures.* (1) Establish a point of contact in each unit and activity in the area of responsibility and screen their sources periodically, including motor pools, family housing, departments of public works, safety offices, provost marshals, and criminal investigation divisions. Review civilian news and police reports, military police blotters and reports, court proceedings, line of duty and AR 15–6 investigations

and similar sources to identify potential medical care recovery claims.

(2) The MTF commander will ensure that the claims office is notified of instances in which the MTF provides, or is billed by a civilian facility for, inpatient or outpatient care resulting from injuries (such as broken bones or burns arising from automobile accidents, gas explosions, falls, civilian malpractice, and similar incidents) that do not involve collections from a health benefits or Medicare supplemental insurer. Claims personnel will coordinate with MTF personnel to ensure that inpatient and outpatient records and emergency room and clinic logs are properly screened to identify potential cases. The RJA or recovery attorney will screen the MTF comptroller records database and division records as well as ambulance logs to identify potential medical care recovery cases. The RJA or recovery attorney will also coordinate with Navy and Air Force claims offices and MTFs to ensure they identify potential claims involving treatment provided to Army personnel.

(3) The MTF commander will also ensure that the MTF does not release billings or medical records, or respond to requests for assistance with workers' compensation forms, without coordinating with the RJA or recovery attorney.

(4) The TRICARE fiscal intermediary is required to identify and mail certain information promptly to the claims office designated as the state point of contact. The fiscal intermediary must mail the TRICARE Explanation of Benefits, showing the amount TRICARE paid on the claim along with what diagnostic codes were used, and DD Form 2527, Statement of Personal Injury. A sample Statement of Personal Injury (DD Form 2527) is posted on the USARCS Web site; for the address, see the Note to § 537.1.

(5) The RJA or recovery attorney will also coordinate with Navy and Air Force claims offices and MTFs to ensure they identify potential claims involving treatment provided to Army personnel, AR 40–400, paragraph 13–5.

(c) *When to open a recovery file.* (1) Upon identification of a potential recovery incident or upon receipt of a billing from a TRICARE Fiscal Intermediary or an MTF, a file will be opened and entered into the ACMP by the first ACO or CPO that learns of the event even if liability has not been established. Incidents under Navy, Air Force or Coast Guard jurisdiction will not be so entered but referred to the responsible service. Complete listings of claims/recovery offices worldwide are posted on the USARCS Web site; for the address, see the Note to § 537.1. At the site, select the link ''Claims Resources.'' At the next screen, click on ''Tables Listing Claims Offices Worldwide.'').

(2) Army responsibility for affirmative claims is as follows:

(i) Damage to or loss of real or personal property of the DOD or the Army even if located at installations or activities under the jurisdiction of other uniformed services.

(ii) Personal injury to persons whose primary care for an accident-related injury is furnished at an Army MTF, regardless of the uniformed services affiliation of the person or sponsor, but not to those treated at another uniformed service's MTF even if the person is an active duty Army member.

(iii) Personal injury to an active duty or retired Army member or a family member of either category treated under TRICARE.

(iv) A lead agency will be established whenever:

(A) Property damaged or lost belonging to more than one service is involved in the same incident.

(B) Personal injury victims are treated at MTFs of more than one service.

(C) Personal injury victims with affiliations to more than one service are treated under TRICARE.

(D) Lead agencies may be established locally for claims valued at $50,000 or less. For claims greater than $50,000 USARCS will be notified and will deal with the other service at headquarters level. (See § 536.32 of this chapter.)

§ 537.7 Notice to USARCS.

Upon receipt of notice of a claim involving either actual or potential amounts within USARCS' monetary jurisdiction, that is, where final action will be taken by USARCS or the Department of Justice, immediate notice will be given to USARCS. Forwarding a copy of the serious incident report, discussed in § 536.22(c) of this chapter, to USARCS, will meet this requirement. Thereafter, mirror file copies will be furnished to USARCS in accordance with AR 27–20, paragraph 2–12. This allows for continuous monitoring and discussion between the ACO and the USARCS area action officer (AAO).

§ 537.8 Investigation.

(a) *Claims over $50,000.* Hands-on investigation will be conducted by claims personnel as set forth in DA Pam 27–162, Chapter 2, Section IV, regardless of the amount of insurance coverage immediately available, with a view to discovery of other sources of recovery, for example, vehicle defects or improper maintenance, road design and absence of warning signs, products liability, medical malpractice in civilian treatment facilities. Where the employment of experts is indicated follow the procedures in § 536.39 of this chapter. No attorney representation agreement will be sent to the injured party's representative without USARCS approval.

(b) *Claims of $50,000 or less.* The amount of hands-on investigative effort is directly related to the amount of insurance coverage that the tortfeasor possesses and the amount of coverage that the injured party has. Where the injured party is represented, request information from his lawyer or insurer, in addition to the documents obtained in initial screening. The ACO should be able to form an independent opinion as to liability based on the investigation of the government and not solely on that of the injured party's attorney.

(c) *Claims of $5,000 or less.* Small claims procedures are applicable to the extent feasible. See § 536.33 of this chapter. Investigation, assertion and settlement by e-mail, phone or fax is encouraged. The investigation and action should be recorded. DA Form 1668, Small Claims Certificate, may be used as a model, modifying it as needed. A sample completed Small Claims Certificate is posted at USARCS Web site for the address, see the Note to § 537.1.

(d) *Relations with injured party.* (1) When the injured party becomes known and an interview can be conducted locally, all relevant facts will be obtained unless the injured party is represented by a lawyer. In this latter event, basic information as set forth on DD Form 2527, Statement of Personal Injury (a completed sample is posted at the USARCS Web site; for the address, see the Note to § 537.1) can be obtained without violating lawyer-client privilege. If the injured party is not immediately available, the information can be obtained by requesting assistance from another ACO, a unit claims officer, a reservist or Army National Guard (ANG) member, another federal agency, or another means.

(2) When the injured party is represented, a Health Insurance Portability and Accountability Act (HIPAA) medical release form (sample posted at the USARCS Web site; see § 537 (b)(4)) permitting USARCS to send out the medical records of the injured party for claims purposes, will be sent to the injured party's lawyer for completion and return.

(3) When the injured party or his or her lawyer refuses to furnish necessary information, it can usually be obtained by other means, for example, from an

accident report or investigation. A notice will be furnished to all parties that the government has been assigned the right to bring a claim for the value of medical care furnished, lost pay or value of property lost or destroyed, and that the United States has the right to bring an independent cause of action. In absence of timely and appropriate response, discuss with the AAO to determine what action should be taken.

§ 537.9 Assertion.

(a) *Asserting demands.* If a prima facie claim exists under state law, a written demand will be made against all the tortfeasors and insurers. This includes demands against the injured party's own insurance coverage, no-fault coverage and workers' compensation carrier. The earlier the demand the better. A demand will not be delayed until the exact amount of medical expenses or lost pay is determined. The demand letter will state that the amount will be furnished when known. A copy of the demand will be furnished to the injured party or, if represented, his lawyer. Two sample demand (or assertion) letters are posted at the USARCS Web site (for the address, see the Note to § 537.1). Demand letters are for initial contact with insurance companies. One of the posted samples is for a medical assertion for a soldier (that includes wages). The other is for a medical assertion for a civilian (that does not include wages). Remember the following points when asserting demands:

(1) The fact that the medical expenses have been assigned to the United States and as a result the United States has a cause of action in federal or state court. All parties will be notified that if the insurer pays the amount to another party, the United States has the right to collect from the insurer.

(2) Demands for third-party torts are under the authority of the FMCRA; demands where there is no tortfeasor are under the authority of 10 U.S.C. 1095; demands for property loss or damage are under the authority of the FCCA.

(b) *Documentation of damages.* MTFs are required by AR 40–400, Patient Administration, chapter 13 to furnish complete billing documents to RJAs.

(1) TRICARE bills are obtained from the fiscal intermediary servicing the ACO. The amounts are based on the amount TRICARE pays and not the amount the patient is billed by the provider. TRICARE bills must be screened to insure that the care is incident or accident related as the demand is limited to that amount.

(2) MTF bills, both outpatient and inpatient, are obtained from either the MTF co-located with the ACO or if another MTF is involved, from that MTF, regardless of uniformed service affiliation. Outpatient bills include not only the cost of the visit but also the cost of each procedure, such as x-rays or laboratory tests. Inpatient billing is not based on services rendered but on a diagnostic group. Charges for professional inpatient services will be itemized the same as outpatient care. Charges for prescription services will be included. Screening to ensure that only incident or accident related care is claimed is essential. The cost of ambulance services, ground or air, will be calculated with MTF assistance and demanded. Burial expenses are obtained from the local mortuary affairs office on DD Form 2063, but will be demanded only when the insurance coverage includes such expenses.

(3) Lost pay will be obtained from the leave or earnings statement or the active duty pay chart for the year or years in question and will include special and incentive pay unless the injured service member did not receive either due to the length of time off assigned duty. The time off duty will be based on the time service members are unable to perform duties for which they have been trained (their military occupational specialty). It will not be limited to inpatient time. Time in a medical holding or convalescent leave will be lost time.

(4) The amount recoverable for personal property losses is limited to its value at the time of loss. Depreciation charts may be used to determine the reduction from the value at purchase. Replacement value will not be used. Both real and personal property damage will be on the value of labor and cost of material including the use of heavy equipment. When the cost of repairs is greater than $50,000, 10% overhead will be added. This can be substantiated using case law and by seeking documentation from the repair facility.

(c) *Double collections prohibited.* When the cost of medical care is recoverable by the MTF from medical care insurance, both primary and supplemental under 10 U.S.C. 1095, an assertion under FMCRA will be made, including a demand for lost pay not recoverable out of health insurance. While the United States is entitled to recover costs of medical care from both the injured parties' medical insurance and from the third-party tortfeasor, USARCS policy is not to collect twice. RJAs will carefully coordinate with the MTF to insure that double collection does not occur. Demand for lost pay should be enforced as it is not recoverable from medical care insurance.

§ 537.10 Recovery procedures.

(a) Recovery personnel have three means of enforcing recovery following initial assertion.

(1) Referral to litigation pursuant to § 537.11;

(2) The head of an ACO should request Chief, Litigation Division, OTJAG to have the RJA appointed as a Special Assistant United States Attorney when the following criteria are met:

(i) Filing suit is a frequent necessity, e.g., insurance companies are refusing payment on small claims either by raising issues well settled or by regularly reducing the amount of medical care as not fair and reasonable;

(ii) The local U.S. Attorney's office is in favor of such appointment due to his previous experience with the RJA and the additional burden of affirmative claims litigation on his staff;

(iii) The RJA has at least two years experience and is likely to continue in the RJA assignment for at least one year; and

(iv) Commander USARCS concurs in the appointment and is willing to furnish support.

(3) The RJA may request that the attorney representing the injured party include the amount asserted by the United States as part of special damages. The injured party's attorney may not represent the United States nor may the United States pay attorney fees as this would be in violation of 5 U.S.C. 3106. Where indicated, this arrangement should be reduced to writing. Be mindful that the attorney's duty to the injured party is in conflict with the interests of the United States where the amount potentially recoverable is small in comparison to the amount asserted by the United States. In this event the RJA should pursue recovery independently.

(b) Careful monitoring of all assertions is required to insure timely follow-up resulting in collection or suit where indicated. Installation of a suspense system to avoid the expiration of the statute of limitations is essential. Recommendations to file suit should be forwarded by the RJA well prior to the expiration of the statute of limitations. Within six months prior to the running of the statute of limitations, USARCS must be notified of the status of the claim or potential claim. Follow-up demands should precede filing suit to create a written record of efforts to avoid suit. Personal contact with all parties is encouraged. When represented, contact the representative.

(c) Sources other than vehicle liability coverage should be exhausted in cases where the amount of the potential recovery exceeds $50,000 and the coverage is small. Coordination with

USARCS is required. USARCS can obtain expert witnesses for medical malpractice cases, products liability cases, or other cases in which another tortfeasor may be involved.

§ 537.11 Litigation.

(a) If a tortfeasor or insurer refuses to settle, or if an injured party's attorney improperly withholds funds, the RJA or recovery attorney must consider litigation to protect the interests of the United States. Litigation is particularly appropriate if a particular insurer consistently refuses to settle claims, or if the government's interests are not adequately represented on a claim over $25,000.

(b) RJAs or recovery attorneys must maintain close contact with local U.S. Attorney's Offices to ensure these offices are willing to initiate litigation on cases.

(c) In order to directly initiate or intervene in litigation, an RJA or recovery attorney must prepare a litigation report and formally refer the case through the Affirmative Claims Branch, USARCS, and the Litigation Division, OTJAG (as required by AR 27–40, chapter 5), to the U.S. Attorney. While the RJA or recovery attorney, in conjunction with the Litigation Division Torts Branch, should attempt to have the U.S. Attorney's Office initiate litigation at least six months before the expiration of the statute of limitations (SOL), the RJA or recovery attorney may contact USARCS telephonically if SOL problems necessitate quick action on a case. The RJA or recovery attorney should also contact USARCS if a U.S. Attorney is reluctant to pursue an important case. An injured party's attorney may represent the government's interest in litigation without any special coordination.

§ 537.12 Settlement authority.

(a) *Assertions for $50,000 or less.* (1) *Approval authority.* An RJA or civilian recovery attorney, if delegated authority by his or her ACO or CPO, may compromise a collection on a claim asserted for $50,000 or less, unless recovery action is reserved by a command claims service.

(2) *Final action authority.* (i) An ACO, or CPO if delegated authority by its ACO, may terminate collection action on a claim asserted for $50,000 or less, unless action is reserved by a command claims service.

(ii) The foregoing authorities may waive a claim asserted for $50,000 or less where undue hardship exists.

(iii) Determination of amount. The amount of $50,000 is determined totaling the amounts for medical care, lost military wages, lost earnings or government property damage arising form the same claims incident.

(b) *Assertions over $50,000.* USARCS retains final authority over assertions over $50,000. By use of the mirror file system and through a dialogue between USARCS and the field during the course of the assertion, USARCS will decide whether it or the RJA or civilian recovery attorney will conduct the negotiations. To help it decide, the RJA or civilian recovery attorney will forward a memorandum for either medical or property recovery approval, in the format of the samples posted at the USARCS Web site (for the address see the Note to § 537.1). USARCS may waive the requirement to submit a memorandum.

(c) *Appeals.* (1) *Assertion for $50,000 or less.* Where the assertion is made by an RJA or civilian recovery attorney, the appeal will be determined by the SJA, the medical center judge advocate, or head of the ACO or CPO. Otherwise, the appeal will be determined by the Commander USARCS.

(2) *Assertion over $50,000.* Where the assertion is made by a Claims Judge Advocate or claims attorney, the appeal will be determined by the Commander USARCS.

(d) *Compromise or waiver.* Any assertion may be compromised, waived or terminated in whole or in part, if for example:

(1) The cost to collect does not justify the cost of enforcement.

(2) There is evidence of fraud or misrepresentation.

(3) The U.S. cannot locate the tortfeasor.

(4) Legal merit has not been substantiated.

(5) The statute of limitations has run and the debtor refuses to pay.

(6) Collection of all or part of the amount of funds demanded would create inequity. The following criteria apply:

(i) Detailed information on what funds are available for recovery.

(ii) Reasonable value of the injured party's claim for permanent injury, pain and suffering, decreased earning power, and any other special damages.

(iii) Military, Department of Veterans Affairs, Social Security disability, and any other government benefits accruing to the injured party.

(iv) Probability and amount of future medical expenses of the government and the injured party.

(v) Present and prospective assets, income, and obligations of the injured party and those dependent on him or her.

(vi) The financial condition of the debtor.

(vii) The degree and nature of contributory negligence on the part of the injured party in causing his injury or death. (viii) The percentage of attorney's fees that his attorney is willing to reduce.

(ix) The willingness of the tortfeasor to enter into an installment agreement.

(e) *Releases.* The RJA or recovery attorney may execute a release for affirmative claims in the pre-litigation stage acknowledging that the government has received payment in full of the amount asserted or the compromised amount agreed upon, or the final installment payment. The format of the release should be similar to the sample posted at the USARCS Web site (for the address see the Note to § 537.1). However, the RJA or recovery attorney may not execute either an indemnity agreement or a release which prejudices the government's right to recover on other claims arising out of the same incident without the approval of USARCS. In addition, the RJA or recovery attorney may not execute a release that purports to release any claim that the injured party may have other than for medical care furnished or to be furnished by the United States. The RJA or recovery attorney will not execute a release if the government's claim is waived or terminated.

§ 537.13 Enforcement of assertions.

Meritorious assertions that do not result in collections should be enforced as follows:

(a) Where the debtor is a business or corporation otherwise financially capable the RJA or equivalent should forward a recommendation to bring suit or intervene in an existing suit regardless of the amount of the debt. As authorized by 28 U.S.C. 3011, the demand amount in the complaint shall include an additional 10% of the original claimed amount, to cover the administrative costs of processing and handling the enforcement of the debt.

(b) Where the debtor is an individual rather than a business, an asset determination should be made both as to existing assets or prospective earnings. If the injured party's attorney has made an assets search which is reliable, review the search before requesting a new one. Such a search can be paid for out of existing collections.

(1) If the debtor has assets refer to USARCS for transfer to a debt collection contractor or an agency debt collection center as determined by USARCS.

(2) If the debtor has no assets, but prospective future earnings, RJA may seek a confession of judgment and maintain contact with the debtor for

future collection where authorized by state law and filing of suit is not required. If the amount is less then $5,000, enter into an installment payment arrangement.

§ 537.14 Depositing of collections

(a) *Depositing property damage recovery.* (1) *Machines, supplies, watercraft, aircraft, vehicles other than General Services Administration-owned.* Recovered money must be deposited into the General Treasury Account 21R3019. This account remains the same every fiscal year. It was established in accordance with 31 U.S.C. 3302(b) and by Comptroller General decision B–205508, 64 Comp. Gen. 431.

(2) *Real property.* Collection for damage to real property must be deposited into an escrow account on behalf of the installation or activity at which the loss occurred. This escrow account must be set up at the request of the command claims service, ACO or CPO with the local finance office or resource management office with responsibility for department of engineering and housing or department of public works funds. The escrow account must be set up and managed by the department of engineering and housing or the department of public works to (1) temporarily hold deposits, and (2) to ''roll over'' deposits each fiscal year in order to avoid reversion of these deposits to the General Treasury at the end of each fiscal year. If the escrow account is not set up and managed in this manner it is operating in violation of 10 U.S.C. 2782.

(3) *NAFI property.* The Risk Management Program (RIMP) often reimburses local NAFIs for property loss or damage to facilitate return of equipment to daily use. When money is recovered from tortfeasors and their insurance carriers contact the NAFI involved for instructions on the current procedures as to where the recovered money is to be forwarded and deposited.

(4) *Army Stock Fund or Defense Business Operations Fund property.* Monies recovered for damage to property belonging to one of these funds will be returned to that fund unless the fund has charged the cost of repair or replacement to an appropriated fund account. The Defense Business Operations Fund replaced the Army Industrial Fund.

(5) *Government housing in cases of abuse or neglect by soldiers or families.* Monies recovered for damage to government housing caused by a soldier's abuse or negligence (or by a soldier's family member or guest of the soldier) will be deposited into that installation's family housing operations and maintenance (O&M) account.

(6) *Government housing in cases of negligence by nonresidents.* Government housing caused by the negligence of a nonresident must be asserted against the nonresident directly or through his/her insurer. Settlement checks must be deposited into the real property escrow account in accordance with 10 U.S.C. 2782.

(b) *Depositing recovery of pay provided to a soldier while incapacitated.* Monies recovered for the costs of pay provided to a soldier injured by the tortious acts of another shall be credited to the local O&M account that supports the command, activity, or other unit to which the soldier was assigned at the time of the injury.

(c) *Depositing medical care recovery.* (1) *To a medical treatment facility account.* Continental U.S. (CONUS) and outside the continental U.S. (OCONUS) claims offices, and command claims services, will deposit money recovered from an automobile insurer for medical care provided, paid for by, in or through an MTF to the O&M account of the Army, Navy, or Air Force MTF that provided the care. CONUS and OCONUS claims offices, and command claims services, will deposit money recovered from any payor, under any provision of law, for medical care provided or paid for by, in or through an MTF into the MTF's O&M account.

(2) *Deposits when TRICARE paid directly for treatment.* The account in which to deposit affirmative claims recoveries when TRICARE has paid directly for the medical treatment is a Defense Health Program (DHP) account for reallocation to the services. This replaces the general treasury miscellaneous receipts account published in AR 37–100 (obsolete). Deposit to TRICARE using this new account for recoveries pending deposit, and recoveries for any claim settled on or after October 1, 2002. Retroactive claims depositing is not necessary.

(3) *Apportionment of medical care recovery between accounts.* Claims offices will often have to apportion recovered money among different accounts.

(i) *Apportioning money between accounts.* If care was provided by an MTF and paid for by or through the MTF and/or directly by TRICARE and/or a unit account for military lost wages if any, and the amount recovered is less than the amount asserted, deposit a prorated amount of money into each TRICARE account.

(ii) *Apportioning money between two or more medical treatment facility accounts.* If care was provided by two or more MTFs and the claims office recovers less than the amount asserted, the claims office should give each MTF a pro rata share of the money recovered. For example, if MTF one provided $2,000 worth of care and MTF two provided $1,000 worth of care, the claims office will deposit $800 of a $1,200 recovery to MTF one's account and the remaining $400 to MTF two's account. Similarly, if the claims office recovers an amount less than that asserted for medical care expenses and costs of pay provided, the claims office should give a pro rata share of the money recovered to both the MTF and the appropriation account that supports the injured soldier's unit.

(d) *Fiscal Integrity.* Field claims offices must reconcile the property damage and medical care recovery accounts with their servicing defense accounting office. Field claims offices must ensure that their deposits have been credited to the proper accounts and that these accounts have not been improperly charged. All accounts must be reconciled at the end of the fiscal year.

§ 537.15 Statutory authority for maritime claims and claims involving civil works of a maritime nature.

(a) The Army Maritime Claims Settlement Act. The sections pertinent to maritime affirmative claims are set out at 10 U.S.C. 4803–4804.

(b) The Rivers and Harbors Act. The section of the Act pertinent to affirmative claims involving civil works of a maritime nature is set out at 33 U.S.C. 408.

§ 537.16 Scope for maritime claims.

The Army Maritime Claims Settlement Act (10 U.S.C. 4803–4804) applies worldwide and includes claims that arise on high seas or within the territorial waters of a foreign country.

(a) 10 U.S.C. 4803 provides for agency settlement or compromise of claims for damage to:

(1) DA-accountable properties of a kind that are within the Federal maritime jurisdiction.

(2) Property under the DA's jurisdiction or DA property damaged by a vessel or floating object.

(b) 10 U.S.C. 4804 provides for the settlement or compromise of claims in any amount for salvage services (including contract salvage and towage) performed by the DA. Claims for salvage services are based upon labor cost, per diem rates for the use of salvage vessels and other equipment, and repair or

replacement costs for materials and equipment damaged or lost during the salvage operation. The sum claimed is usually intended to compensate the United States for operational costs only, reserving, however, the government's right to assert a claim on a salvage bonus basis in accordance with commercial practice.

(c) The United States has three years from the date a maritime claim accrues under this section to file suit against the responsible party or parties.

§ 537.17 Scope for civil works claims of maritime nature.

Under the River and Harbors Act (33 U.S.C. 408), the United States has the right to recover fines, penalties, forfeitures and other special remedies in addition to compensation for damage to civil works structures such as a lock or dam. However, claims arising under 10 U.S.C. 4804 are limited to recovery of actual damage to Corps of Engineers (COE) civil works structures.

§ 537.18 Settlement authority for maritime claims.

(a) The Secretary of the Army, the Army General Counsel as designee of the Secretary, or other designee of the Secretary may compromise an affirmative claim brought by the United States in any amount. A claim settled or compromised in a net amount exceeding $500,000 will be investigated and processed and, if approved by the Secretary of the Army or his or her designee, certified to Congress for final approval.

(b) TJAG, TAJAG, the Commander USARCS, the Chief Counsel COE, or Division or District Counsel Offices may settle or compromise and receive payment on a claim by the United States under this part if the amount to be received does not exceed $100,000. These authorities may also terminate collection of claims for the convenience of the government in accordance with the standards specified by the DOJ.

(c) An SJA or a chief of a command claims service and heads of ACOs may receive payment for the full amount of a claim not exceeding $100,000, or compromise any claim in which the amount to be recovered does not exceed $50,000 and the amount claimed does not exceed $100,000.

(d) Any money collected under this authority shall be deposited into the U.S. General Treasury, except that money collected on civil works claims in favor of the United States pursuant to 33 U.S.C. 408 ''shall be placed to the credit of the appropriation for the improvement of the harbor or waterway in which the damage occurred * * *'' (33 U.S.C. 412; 33 U.S.C. 571).

§ 537.19 Demands arising from maritime claims.

(a) It is essential that Army claims personnel demand payment, or notify the party involved of the Army's intention to make such demands, as soon as possible following receipt of information of damage to Army property where the party's legal liability to respond exists or might exist. Except as provided below pertaining to admiralty claims and claims for damage to civil works in favor of the United States pursuant to 33 U.S.C. 408, copies of the initial demand or written notice of intention to issue a demand letter, as well as copies of subsequent correspondence, will be provided promptly to the Commander USARCS, who will monitor the progress of such claims.

(b) Subject to limitation of settlement authority, demands for admiralty claims and civil works damages in favor of the United States pursuant to 33 U.S.C. 408 may be asserted, regardless of amount, by the Chief Counsel COE, or his designees in COE Division or District Counsel offices.

(c) Where, in response to any demand, a respondent denies liability, fails to respond within a reasonable period, or offers a compromise settlement, the file will be promptly forwarded to the Commander USARCS, except in those cases in which a proposed compromise settlement is deemed acceptable and the claim is otherwise within the authority delegated in § 537.18 of this part. Files for admiralty claims and civil works claims in favor of the United States pursuant to 33 U.S.C. 408 will be promptly forwarded to the United States Department of Justice.

§ 537.20 Certification to Congress.

Admiralty claims, including claims for damage to civil works in favor of the United States pursuant to 33 U.S.C. 408, proposed for settlement or compromise in a net amount exceeding $100,000 will be submitted through the Commander USARCS to the Secretary of the Army for approval and if in excess of $500,000 for certification to Congress for final approval.

[FR Doc. E6–12974 Filed 8–8–06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0528; FRL–8206–8]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Amendments to Nonattainment New Source Review (NSR) Air Quality Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the West Virginia State Implementation Plan (SIP). The revision consists of amendments to West Virginia's existing Nonattainment New Source Review (NSR) preconstruction air quality permit program. This action is being taken under the Clean Air Act (CAA or the Act). In a separate action, EPA will address changes made by West Virginia to its prevention of significant deterioration (PSD) air quality permit program, also submitted on December 1, 2005.

DATES: Written comments must be received on or before September 8, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0528 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: campbell.dave@epa.gov.*

C. *Mail:* EPA–R03–OAR–2006–0528, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III 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–R03–OAR–2006–0528. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*

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

Docket: All documents in the electronic docket are listed in the *www.regulations.gov index.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Rosemarie Nino, (215) 814–3377, or by e-mail at *nino.rose@epa.gov.*

SUPPLEMENTARY INFORMATION: The supplementary information is arranged as follows:

I. Background

On December 31, 2002, the U.S. Environmental Protection Agency (EPA) published revisions to the Federal prevention of significant deterioration (PSD) and nonattainment new source review (NSR) regulations (67 FR 80186). These revisions are commonly referred to as EPA's ''NSR Reform'' regulations and became effective on March 3, 2003. These regulatory revisions included provisions for baseline emissions determinations, actual-to-future actual methodology, Plantwide Applicability Limits (PALs), Clean Units, and Pollution Control Projects (PCPs). The December 2002 rulemaking action required State and local permitting authorities to include the NSR Reform measures as minimum program elements in their State implementation plans (SIP) and to submit these revisions to EPA by January 2, 2006.

The United States Court of Appeals for the District of Columbia Circuit ruled in *New York* v. *EPA,* 45 F.3d 3 (D.C. Cir. June 24, 2005) that EPA lacked the authority to promulgate the Clean Unit provisions, and the Court requested that EPA vacate that portion of the 2002 Federal regulation, codified at 40 CFR 52.21(x), as contrary to the statute. Also, the Court determined EPA lacked the authority to create PCP exceptions from NSR and vacated those parts of the 1991 and 2002 rules, codified at 40 CFR 52.21(b)(32) and 52.21(z), as contrary to the statute.

On December 1, 2005, EPA Region III received a revision to the West Virginia State Implementation Plan (SIP) from the West Virginia Department of Environmental Protection (WVDEP). This SIP revision consists of Legislative Rule 45 CSR 19—Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution Which Cause or Contribute to Nonattainment adopted by the State of West Virginia on April 8, 2005 and effective June 1, 2005. The State adopted the regulation in order to meet the relevant plan requirements of 40 CFR 51.165. On December 22, 2005, WVDEP provided supplemental materials consisting of a letter and an attached one-page table requesting that EPA exclude from its December 1, 2005 request for SIP approval the provisions of 45 CSR 19, as set forth in the attached table, that pertain to ''Clean Units'' and ''Pollution Control Project'' in order to ensure that their federally-approved regulations are consistent with the United States Court of Appeals for the District of Columbia Circuit's June 24, 2005 ruling.

The WVDEP is seeking approval of amendments in 45 CSR 19 in order to meet the minimum requirements of 40 CFR 51.165 and the Clean Air Act. It should be noted that West Virginia also submitted amendments to its prevention of significant deterioration (PSD) regulations on December 1, 2005. The EPA will address those amendments in a separate rulemaking action.

II. Program Review

A. What is being addressed in this document?

1. As stated in the December 31, 2002 ''NSR Reform'' rulemaking, State and local permitting agencies were required to adopt and submit revisions to their part 51 permitting programs, implementing the minimum program elements of that rulemaking no later then January 2, 2006 (67 FR 80240). With this submittal, West Virginia requests approval of program revisions to satisfy this requirement.

2. On December 1, 2005, WVDEP submitted regulatory revisions to EPA for approval. The submitted West Virginia Rule was entitled, ''45 CSR 19—Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution Which Cause or Contribute to Nonattainment'' and was adopted April 8, 2005 and effective June 1, 2005.

3. By letter dated December 22, 2005, WVDEP requested that EPA exclude from its December 1, 2005 request for approval into the SIP those provisions of 45 CSR 19 that pertain to the Clean Unit and Pollution Control Project (PCP) provisions of 40 CFR 51.165. The specific provisions to be excluded were set forth in a table attached to the letter. The WVDEP made this request in order for its SIP to be consistent with the United States Court of Appeals for the District of Columbia Circuit June 24, 2005 ruling which vacated those provisions of the Federal rules. West Virginia also asked that EPA not act upon the provisions of 45 CSR 19.17.4 pertaining to the recordkeeping and reporting requirements for sources that elect to use the actual-to-projected actual emission test and where there is a ''reasonable possibility'' that a project may result in a significant net emissions increase. The ''reasonable possibility'' clause of the corresponding provisions of the Federal rules (51.165(a)(6)) was remanded to EPA in the June 24, 2005 ruling mentioned above. West Virginia has instructed EPA to not consider this clause as part of this SIP revision request. In its December 22, 2005 letter, WVDEP stated its intent to make any revisions to 45 CSR 19 necessary to incorporate and implement Federal program revisions once EPA takes further action on the remand of 40 CFR 51.165(a)(6).

B. What are the program changes that EPA is approving?

In its December 2002 regulatory action, EPA dramatically changed many aspects of the regulations governing the PSD and nonattainment NSR programs (together, as ''NSR''). These changes affected the NSR applicability requirements to allow sources more flexibility to pursue modifications of their facilities in order to respond to changes in the marketplace and to plan for plant improvements. The goals of the changes were to provide greater regulatory certainty, administrative flexibility, and permit streamlining, while ensuring the current level of environmental protection, or more, from the existing program.

West Virginia has fully embraced EPA's NSR reform regulatory revisions and sought to develop a regulatory program that closely reflects the Federal NSR regulations and conforms to the minimum requirements of 40 CFR 51.165. As such, West Virginia has translated the Federal NSR requirements into the regulatory text of 45 CSR 19 in a manner that is consistent with State regulatory development procedures. Since West Virginia has sought to incorporate the majority of the Federal regulatory language into its regulations, the following is an examination of only those few areas in which the State altered the Federal regulatory text or approach. A more detailed comparison of 45 CSR 19 to the Federal requirements of 40 CFR 51.165 can be found in the technical support document (TSD) prepared for this rulemaking.

Notable Differences in 45 CSR 19—Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution Which Cause or Contribute to Nonattainment:

1. In the provisions for setting the PAL level at 45 CSR 19–23.6, the reference to the ''baseline actual emissions'' erroneously cites to Section 2.52 of the rules for purposes of defining the term ''baseline actual emissions.'' The appropriate citation for this term is Section 2.9. This typographical error will not adversely affect implementation of the regulations since the text of 45 CSR 19–23.6 directly identifies ''baseline actual emissions'' and that term is only defined at Section 2.9 and the incorrect citation to Section 2.52 does not confuse or otherwise alter the meaning of 45 CSR 19–23.6.

2. In a change unrelated to the Federal NSR Reform efforts, West Virginia changed the definition for ''Offset'' at 45 CSR 19–2.41 to read ''* * * provided that the amount of reduction in emissions at the existing source (or an emission unit with such sources), is greater on tons per year basis.'' The previous definition defined offsets in terms of pounds per hours and/or tons per year basis. The regulation is now consistent with the existing Federal requirement because the determination of necessary offsets must be based on tons per year reductions. EPA approves this change.

3. In another change unrelated to the Federal NSR Reform efforts, West Virginia changed Table 19A to include ''Subpart I'' ozone nonattainment areas along with marginal and moderate nonattainment areas for purposes of defining significant net emissions increase levels for purposes of NSR applicability. This change is acceptable.

III. Proposed Action

Based on the above analysis, EPA has determined that the amendments to West Virginia's nonattainment new source review (NSR) permit programs at 45 CSR 19, as submitted on December 1, 2005 and supplemented on December 22, 2005, meet the minimum requirements of 40 CFR 51.166 and the Clean Air Act. This amendment is approvable as a revision to the West Virginia SIP.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule, approving amendments to West Virginia's Nonattainment New Source Review (NSR) Permit Program, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 24, 2006.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E6–12969 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0527; FRL–8206–9]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Amendments to Prevention of Significant Deterioration (PSD) Air Quality Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the West Virginia State Implementation Plan (SIP). The revision consists of amendments to West Virginia's existing prevention of significant deterioration (PSD) preconstruction air quality permit program. This action is being taken under the Clean Air Act (CAA or the Act). In a separate action, EPA will address changes made by West Virginia to its nonattainment new source review (NSR) permit program, also submitted on December 1, 2005.

DATES: Written comments must be received on or before September 8, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0527 by one of the following methods:

A. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail: campbell.dave@epa.gov*.

C. *Mail:* EPA–R03–OAR–2006–0527, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III 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–R03–OAR–2006–0527. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Rosemarie Nino, (215) 814–3377, or by e-mail at *nino.rose@epa.gov*.

SUPPLEMENTARY INFORMATION: The supplementary information is arranged as follows:

I. Background

On December 31, 2002, the U.S. Environmental Protection Agency (EPA) published revisions to the Federal prevention of significant deterioration (PSD) and nonattainment new source review (NSR) regulations (67 FR 80186). These revisions are commonly referred to as EPA's ''NSR Reform'' regulations and became effective on March 3, 2003. These regulatory revisions included provisions for baseline emissions determinations, actual-to-future actual methodology, Plantwide Applicability Limits (PALs), Clean Units, and Pollution Control Projects (PCPs). The December 2002 rulemaking action required State and local permitting authorities to include the NSR Reform measures as minimum program elements in their State implementation plans (SIP) and to submit these revisions to EPA by January 2, 2006.

The United States Court of Appeals for the District of Columbia Circuit ruled in *New York* v. *EPA*, 413 F.3d 3 (D.C. Cir. June 24, 2005) that EPA lacked the authority to promulgate the Clean Unit provisions, and the Court requested that EPA vacate that portion of the 2002 Federal regulation, codified at 40 CFR 52.21(x), as contrary to the statute. Also, the Court determined EPA lacked the authority to create PCP exceptions from NSR and vacated those parts of the 1991 and 2002 rules, codified at 40 CFR 52.21(b)(32) and 52.21(z), as contrary to the statute.

On December 1, 2005, EPA Region III received a revision to the West Virginia State Implementation Plan (SIP) from the West Virginia Department of Environmental Protection (WVDEP). This SIP revision consists of Legislative Rule 45 CSR 14—Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration adopted by the State of West Virginia on April 8, 2005 and effective June 1, 2005. The State adopted the regulation in order to meet the relevant plan requirements of 40 CFR 51.166. On December 22, 2005, WVDEP provided supplemental materials consisting of a letter and an attached one-page table requesting that EPA exclude from its December 1, 2005 request for SIP approval the provisions of 45 CSR 14, as set forth in the attached table, that pertain to ''Clean Units'' and

''Pollution Control Project'' in order to ensure that their federally-approved regulations are consistent with the United States Court of Appeals for the District of Columbia Circuit's June 24, 2005 ruling.

The WVDEP is seeking approval of amendments to 45 CSR 14 in order to meet the minimum requirements of 40 CFR 51.166 and the Clean Air Act. It should be noted that West Virginia also submitted amendments to its nonattainment new source review (NSR) regulations on December 1, 2005. The EPA will address those amendments in a separate rulemaking action.

II Program Review

A. What Is Being Addressed in This Document?

1. As stated in the December 31, 2002 ''NSR Reform'' rulemaking, State and local permitting agencies were required to adopt and submit revisions to their part 51 permitting programs, implementing the minimum program elements of that rulemaking no later then January 2, 2006 (67 FR 80240). With this submittal, West Virginia requests approval of program revisions to satisfy this requirement.

2. On December 1, 2005, WVDEP submitted regulatory revisions to EPA for approval. The submitted West Virginia Rule was entitled, ''45 CSR 14—Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (PSD)'' and was adopted April 8, 2005 and effective June 1, 2005.

3. By letter dated December 22, 2005, WVDEP requested that EPA exclude from its December 1, 2005 request for approval into the SIP those provisions of 45 CSR 14 that pertain to the Clean Unit and Pollution Control Project (PCP) provisions of 40 CFR 51.166. The specific provisions to be excluded were set forth in a table attached to the letter. The WVDEP made this request in order for its SIP to be consistent with the United States Court of Appeals for the District of Columbia Circuit June 24, 2005 ruling which vacated those provisions of the Federal rules. West Virginia also asked that EPA not act upon the provisions of 45 CSR 14.19.8 pertaining to the recordkeeping and reporting requirements for sources that elect to use the actual-to-projected actual emission test and where there is a ''reasonable possibility'' that a project may result in a significant net emissions increase. The ''reasonable possibility'' clause of the corresponding provisions of the Federal rules (51.166(r)(6)) were remanded to EPA in the June 24, 2005 ruling mentioned above. West Virginia has instructed EPA to not consider this clause as part of this SIP revision request. In its December 22, 2005 letter, WVDEP stated its intent to make any revisions to 45 CSR 14 necessary to incorporate and implement Federal program revisions once EPA takes further action on the remand of 40 CFR 51.166(r)(6).

B. What Are the Program Changes That EPA Is Approving?

In its December 2002 regulatory action, EPA dramatically changed many aspects of the regulations governing the PSD and nonattainment NSR programs (together, as ''NSR''). These changes affected the NSR applicability requirements to allow sources more flexibility to pursue modifications of their facilities in order to respond to changes in the marketplace and to plan for plant improvements. The goals of the changes were to provide greater regulatory certainty, administrative flexibility, and permit streamlining, while ensuring the current level of environmental protection, or more, from the existing program.

West Virginia has fully embraced EPA's NSR reform regulatory revisions and sought to develop a regulatory program that closely reflects the Federal NSR regulations and conforms to the minimum requirements of 40 CFR 51.166. As such, West Virginia has translated the Federal NSR requirements into the regulatory text of 45 CSR 14 in a manner that is consistent with State regulatory development procedures. Since West Virginia has sought to incorporate the majority of the Federal regulatory language into its regulations, the following is an examination of only those few areas in which the State altered the Federal regulatory text or approach. A more detailed comparison of 45 CSR 14 to the Federal requirements of 40 CFR 51.166 can be found in the technical support document (TSD) prepared for this rulemaking.

Notable Differences in 45 CSR 14—Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (PSD)

1. West Virginia's definition for ''Actual Emissions'' at 45 CSR 14–2.1 does not identify all of the defined NSR pollutants. However, West Virginia did incorporate a definition for ''Regulated NSR Pollutants,'' which, when read together with the definition for ''Actual Emissions'', makes the regulation consistent with 40 CFR 51.166(b)(21). Therefore, EPA finds the definition acceptable.

2. The provisions for the general requirements for establishing PALs at 45 CSR 14–25.4(a)(2) indicates that all PAL permits shall meet the general public review procedures established at 45 CSR 14–17. Section 25 also identifies public participation procedures expressly for PALs at 45 CSR 25.5. While the identification of two public participation procedures for PALs may be confusing, the two procedures are not in conflict and satisfaction of either of the procedures meets the minimum requirements of 40 CFR 51.166(w)(5).

3. In a change unrelated to the Federal NSR Reform efforts and to be consistent with 40 CFR 51.166(s)(2)(v), West Virginia added language to 45 CSR 14–14.d.3 that requires all modifications seeking to rely upon innovative technology as best available control technology to meet minimum public participation requirements. This change was necessary because public participation is a condition for using innovative technology, therefore, EPA finds the provision acceptable.

III. Proposed Action

Based on the above analysis, EPA has determined that the amendments to West Virginia's prevention of significant deterioration (PSD) permit program at 45 CSR 14, as submitted on December 1, 2005 and supplemented on December 22, 2005, meet the minimum requirements of 40 CFR 51.166 and the Clean Air Act. This amendment is approvable as a revision to the West Virginia SIP.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable

duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule, approving amendment to West Virginia's Prevention of Significant Deterioration (PSD) Construction Permit Program, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 24, 2006.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E6–12970 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[EPA–HQ–OAR–2006–0085; FRL–8207–1]

Revisions to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and National Emission Standards for Hazardous Air Pollutants for Source Categories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to revise the General Provisions for Standards of Performance for New Stationary Sources, for National Emission Standards for Hazardous Air Pollutants, and for National Emission Standards for Hazardous Air Pollutants for Source Categories to allow extensions to the deadline imposed for source owners and operators to conduct initial or other required performance tests in certain specified circumstances. The General Provisions do not currently provide for extensions of the deadlines for conducting performance tests.

DATES: Comments must be received on or before November 7, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0085, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Revisions to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and National Emission Standards for Hazardous Air Pollutants for Source Categories, Docket ID No. EPA–HQ–OAR–2006–0085, Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.
- *Hand Delivery:* EPA Docket Center, 1301 Constitution Avenue, NW., Room B102, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0085. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov*

index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Revisions to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and National Emission Standards for Hazardous Air Pollutants for Source Categories 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions concerning today's proposed rule, please contact Ms. Lula Melton, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division (C304–02), Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2910; fax number: (919) 541–4511; e-mail address: *melton.lula@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to any source whose owner or operator is required to conduct performance testing to demonstrate compliance with applicable standards under the General Provisions for Standards of Performance for New Stationary Sources, for National Emission Standards for Hazardous Air Pollutants, and for National Emission Standards for Hazardous Air Pollutants for Source Categories.

B. What should I consider as I prepare my comments for EPA?

Do not submit information containing Confidential Business Information (CBI) to EPA through *www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2006–0085. 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.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of today's proposed rule is also available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed amendments will be placed on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

D. How is this document organized?

The information presented in this preamble is organized as follows:

II. Summary of Proposed Amendments and Rationale

A. What are the proposed requirements?

The proposed rule would allow source owners or operators, in the event of a force majeure, to petition the Administrator for an extension of the deadlines by which they are required to conduct initial and subsequent performance tests required by applicable regulations. Performance tests required as a result of enforcement orders or enforcement actions are not covered by this rule because enforcement agreements contain their own force majeure provisions. A force majeure would be defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator must notify the Administrator, in writing, as soon as practicable following the date the owner or operator first knew, or through due diligence should have known, that the event may cause or caused a delay in testing beyond the regulatory deadline. The owner or operator must provide a written description of the event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The test must be conducted as soon as practicable after the force majeure occurs.

B. Why are we amending the requirements for performance tests in the General Provisions?

We recognize that there may be circumstances beyond a source owner's or operator's control constituting a force majeure event that could cause an owner or operator to be unable to conduct performance tests before the regulatory deadline. We are proposing this rule to provide a mechanism for consideration of these force majeure events and granting of extensions where

warranted. Under current rules, a source owner or operator who is unable to comply with performance testing requirements within the allotted timeframe due to a force majeure is regarded as being in violation and subject to enforcement action. As a matter of policy, EPA has exercised enforcement discretion when addressing such violations. However, where circumstances beyond the control of the source owner or operator constituting a force majeure prevent the performance of timely performance tests, we believe that it is appropriate to provide an opportunity to such owners and operators to make good faith demonstrations and obtain extensions of the performance testing deadline where approved by the Administrator in appropriate circumstances.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Reviews

Under Executive Order 12866 (58 FR 51735 October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. We have determined that this regulation would result in none of the economic effects set forth in Section 1 of the Order because it does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR No. 2226.01.

The proposed rule would require a written notification only if a plant owner or operator needs an extension of a performance test deadline due to certain rare events, such as acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility. Since EPA believes such events will be rare, the projected cost and hour burden will be minimal.

The increased annual average reporting burden for this collection (averaged over the first 3 years of the ICR) is estimated to total 6 labor hours per year at a cost of $377.52. This includes one response per year from six respondents for an average of 1 hour per response. No capital/startup costs or operation and maintenance costs are associated with the proposed reporting requirements. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OAR–2006–0085. Submit any comments related to the ICR for this proposed rule to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 9, 2006, a comment to OMB is best assured of having its full effect if OMB receives it by September 8, 2006. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Extensions to deadlines for conducting performance tests will provide flexibility to small entities and reduce the burden on them by providing them an opportunity for additional time to comply with performance test deadlines during force majeure events.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written

statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, Local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. The maximum total annual cost of this proposed rule for any year has been estimated to be less than $435.00. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, the proposed rule is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State governments, and the proposed rule requirements will not supercede State regulations that are more stringent. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications as specified in Executive Order 13175. This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is technology based and not based on health or safety risks. No children's risk was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Further, this proposed rule has been determined not to be economically significant as defined under Executive Order 12866.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

The proposed rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. New test methods are not being proposed in this rulemaking, but EPA is allowing for extensions of the regulatory deadlines by which owners or operators are required to conduct performance tests when a force majeure is about to occur, occurs, or has occurred which prevents

owners or operators from testing within the regulatory deadline. Therefore, NTTAA does not apply.

List of Subjects in 40 CFR Parts 60, 61, and 63

Air pollution control, Environmental protection, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 3, 2006.

Stephen L. Johnson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, parts 60, 61, and 63 of the Code of Federal Regulations are proposed to be amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

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

Subpart A—[Amended]

2. Section 60.2 is amended by adding, in alphabetical order, a definition of the term ''Force majeure'' to read as follows:

§ 60.2 Definitions.

* * * * *

Force majeure means, for purposes of § 60.8, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

* * * * *

3. Section 60.8 is amended by revising paragraph (a) to read as follows:

§ 60.8 Performance tests.

(a) Except as specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section, within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, or at such other times specified by this part, and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s).

(1) If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the Administrator, in writing, as soon as practicable following the date the owner or operator first knew, or through due diligence should have known, that the event may cause or caused a delay in testing beyond the regulatory deadline.

(2) The owner or operator shall provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

(3) If in the Administrator's judgment, an owner's or operator's request for an extension of the performance test deadline is warranted, the Administrator will approve the extension. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.

(4) Until an extension of the performance test deadline has been approved by the Administrator under paragraphs (a)(1), (2), and (3) of this section, the owner or operator of the affected facility remains strictly subject to the requirements of this part.

* * * * *

PART 61—[AMENDED]

4. The authority citation for part 61 continues to read as follows:

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

Subpart A—[Amended]

5. Section 61.02 is amended by adding, in alphabetical order, a definition of the term ''Force majeure'' to read as follows:

§ 61.02 Definitions.

* * * * *

Force majeure means, for purposes of § 61.13, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

* * * * *

6. Section 61.13 is amended by revising paragraph (a) introductory text, and adding paragraphs (a)(3), (a)(4), (a)(5), and (a)(6) to read as follows:

§ 61.13 Emission tests and waiver of emission tests.

(a) Except as provided in paragraphs (a)(3), (a)(4), (a)(5), and (a)(6) of this section, if required to do emission testing by an applicable subpart and unless a waiver of emission testing is obtained under this section, the owner or operator shall test emissions from the source:

* * * * *

(3) If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the delegated agency, in writing, as soon as practicable following the date the owner or operator first knew, or through due diligence should have known, that the event may cause or caused a delay in testing beyond the regulatory deadline specified in paragraphs (a)(1) or (a)(2) of this section or beyond a deadline established pursuant to the requirements under paragraph (b) of this section.

(4) The owner or operator shall provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

(5) If in the Administrator's judgment, an owner's or operator's request for an extension of the performance test deadline is warranted, the Administrator will approve the extension. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.

(6) Until an extension of the performance test deadline has been approved by the Administrator under paragraphs (a)(3), (a)(4), and (a)(5) of this section, the owner or operator of the affected facility remains strictly subject to the requirements of this part.

* * * * *

PART 63—[AMENDED]

7. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

8. Section 63.2 is amended by adding, in alphabetical order, a definition of the term ''Force majeure'' to read as follows:

§ 63.2 Definitions.

* * * * *

Force majeure means, for purposes of § 63.7, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

* * * * *

9. Section 63.7 is amended by revising paragraph (a)(2) introductory text and paragraph (a)(2)(ix) and by adding paragraph (a)(4) to read as follows:

§ 63.7 Performance testing requirements.

(a) * * *

(2) Except as provided in paragraph (a)(4) of this section, if required to do performance testing by a relevant standard, and unless a waiver of performance testing is obtained under this section or the conditions of paragraph (c)(3)(ii)(B) of this section apply, the owner or operator of the affected source must perform such tests within 180 days of the compliance date for such source.

* * * * *

(ix) Except as provided in paragraph (a)(4) of this section, when an emission standard promulgated under this part is more stringent than the standard proposed (see § 63.6(b)(3)), the owner or operator of a new or reconstructed source subject to that standard for which construction or reconstruction is commenced between the proposal and promulgation dates of the standard shall comply with performance testing requirements within 180 days after the standard's effective date, or within 180 days after startup of the source, whichever is later. If the promulgated standard is more stringent than the proposed standard, the owner or operator may choose to demonstrate compliance with either the proposed or the promulgated standard. If the owner or operator chooses to comply with the proposed standard initially, the owner or operator shall conduct a second performance test within 3 years and 180 days after the effective date of the standard, or after startup of the source, whichever is later, to demonstrate compliance with the promulgated standard.

* * * * *

(4) If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure:

(i) The owner or operator shall notify the delegated agency, in writing, as soon as practicable following the date the owner or operator first knew, or through due diligence should have known, that the event may cause or caused a delay in testing beyond the regulatory deadline specified in paragraphs (a)(2), (a)(3) of this section, or elsewhere in this part.

(ii) The owner or operator shall provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

(iii) If in the Administrator's judgment, an owner's or operator's request for an extension of the performance test deadline is warranted, the Administrator will approve the extension. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.

(iv) Until an extension of the performance test deadline has been approved by the Administrator under paragraphs (a)(4)(i), (a)(4)(ii), and (a)(4)(iii) of this section, the owner or operator of the affected facility remains strictly subject to the requirements of this part.

* * * * *

10. Section 63.91 is amended by adding paragraph (g)(1)(i)(O) to read as follows:

§ 63.91 Criteria for straight delegation and criteria common to all approval options.

* * * * *

(g) * * *

(1) * * *

(i) * * *

(O) Section 63.7(a)(4), Extension of Performance Test Deadline

* * * * *

[FR Doc. E6–12966 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2003–0090; FRL–8206–7]

Final Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for Early Action Compact Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing a final extension of the deferred effective date of air quality designations for certain areas of the country that have entered into Early Action Compacts. Early Action Compact areas have agreed to reduce ground-level ozone pollution earlier than the Clean Air Act (CAA) requires. On April 30, 2004, EPA published a notice designating all areas of the country for the 8-hour ozone National Ambient Air Quality Standards (NAAQS). In the designation rule, EPA deferred the effective date of the nonattainment designation for 14 areas that had entered into Early Action Compacts. The current effective date of the nonattainment designation for these areas is December 31, 2006. The EPA is now proposing to extend the deferral of the effective date for all 14 Early Action compact areas until April 15, 2008.

DATES: Comments must be received on or before September 8, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0090, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *A-and-R-Docket@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2003–0090.
- Fax: Fax your comments to (202) 566–1741, Attention Docket ID. No. EPA–HQ–OAR–2003–0090.
- Mail: Docket EPA–HQ–OAR–2003–0090, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, Northwest, Washington, DC 20460. Please include two copies.
- Hand Delivery: Deliver your comments to: Air Docket, Environmental Protection Agency, 1301

Constitution Avenue, NW., Room B102, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2003–0090. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0090. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment 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 further 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 EPA Docket Center, EPA/DC, EPA West, Room B102, 1301 Constitution Avenue, 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. A reasonable fee may be charged for copying. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Note: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *http://www.epa.gov/epahome/dockets.htm* for current information on docket operations, locations and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to *www.regulations.gov* are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Driscoll, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Code C539–04, Research Triangle Park, NC 27711, phone number (919) 541–1051 or by e-mail at: *driscoll.barbara@epa.gov* or Mr. David Cole, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C304–05, Research Triangle Park, NC 27711, phone number (919) 541–5565 or by e-mail at: *cole.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies only to the 14 areas that entered into Early Action compacts and for which the effective date of the nonattainment designation was deferred. A list of these areas is included in Table 1 below.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part of 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 include 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:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. Where Should I Send an Additional Copy of My Comments?

In addition, please send a copy of your comments to: Barbara Driscoll, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards by one of the means listed:

- E-mail: *driscoll.barbara@epa.gov.*
- Fax: (919) 541–5489, Attention: Barbara Driscoll.
- Mail: Barbara Driscoll, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Code: C539–04, Research Triangle Park, NC 27711.
- Hand Delivery: Barbara Driscoll, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Room: C541C, 109 T.W. Alexander Drive, Research Triangle Park, NC 27709.

The information presented in this preamble is organized as follows.

Outline

The following is an outline of the preamble.

II. What Is the Purpose of This Document?

The purpose of this document is to propose to extend the deferral of the effective date of the 8-hour ozone nonattainment designations for 14 participants in Early Action Compacts. Currently, the effective designation date is December 31, 2006, and this proposal would extend that date to April 15, 2008.

III. What Action Has EPA Taken to Date for Early Action Compact Areas?

This section discusses EPA's actions to date with respect to certain areas of the country that are participating in the Early Action Compact program. On December 31, 2002, we entered into compacts with 33 communities. To receive the first deferral, these Early Action Compact areas agreed to reduce ground-level ozone pollution earlier than the CAA would require. The final designation rule published April 30, 2004, (69 FR 23864), included the following actions for compact areas: Deferred the effective date of nonattainment designation for 14 compact areas until September 30, 2005; detailed the progress compact areas had made toward completing their milestones; described the final action required for compact areas; detailed EPA's schedule for taking further action to extend the deferral of the effective date of nonattainment designations, if appropriate; and described the consequences for compact areas that do not meet a milestone. In the April 2004, action, we also discussed three compact areas which did not meet the March 31, 2004, milestone; Knoxville, Memphis, and Chattanooga, Tennessee. Knoxville and Memphis were designated nonattainment effective June 15, 2004. Chattanooga was later determined to have met the March 31, 2004, milestone, and we deferred the designation date until September 30, 2005,(69 FR 34080). This brought the number of participating compact areas to 31. Since then 2 additional areas, Haywood and Putnam Counties, Tennessee have withdrawn from the program.

On August 29, 2005, we published a final rule extending the deferred effective date of designation from September 30, 2005, to December 31, 2006, for the same 14 compact areas. In order to receive the second deferral, Early Action Compact areas needed to submit a State Implementation Plan with locally adopted measures by December 31, 2004. The EPA approved the SIP revisions as meeting the EAC Protocol and EPA's EAC regulations at 40 CFR 81.300, and these approvals were the basis for extending the deferred effective date until December 31, 2006. Information on local measures, SIP submittals and background on the Early Action Compact program may be found on EPA's Web site at *http://www.epa.gov/ttn/naaqs/ozone/eac/.*

A. What progress are compact areas making toward completing their milestones?

In general, the remaining 29 compact areas have made satisfactory progress toward timely completion of their milestones. All compact areas were required to submit two progress reports, one by December 30, 2005, and the other by June 30, 2006. In these progress reports, the States provided information on progress towards implementing local control measures that were incorporated in their SIPs. Each of the EAC areas submitted these reports, and after review by EPA, all were determined to be in compliance with the requirements of the EAC Protocol and the individual State Implementation Plans. Progress reports for each area are posted at *http://www.epa.gov/ttn/naaqs/ozone/eac/.*

The EAC areas have one remaining milestone which is to demonstrate attainment with the 8-hour ozone NAAQS by December 31, 2007.

B. What is this proposed action for compact areas?

Today, we are proposing to extend the deferred effective date of the nonattainment designation for the 14 compact areas. These 14 areas have met all compact milestones through the June 30, 2006, submission. We are proposing to extend until April 15, 2008, the deferral of the effective date of the 8-hour ozone nonattainment designation for the compact area counties listed in Table 1. If this extension is finalized, we will revise 40 CFR part 81 in the final rule to reflect this extension.

TABLE 1.—COMPACT AREAS WHICH QUALIFY FOR A DEFERRED EFFECTIVE DATE OF APRIL 15, 2008

[Name of designated 8-hour ozone nonattainment area is in parentheses]

State	Compact area (Designated area)	Counties with designation deferred to April 15, 2008	Counties which are part of compacts and are designated unclassifiable/ attainment
EPA—Region 3			
VA	Northern Shenandoah Valley Region, (Frederick County, VA), adjacent to Washington, DC–MD–VA.	Winchester City, Frederick County.	
VA	Roanoke Area, (Roanoke, VA)	Roanoke County, Botetourt County, Roanoke City, Salem City.	
MD	Washington County, (Washington County (Hagerstown, MD), adjacent to Washington, DC–MD–VA.	Washington County.	

TABLE 1.—COMPACT AREAS WHICH QUALIFY FOR A DEFERRED EFFECTIVE DATE OF APRIL 15, 2008—Continued

[Name of designated 8-hour ozone nonattainment area is in parentheses]

State	Compact area (Designated area)	Counties with designation deferred to April 15, 2008	Counties which are part of compacts and are designated unclassifiable/ attainment
WV	The Eastern Pan Handle Region, (Berkeley & Jefferson Counties, WV), Martinsburg area.	Berkeley County, Jefferson County.	
EPA—Region 4			
NC	Unifour (Hickory-Morganton-Lenoir, NC)	Catawba County, Alexander County, Burke County (part), Caldwell County (part).	
NC	Triad, (Greensboro-Winston-Salem-High Point, NC).	Randolph County, Forsyth County, Davie County, Alamance County, Caswell County, Davidson County, Guilford County, Rockingham County.	Surry County, Yadkin County, Stokes County.
NC	Cumberland County, (Fayetteville, NC)	Cumberland County.	
SC	Appalachian—A, (Greenville-Spartanburg-Anderson, SC).	Spartanburg County, Greenville County, Anderson County.	Cherokee County, Pickens County, Oconee County.
SC	Central Midlands—I, Columbia area	Richland County (part), Lexington County (part).	Newberry County, Fairfield County.
TN/GA	Chattanooga, (Chattanooga, TN–GA)	Hamilton County, TN, Meigs County, TN, Catoosa County, GA.	Marion County, TN, Walker County, GA.
TN	Nashville, (Nashville, TN)	Davidson County, Rutherford County, Williamson County, Wilson County, Sumner County.	Robertson County, Cheatham County, Dickson County.
TN	Johnson City-Kingsport-Bristol Area, (TN portion only).	Sullivan Co, TN, Hawkins County, TN	Washington Co, TN, Unicoi County, TN, Carter County, TN, Johnson County, TN.
EPA—Region 6			
TX	San Antonio	Bexar County, Comal County, Guadalupe County.	Wilson County.
EPA—Region 8			
CO	Denver, (Denver-Boulder-Greeley-Ft. Collins-Love, CO).	Denver County, Boulder County, (includes part of Rocky Mtn. Nat. Park), Jefferson County, Douglas County, Broomfield, Adams County, Arapahoe County, Larimer County (part), Weld County (part).	

C. What is EPA's schedule for taking further action to continue to defer the effective date of nonattainment designation for compact areas?

With this action, we are proposing to extend the deferred effective date of the nonattainment designation for compact areas which have met their obligations through April 15, 2008. No later than December 31, 2007, each area must attain the 8-hour ozone NAAQS. If the area has attained the standard by December 31, 2007, EPA will withdraw the deferred nonattainment designation and designate the area as attainment. If the area fails to attain by this date, the nonattainment designation will become effective on April 15, 2008. For any area for which the nonattainment designation becomes effective, pursuant to the terms of the compact, the State must submit a revised attainment demonstration SIP for the nonattainment area by December 31, 2008.

IV. Statutory and Executive Order Reviews

This action proposes to extend the deferral of the effective date of the nonattainment designation for 14 compact areas until April 15, 2008.

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This proposal does not require the collection of any information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an Agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the Agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as:

1. A small business that is a small industrial entity as defined in the Small Business Administration's (SBA) regulations at 13 CFR 121.201;

2. A small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. Rather, this rule would extend the deferral of the effective date of the nonattainment designation for areas that implement control measures and achieve emissions reductions earlier than otherwise required by the CAA in order to attain the 8-hour ozone NAAQS. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Today's rule defers to a later date requirements associated with nonattainment area status for areas that have voluntarily entered into Early Action Compacts with EPA. The rule imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This proposed rule would not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have ''Tribal implications'' as specified in Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has implemented a CAA program to attain the 8-hour ozone NAAQS at this time or has participated in a compact.

The EPA specifically solicits additional comment on this proposed rule from Tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children From Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposal is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355; May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any VCS.

The EPA will encourage States that have compact areas to consider the use of such standards, where appropriate, in the development of their SIPs.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionate high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations.

The EPA believes that this proposed rule should not raise any environmental justice issues. The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to be protective with an adequate margin of safety.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7408; 42 U.S.C. 7410; 42 U.S.C. 7501–7511f; 42 U.S.C. 7601(a)(1).

Dated: August 3, 2006.

Stephen L. Johnson,

Administrator.

40 CFR part 81 is proposed to be amended as follows:

PART 81—[AMENDED]

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

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

Subpart C—Section 107 Attainment Status Designations

2. Section 81.300 is amended by revising paragraphs (e)(3)(i) and (e)(3)(ii)(B) to read as follows:

§ 81.300 Scope.

* * * * *

(e) * * *

(3) * * *

(i) *General.* Notwithstanding clauses (i) through (iv) of section 107(d)(1)(B) of the Clean Air Act (42 U.S.C. 7407(d)(1)(B)), the Administrator shall defer until April 15, 2008, the effective date of a nonattainment designation of any area subject to a compact that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the 8-hour ozone national ambient air quality standard if the Administrator determines that the area subject to a compact has met the requirements in paragraphs (e)(2)(i) through (v) of this section.

(ii) * * *

(B) Prior to expiration of the deferred effective date on April 15, 2008, if the Administrator determines that an area or the State subject to a compact has not met the requirement in paragraph (e)(2)(vi) of this section, the nonattainment designation shall become effective as of the deferred effective date, unless EPA takes affirmative rulemaking action to further extend the deadline.

* * * * *

[FR Doc. E6–12960 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–P–7921]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., CFM, Acting Section Chief, Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
Buffalo Creek	Just upstream of Elmhurst Road	*654	*653	Village of Wheeling.
	Just downstream of Aptakisic Road	*668	*667	
Wheeling Drainage Ditch	Just downstream of Wolf Road	*642	*641	Cook County(Unincorporated Areas),Village of Wheeling.
	Approximately 400 feet downstream of Elmhurst Road.	*653	*652	
William Rogers Memorial Diversion Channel.	Approximately 300 feet upstream of the confluence with Des Plaines River.	*None	*644	
	At divergence from Wheeling Drainage Ditch.	*650	*646	

ADDRESSES

Cook County, Illinois (Unincorporated Areas)

Maps are available for inspection at Cook County Building and Zoning Department, 69 West Washington, Suite 2830, Chicago, Illinois.

Send comments to: Mr. John H. Stroger, Jr., President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, Illinois 60602.

Village of Wheeling, Cook County, Illinois

Maps are available for inspection at Wheeling Village Hall, Engineer's Office, 255 West Dundee Road, Wheeling, Illinois.

Send comments to: Mr. Greg Klatecki, Village President, 225 West Dundee Road, Wheeling, Illinois 60090.

* National Geodetic Vertical Datum.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: July 24, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–12908 Filed 8–8–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7464]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the

National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., CFM, Acting Section Chief, Engineering Management Section, Mitigation Division, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a). These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	+Elevation in feet (NAVD)	
				Existing	Modified
Town of Brockton, Montana					
Montana	Town of Brockton ..	Missouri River	Approximately 12.7 miles downstream of County Road Bridge.	None	+1,930
			Approximately 13.0 miles downstream of County Road Bridge.	None	+1,931
Maps available for inspection at: City Office, 716 B Avenue, Brockton, Montana.					
Send Comments to: The Honorable Ben Johnson, Mayor, Town of Brockton, 716 B Avenue, Brockton, Montana 59213.					
Town of Culbertson, Montana					
Montana	Town of Culbertson	Missouri River	Approximately 7.76 miles downstream of confluence of Big Muddy Creek.	None	+1,910
			Approximately 7.0 miles downstream of confluence of Big Muddy Creek.	None	+1,910
Maps available for inspection at: Town Hall, 210 Broadway, Culbertson, Montana.					
Send Comments to: The Honorable Gordon Oelkers, Mayor, Town of Culbertson, P.O. Box 351, Culbertson, Montana 59218.					
McCone County and Unincorporated Areas, Montana					
Montana	McCone County (Unincorporated Areas).	Missouri River	Approximately 20 miles downstream of State Route 13.	None	+1,956
			Approximately 26.9 miles upstream of confluence of Little Porcupine Creek.	None	+2,038

State	City/town/county	Source of flooding	Location	+Elevation in feet (NAVD)	
				Existing	Modified
Maps available for inspection at: County Courthouse, 1004 C Avenue, Circle, Montana.					
Send Comments to: Mrs. Connie Eissinger, Chairman, McCone County Commissioners, County Courthouse, 1004 C Avenue, Circle, Montana 59215.					
Town of Medicine Lake, Montana					
Montana	Town of Medicine Lake.	Big Muddy Creek	Approximately 1,000 feet south of West Lake Road.	None	+1,944
			Approximately 2,500 feet north of West Lake Road.	None	+1,948
Maps are available for inspection at 103 E. Hamilton St., Sheridan, Montana 59749.					
Send comments to The Honorable Tim Hutslar, Mayor, Town of Medicine Lake, Box 147, Medicine Lake, Montana 59247.					
City of Nashua, Montana					
Montana	City of Nashua	Porcupine Creek	Approximately 0.41 miles downstream of U.S. Highway 2.	None	+2,058
			Approximately 0.78 miles upstream of U.S. Highway 2.	None	+2,068
Maps available for inspection at: Civic Center, 805 Front Street, Nashua, Montana.					
Send Comments to: The Honorable Alan Bunk, Mayor, City of Nashua, P.O. Box 47, Nashua, Montana 59428.					
City of Poplar, Montana					
Montana	City of Poplar	Poplar River	Approximately 0.23 miles upstream of U.S. Highway 2.	None	+1,966
			Approximately 0.27 miles upstream of U.S. Highway 2.	None	+1,966
Maps available for inspection at: City Hall, 406 2nd Avenue West, Poplar, Montana.					
Send Comments to: The Honorable Theresa Murray, Mayor, City of Poplar, 406 2nd Avenue West Poplar, Montana 59255.					
City of Wolf Point, Montana					
Montana	City of Wolf Point	Missouri River	Static flooding along 6th Avenue S. from Helena Street south to Idaho Street.	None	+1,985
Maps available for inspection at: City Office, 201 4th Avenue South, Wolf Point, Montana.					
Send Comments to: The Honorable Matt Golik, Mayor, City of Wolf Point, 201 4th Avenue South Wolf Point, Montana 59201.					
Town of Atkinson, North Carolina					
North Carolina	Atkinson (Town), Pender County.	Mill Branch (of Moores Creek).	Approximately 0.7 mile downstream of NC Highway 53.	None	+43
			At Church Street (NC Highway 53)	None	+64
Maps available for inspection at the Atkinson Town Hall, 200 North Town Hall Avenue, Atkinson, North Carolina.					
Send comments to: The Honorable George Stalker, Mayor of the Town of Atkinson, 200 North Town Hall Avenue, Atkinson, North Carolina 28421.					
Burnet County, Texas					
Texas	Burnet County (Unincorporated Areas).	Colorado River (Lake Travis).	Approximately 2000 feet upstream from Shaw Drive (Burnet/Travis County Line).	*716	*722
			Eastern face of Max Starcke Dam	*716	*724
Maps are available for inspection at 220 South Pierce Street, Room 17, Burnet, TX 78611					
Send comments to: The Honorable David Kithil, Judge, Burnet County, 220 South Pierce Street, Burnet, TX 78611.					

+ North American Vertical Datum.
* National Geodetic Vertical Datum.

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
Eagle County, Colorado and Incorporated Areas				
Colorado River	At Garfield County and Eagle County corporate limit.	None	+6131	Eagle County (Unincorporated Areas).
	Approximately 200 feet downstream of Interstate 70.	None	+6145	

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
Missouri River	Approximately 8.14 miles downstream of confluence with Big Muddy Creek.	None	+1,910	Richland County (Unincorporated Areas).
	Approximately 11 miles upstream of confluence with Wolf Creek.	None	+1,995	

ADDRESSES

Richland County, Montana

Maps available for inspection at: The County Courthouse, 201 West Main, Sidney, Montana.

Send Comments to: Mr. Don Steppler, Chairman, Richland County Commissioners, 201 West Main Street, Sidney, Montana 59270.

City of Sidney

Maps are available for inspection at: City Hall, 115 2nd Street SE, Sidney Montana.

Send comments to: The Honorable Bret Smelser, Mayor, Town of Sidney, 115 2nd Street SE, Sidney, Montana 59270.

Fremont County, Colorado and Incorporated Areas

Arkansas River	Approximately 0.19 miles downstream of State Rt. 115.	*5,092	+5,096	City of Florence, Fremont County (Unincorporated Area), City of Canon City.
	Approximately 0.53 miles upstream of confluence of Sand Creek.	*5,361	+5,364	
Chandler Creek	Confluence with Arkansas River	*5,171	+5,174	Fremont County (Unincorporated Area), Town of Williamsburg.
	Approximately 0.30 miles upstream of County Rd. 11A.	*5,384	+5,387	
Coal Creek	Approximately 0.22 miles upstream of Confluence with Arkansas River.	None	+5,153	City of Florence, Fremont County (Unincorporated Area).
	Approximately 1.19 miles upstream of Railroad Street.	None	+5,231	
Coal Creek East Overflow.	Approximately 0.44 miles above confluence with Arkansas River.	None	+5,134	City of Florence, Fremont County (Unincorporated Area).
	Approximately 600 feet upstream of Robinson Avenue at divergence from Coal Creek Main Channel.	None	+5,180	
Coal Creek West Overflow.	Approximately 0.34 miles above confluence with Arkansas River.	None	+5,153	City of Florence, (Fremont County Unincorporated Area).
	Divergence from Coal Creek Main Channel	None	+5,188	
Forked Gulch	At confluence with Arkansas River	*5,333	+5,336	City of Canon City.
	Confluence with West Forked Gulch	*5,448	+5,451	
Minnequa Canal	Approximately 760 feet above Lock Avenue.	*5,196	+5,199	City of Florence, Fremont County (Unincorporated Area).
	Confluence of Oak Creek	*5,206	+5,209	
Northeast Canon Drainage East Branch.	At Confluence with Arkansas River	None	+5,301	City of Canon City, Fremont County (Unincorporated Area).
	Approximately 0.85 miles upstream of Tennessee Avenue.	None	+5,548	
Northeast Canon Drainage West Branch.	Confluence with East Branch	*5,316	+5,320	City of Canon City, Fremont County (Unincorporated Area).
	Approximately 0.62 miles upstream of Washington Street.	*5,499	+5,501	
Oak Creek	Approximately 325 feet above confluence with Arkansas River.	None	+5,156	City of Florence, Fremont County (Unincorporated Area), Town of Williamsburg, City of Canon City.
	Approximately 550 feet upstream of Quincy Street.	None	+5,341	
Oak Creek Right Over Bank.	Approximately 600 feet downstream of West Seventh Street.	*5,151	+5,154	City of Florence.
	Approximately 150 feet upstream of Second Street.	*5,188	+5,190	
Sand Creek	At confluence with Arkansas River	*5,352	+5,356	City of Canon City.
	Approximately 0.92 miles upstream of confluence with Arkansas River.	*5,428	+5,431	
Southeast Canon Drainage.	At confluence with Arkansas River	*5,308	+5,312	City of Canon City.
	Approximately 0.60 miles upstream of confluence with Arkansas River.	*5,364	+5,368	
West Forked Gulch	Confluence with Forked Gulch	*5,448	+5,452	City of Canon City.
	Approximately 500 Feet upstream of confluence with Forked Gulch.	*5,471	+5,474	
West Forked Gulch	Approximately 0.59 miles upstream of the confluence with Forked Gulch.	*5,526	+5,529	City of Canon City.

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
	Approximately 0.973 miles upstream of confluence with Forked Gulch.	*5,570	+5,573	

ADDRESSES

Unincorporated Areas of Fremont County

Maps are available for inspection at: The Administration Building, 615 Macon Avenue, Room 105, Canon City, Colorado.

Send comments to: Mr. Larry Lasha, Chairman, Fremont County Commissioners, 615 Macon Avenue, Room 105, Canon City, Colorado 81212.

City of Canon City

Maps are available for inspection at: City Hall, 128 Main Street, Canon City, Colorado.

Send comments to: The Honorable William F. Jackson, Mayor, City of Canon City, 128 Main Street, Canon City, Colorado 81215.

City of Florence

Maps are available for inspection at: The Municipal Building, 300 West Main St, Florence, Colorado.

Send comments to: Mr. Tom Piltingsrud, City Manager, City of Florence, 300 West Main St, Florence, Colorado 81226–1426.

City of Williamsburg

Maps are available for inspection at: City Hall, 1 John Street, Williamsburg, Colorado.

Send comments to: The Honorable Oscar Turley, Mayor, Town of Williamsburg, 1 John Street, Williamsburg, Colorado 81226.

Richland County, Montana and Incorporated Areas

Lone Tree Creek	Approximately 0.47 miles downstream of Country Road 351.	None	+1,908	Richland County (Unincorporated Areas), City of Sidney.
	At 22nd Avenue Northwest	None	+1,969	
Missouri River	Approximately 8.14 miles downstream of confluence with Big Muddy Creek.	None	+1,910	Richland County (Unincorporated Areas).
	Approximately 11 miles upstream of confluence with Wolf Creek.	None	+1,995	

ADDRESSES

Richland County, Montana

Maps available for inspection at: The County Courthouse, 201 West Main, Sidney, Montana.

Send Comments to: Mr. Don Steppler, Chairman, Richland County Commissioners, 201 West Main Street, Sidney, Montana 59270.

City of Sidney

Maps are available for inspection at: City Hall, 115 2nd Street SE, Sidney Montana.

Send comments to: The Honorable Bret Smelser, Mayor, Town of Sidney, 115 2nd Street SE, Sidney, Montana 59270.

Wayne County, Nebraska and Incorporated Areas

Deer Creek	At confluence with South Logan Creek	*1453	+1450	City of Wayne
	At 574th Avenue	None	+1460	
Dog Creek	Approximately 2000 feet upstream of confluence with South Logan Creek.	*1424	+1420	City of Wayne.
	At 858th Road	*1440	+1439	
South Logan Creek	Approximately 350 feet downstream of confluence with Dog Creek.	*1421	+1416	City of Wayne.
	Approximately 75 feet upstream of Highway 15.	*1451	+1444	
	Approximately 200 feet upstream of 854th Road.	None	+1465	

ADDRESSES

City of Wayne

Maps are available for inspection at the City Office, 306 Pearl Street, Wayne, NE 68787.

Send comments to The Honorable Lois Shelton, Mayor, City of Wayne, 306 Pearl Street, Wayne, NE 68787.

Wilson County, Tennessee and IncorporatedAreas

Anthony Branch	Confluence with North Fork Suggs Creek	None	+536	Wilson County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Logue Road.	None	+579	
Bartons Creek	Just downstream of Interstate 40	None	+556	Wilson County (Unincorporated Areas), City of Lebanon.
	Approximately 1030 feet upstream of Franklin Road.	None	+570	
Bartons Creek Tributary 3.	Just upstream of Alhambra Drive	None	+508	Wilson County (Unincorporated Areas), City of Lebanon.
	Approximately 1.0 mile upstream of Blair Lane.	None	+674	
Beech Log Creek	Confluence with Round Lick Creek	None	+655	Wilson County (Unincorporated Areas), City of Watertown.

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
	Approximately 1.9 miles upstream of Sparta Pike.	None	+754	
Black Branch	Approximately 1490 feet upstream of confluence with Spring Creek.	*577	+578	Wilson County (Unincorporated Areas), City of Lebanon.
	Approximately 3150 feet upstream of Sparta Pike.	None	+616	
Cave Creek	Confluence with Hurricane Creek	None	+597	Wilson County (Unincorporated Areas).
	Approximately 3780 feet upstream of Hurricane Creek Road.	None	+610	
Cedar Creek	Approximately 1100 feet downstream of Beasleys Bend.	*460	+461	Wilson County (Unincorporated Areas).
	Approximately 2050 feet upstream of Carthage Highway.	None	+555	
Fall Creek	Approximately 180 feet downstream of Old Murfreesboro Road.	None	+554	Wilson County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Puckett Road.	None	+731	
Hurricane Creek	Approximately 3590 feet downstream of Mt Creary Road.	None	+510	Wilson County (Unincorporated Areas).
	Approximately 360 feet upstream of E Richmond Shop Road.	None	+628	
Jennings Fork Creek	Approximately 200 feet downstream of Flat Rock Road.	None	+513	Wilson County (Unincorporated Areas).
	Approximately 1 mile upstream of Blue Bird Road.	None	+632	
Martha Branch	Approximately 220 feet upstream of confluence with Spencer Creek.	None	+509	Wilson County (Unincorporated Areas), City of Lebanon.
	Approximately 560 feet upstream of Martha-Leeville Road.	None	+557	
North Fork Suggs Creek	Approximately 810 feet upstream of confluence with Suggs Creek.	None	+536	Wilson County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Logue Road.	None	+579	
North Fork Suggs Creek Tributary 1.	Confluence with North Fork Suggs Creek	None	+545	Wilson County (Unincorporated Areas).
	Approximately 1.4 miles upstream of North Fork Suggs Creek.	None	+617	
Rocky Branch	Confluence with Smith Fork	None	+723	Wilson County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Clever Creek Road.	None	+756	
Round Lick Creek	Approximately 2130 feet downstream of Interstate 40.	None	+557	Wilson County (Unincorporated Areas).
	Approximately 1900 upstream of Statesville Road.	None	+668	
Shop Springs Branch	Approximately 2900 feet upstream of confluence with Spring Creek.	*600	+601	Wilson County (Unincorporated Areas).
	Approximately 3170 feet upstream of Young Road.	None	+660	
Shop Springs Branch Tributary 1.	Confluence with Shop Springs Branch	None	+613	Wilson County (Unincorporated Areas).
	Approximately 70 feet upstream of Shop Springs Road.	None	+653	
Sinking Creek Tributary 1.	Approximately 430 feet downstream of Hill Street.	None	+527	City of Lebanon.
	Approximately 115 feet upstream of Leeville Pike.	None	+557	
Sinking Creek Tributary 3.	Approximately 450 feet upstream of confluence with Sinking Creek.	None	+594	Wilson County (Unincorporated Areas).
	Approximately 770 feet upstream of confluence with Sinking Creek.	None	+594	
Sinking Creek Tributary 3.2.	Confluence with Sinking Creek Tributary 3	None	+594	Wilson County (Unincorporated Areas).
	Approximately 60 feet upstream Murfreesboro Road.	None	+631	
Smith Fork	Approximately 5190 feet downstream of State Highway 96.	None	+627	Wilson County (Unincorporated Areas).
	Approximately 5030 feet upstream of Greenvale Road.	None	+741	
Snarl Creek	Approximately 1.7 miles downstream Central Pike.	None	+503	Wilson County (Unincorporated Areas), City of Mt. Juliet.

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
	Approximately 2400 feet upstream of South Mt. Juliet Road.	None	+607	
South Fork Cedar Creek.	Just downstream of Interstate 40	None	+577	City of Lebanon.
	Approximately 180 feet upstream of State Highway 109.	None	+602	
Spring Creek Tributary 4.	Approximately 500 feet upstream of confluence with Spring Creek.	None	+572	Wilson County (Unincorporated Areas).
	Approximately 100 feet upstream of Locust Grove Road.	None	+643	
Spring Creek Tributary 5.	Approximately 450 feet upstream of confluence with Spring Creek.	None	+589	Wilson County (Unincorporated Areas).
	Approximately 3560 feet upstream of confluence with Spring Creek.	None	+620	
Spring Creek Tributary 6.	Approximately 900 feet upstream of confluence with Spring Creek.	*600	+601	Wilson County (Unincorporated Areas).
	Approximately 1620 feet upstream of confluence with Spring Creek.	None	+604	
Suggs Creek	Just upstream of Underwood Road	None	+565	Wilson County (Unincorporated Areas).
	Approximately 2650 feet upstream of Stewarts Ferry Road.	None	+619	
Suggs Creek Tributary 1.	Confluence with Suggs Creek	None	+568	Wilson County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Stewarts Ferry Pike.	None	+624	
Walker Branch	Approximately 370 feet downstream of Coles Ferry Pike.	*492	+493	Wilson County (Unincorporated Areas), City of Lebanon.
	Approximately 3340 feet upstream of Hunters Point Pike.	None	+546	

ADDRESSES

City of Lebanon

Maps are available for inspection at 200 Castle Heights Avenue, Lebanon, TN 37087.

Send comments to the Honorable Don Fox, Mayor, City of Lebanon, 200 Castle Heights Avenue, Lebanon, TN 37087.

City of Mt. Juliet

Maps are available for inspection at 2425 North Mt. Juliet Road, Mt. Juliet, TN 37122.

Send comments to the Honorable Linda Elam, Mayor, City of Mt. Juliet, 2425 North Mt. Juliet Road, Mt. Juliet, TN 37122.

City of Watertown

Maps are available for inspection at 228 East Main Street, Courthouse Room 5, Lebanon, TN 37087

Send comments to the Honorable Michael Jennings, Mayor, City of Watertown, 8630 Sparta Pike, Watertown, TN 37184.

Unincorporated Areas of Wilson County

Maps are available for inspection at 228 East Main Street, Courthouse Room 5, Lebanon, TN 37087.

Send comments to the Honorable Robert Dedman, Mayor, Wilson County, 228 East Main Street, Courthouse Room 5, Lebanon, TN 37087.

Travis County, Texas and Incorporated Areas

Blunn Creek	Confluence with Colorado River	*442	+440	City of Austin.
	Approximately 1570 feet upstream from the intersection with Alpine Drive.	None	+648	
Boggy Creek North	Confluence with Colorado River	*431	+432	City of Austin.
	Intersection with Airport Blvd	*597	+590	
Boggy Creek Tributary 1.	Confluence with Boggy Creek North	*442	+446	City of Austin.
	Intersection with Airport Blvd	*452	+458	
Carson Creek	Confluence with Colorado River	*432	+423	City of Austin, Travis County (Unincorporated Areas).
	Approximately 4100 feet upstream from the intersection with Metro Center Drive.	*560	+570	
Carson Creek Tributary 2.	Confluence with Carson Creek	None	+440	City of Austin.
	Approximately 1500 feet upstream from the intersection with State Hwy 71.	None	+458	
Carson Creek Tributary 3.	Confluence with Carson Creek	None	+432	City of Austin.
	Intersection with Thornberry Road	None	+478	
Carson Creek Tributary 4.	Confluence with Carson Creek	None	+432	City of Austin.
	Approximately 1000 feet downstream from the intersection with Dalton Lane.	None	+440	
Clarkson Branch	Confluence with Boggy Creek North	None	+548	City of Austin.

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
	Intersection with 38th 1/2 Street	None	+576	
Colorado River	Confluence with unnamed tributary	*394	+391	City of Austin, City of Jonestown, City of Lago Vista, City of Lakeway, City of Rollingwood, City of Round Rock, City of Webberville, City of West Lake Hills, Travis County (Unincorporated Areas), Village of Briarcliff, Village of Point Venture.
	Downstream face of Mansfield Dam	*716	+722	
Country Club Creek East (Old Country Club Creek).	Confluence with Colorado River	*436	+437	City of Austin.
	Approximately 3100 feet upstream from the intersection with Riverside Drive.	*567	+565	
Country Club Creek East Tributary 1.	Confluence with Country Club Creek East	None	+449	City of Austin.
	Intersection with Fairway Street	None	+493	
Country Club Creek East Tributary 2 (Old Country Club Creek).	Confluence with Country Club Creek East	*449	+453	City of Austin.
	Approximately 220 feet downstream from the intersection with Crossing Place.	*458	+457	
Country Club Creek East Tributary 3.	Confluence with Country Club Creek East	None	+466	City of Austin.
	Approximately 380 feet upstream from the intersection with Riverside Drive.	None	+502	
Country Club Creek East Tributary 4.	Confluence with Country Club Creek East	*496	+497	City of Austin.
	Approximately 430 feet downstream from the intersection with Grove Blvd.	None	+536	
Country Club Creek West (New Country Club Creek).	Confluence with Colorado River	*437	+438	City of Austin.
	Approximately 2340 feet upstream from the intersection with Metcalfe Road.	*610	+612	
Country Club Creek West Tributary 1.	Confluence with Country Club Creek West	*464	+465	City of Austin.
	Approximately 750 feet upstream from the intersection with Riverside Drive.	*541	+542	
Country Club Creek West Tributary 2.	Confluence with Country Club Creek West	*482	+485	City of Austin.
	Approximately 1290 feet upstream from the intersection with Oltorf Street.	None	+599	
Country Club Creek West Tributary 3.	Confluence with Country Club Creek West	*503	+501	City of Austin.
	Intersection with State Hwy 71/Ben White Blvd.	*602	+612	
Country Club Creek West Tributary 3A.	Confluence with Country Club Creek West Tributary 3.	None	+550	City of Austin.
	Approximately 1460 feet upstream from the confluence with Country Club Creek West Tributary 3.	None	+610	
Country Club Creek West Tributary 4.	Confluence with Country Club Creek West	*526	+523	City of Austin.
	Intersection with Burleson Road	*570	+575	
Country Club Creek West Tributary 5.	Confluence with Country Club Creek West	None	+553	City of Austin.
	Approximately 680 feet upstream from the intersection with Granada Drive.	None	+608	
Danz Creek	Confluence with Slaughter Creek	None	+746	City of Austin.
	Intersection with FM 1826	None	+989	
Danz Creek Split	Confluence with Danz Creek	None	+783	City of Austin.
	Divergence from Danz Creek	None	+844	
Danz Creek Tributary 1	Confluence with Danz Creek	None	+766	City of Austin.
	Approximately 1 mile upstream from the confluence with Danz Creek.	None	+787	
Danz Creek Tributary 2	Confluence with Danz Creek	None	+860	City of Austin.
	Approximately 1 mile upstream from the confluence with Danz Creek.	None	+894	
Dry Creek North	Confluence with Colorado River	None	+494	City of Austin.

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
	Approximately 1050 feet upstream from the intersection with Laurel Valley Drive.	None	+761	
Dry Creek North Tributary 1.	Confluence with Dry Creek North	None	+556	City of Austin.
	Approximately 940 feet upstream from the intersection with FM 2222.	None	+613	
Dry Creek North Tributary 2.	Confluence with Dry Creek North	None	+573	City of Austin.
	Intersection with Berry Hill Drive	None	+623	
Dry Creek North Tributary 3.	Confluence with Dry Creek North	None	+582	City of Austin.
	Approximately 870 feet upstream from the confluence with Dry Creek North.	None	+602	
Dry Creek North Tributary 4.	Confluence with Dry Creek North	None	+602	City of Austin.
	Approximately 640 feet upstream from the intersection with Dry Creek Drive.	None	+641	
East Bouldin Creek	Confluence with Colorado River	*443	+440	City of Austin.
	Intersection with Ben White Blvd	*650	+655	
East Branch of Fort Branch Creek Tributary 1.	Confluence with Fort Branch Creek Tributary 1.	None	+557	City of Austin.
	Approximately 400 feet upstream from the intersection with Rogge Lane.	None	+575	
Fort Branch Creek	Confluence with Boggy Creek North	*442	+440	City of Austin.
	Approximately 160 feet upstream from the intersection with Glencrest Drive.	None	+640	
Fort Branch Creek Tributary 1.	Confluence with Fort Branch	None	+532	City of Austin.
	Approximately 400 feet upstream from the intersection with Rogge Lane.	None	+591	
Fort Branch Creek Tributary 2.	Confluence with Fort Branch	None	+584	City of Austin.
	Approximately 900 feet upstream from the intersection with Gaston Place.	None	+605	
Grayson Branch	Confluence with Boggy Creek North	None	+547	City of Austin.
	Intersection with 39th Street	None	+557	
Harris Branch	Approximately 3000 feet upstream of the confluence with Gilleland Creek.	*539	+537	City of Austin, Travis County (Unincorporated Areas).
	Approximately 300 feet upstream from the intersection with Park Crossing.	*741	+743	
Harris Branch Tributary 4.	Confluence with Harris Branch	*603	+602	City of Austin, Travis County (Unincorporated Areas).
	Intersection with Harris Ridge Blvd	None	+723	
Harris Branch Tributary 6.	Confluence with Harris Branch	None	+597	City of Austin, Travis County (Unincorporated Areas).
	Approximately 1 mile upstream from the confluence with Harris Branch.	None	+628	
Kincheon Creek	Confluence with Williamson Creek	None	+679	City of Austin.
	Approximately 750 feet upstream from the intersection with Abilene Trail.	None	+838	
Little Walnut Creek	Confluence with Walnut Creek	*471	+470	City of Austin.
	Intersection with Metric Blvd	None	+731	
Little Walnut Creek Tributary 1.	Confluence with Little Walnut Creek	*538	+537	City of Austin.
	Intersection with Chevy Chase Drive	None	+684	
Little Walnut Creek Tributary 3.	Confluence with Little Walnut Creek	*670	+669	City of Austin.
	Approximately 740 feet upstream from the intersection with Northgate Blvd.	*713	+716	
Montopolis Tributary	Confluence with Carson Creek	None	+450	City of Austin.
	Approximately 1 mile upstream from the intersection with Dalton Lane.	None	+472	
North Fork West Bouldin Creek.	Confluence with West Bouldin Creek	*566	+564	City of Austin.
	Approximately 300 feet upstream from the instersection with Manchaca Road.	None	+641	
Onion Creek	Confluence with the Colorado River	*414	+408	City of Austin, Travis County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
	Approximately 5,500 feet upstream from the confluence of Garlic Creek and Onion Creek (Travis and Hays County Line).	*644	+646	
Pleasant Hill Tributary ..	Confluence with Williamson Creek	None	+575	City of Austin.
	Intersection with South Congress Road	None	+654	
Poquito Branch	Confluence with Boggy Creek North	None	+489	City of Austin.
	Intersection with Poquito Street	None	+494	
Possum Trot Branch	Intersection of 11th Street and Possum Trot Branch.	*481	+480	City of Austin.
	Approximately 350 feet upstream from the intersection with Woodmont Avenue.	None	+560	
Shoal Creek	Confluence with the Colorado River (Town Lake).	*445	+440	City of Austin.
	Approximately 1,650 feet upstream from the intersection with the Union Pacific Railroad.	*758	+776	
Slaughter Creek	Intersection of the Union Pacific Railroad and Slaughter Creek.	*654	+664	City of Austin, City of San Leanna, Travis County (Unincorporated Areas).
	Approximately 730 feet upstream from the intersection with Hwy 290.	None	+1074	
Slaughter Creek Tributary 1.	Approximately 800 feet upstream from the confluence with Slaughter Creek.	*591	+592	City of Austin.
	Approximately 1000 feet upstream from the intersection with Manchaca Road.	*688	+689	
Slaughter Creek Tributary 2.	Confluence with Slaughter Creek	None	+673	City of Austin.
	Intersection with Brodie Lane	None	+752	
Slaughter Creek Tributary 3.	Confluence with Slaughter Creek	None	+743	Travis County (Unincorporated Areas).
	Approximately 1050 feet upstream from the intersection with Lost Oasis Hollow.	None	+781	
Slaughter Creek Tributary 4.	Confluence with Slaughter Creek	None	+776	City of Austin.
	Approximately 100 feet downstream from the intersection with Mo-Pac Expressway.	None	+815	
Slaughter Creek Tributary 5.	Confluence with Slaughter Creek	None	+847	City of Austin.
	Approximately 2550 feet upstream from the intersection with LaCrosse Avenue.	None	+897	
South Boggy Creek	Intersection of Bluff Springs Road and South Boggy Creek.	*558	+559	City of Austin, Travis County (Unincorporated Areas).
	Approximately 650 feet upstream from the intersection with Westgate Blvd.	*779	+771	
Sunset Valley Tributary	Approximately 600 feet downstream from the intersection with Jones Road.	*653	+652	City of Austin, City of Sunset Valley.
	Approximately 2050 feet upstream from the intersection with Monterey Oaks Drive.	None	+760	
Tar Branch	Confluence with Walnut Creek	None	+630	City of Austin.
	Approximately 1200 feet upstream from the intersection with Metric Blvd.	None	+718	
Walnut Creek	Confluence with Colorado River	*430	+431	City of Austin, Travis County (Unincorporated Areas).
	Approximately 50 feet downstream from the intersection with McNeil Drive.	None	+893	
Walnut Creek Tributary 1.	Confluence with Walnut Creek	*431	+432	City of Austin.
	Approximately 2200 feet upstream from the intersection with Loyola Avenue.	None	+506	
Walnut Creek Tributary 10.	Approximately 1200 feet upstream from the confluence with Walnut Creek.	*763	+764	City of Austin, Travis County (Unincorporated Areas).
	Intersection with Howard Lane	None	+809	
Walnut Creek Tributary 2.	Intersection with railroad bed	*443	+445	City of Austin.
	Interesection with Martin Luther King Blvd	*485	+482	
Walnut Creek Tributary 3.	Approximately 1200 feet upstream from the confluence with Walnut Creek.	*493	+494	City of Austin, Travis County (Unincorporated Areas).
	Intersection with Cameron Road	*575	+576	

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
Walnut Creek Tributary 4.	Confluence with Walnut Creek	*500	+498	City of Austin.
	Approximately 80 feet upstream from the intersection with Springdale Road.	*545	+543	
Walnut Creek Tributary 5.	Confluence with Walnut Creek	*512	+514	City of Austin.
	Approximately 2200 feet upstream from the intersection with Sansom Road.	*555	+556	
Walnut Creek Tributary 6.	Confluence with Walnut Creek	*610	+611	City of Austin.
	Approximately 1030 feet upstream from the intersection with Canyon Ridge Drive.	None	+707	
Walnut Creek Tributary 7.	Confluence with Walnut Creek	*692	+694	City of Austin.
	Intersection with Research Blvd	None	+844	
Walnut Creek Tributary 7A.	Approximately 650 feet upstream from the confluence with Walnut Creek Tributary 7.	*754	+757	City of Austin.
	Approximately 3500 feet upstream from the intersection with the railroad.	None	+821	
Walnut Creek Tributary 8.	Confluence with Walnut Creek	*700	+701	City of Austin.
	Intersection with Railroad	*805	+796	
Walnut Creek Tributary 9.	Confluence with Walnut Creek	*710	+709	City of Austin.
	Approximately 730 feet upstream from the intersection with Howard Lane.	None	+786	
Wells Branch	Confluence with Walnut Creek	*627	+629	City of Austin.
	Approximately 710 feet upstream from the intersection with Wells Branch Pkwy.	*775	+772	
West Bouldin Creek	Confluence with Colorado River	*445	+442	City of Austin.
	Approximately 240 feet upstream from the intersection with Clawson.	None	+641	
Williamson Creek	Confluence with Onion Creek	*525	+522	City of Austin, City of Sunset Valley.
	Approximately 200 feet upstream from the intersection with Mowinkle Drive.	None	+968	
Williamson Creek Tributary 1.	Confluence with Williamson Creek	*526	+522	City of Austin.
	Approximately 50 feet upstream from the intersection with Nuckols Crossing Road.	*571	+562	
Williamson Creek Tributary 2.	Confluence with Williamson Creek	*526	+523	City of Austin.
	Approximately 250 feet upstream from the intersection with Nuckols Crossing.	None	+592	
Williamson Creek Tributary 3.	Intersection of Nuckols Crossing and Williamson Creek Tributary 3.	*544	+541	City of Austin.
	Approximately 670 feet upstream from the intersection with Pino Street.	*568	+567	
Williamson Creek Tributary 4.	Confluence with Williamson Creek	*589	+596	City of Austin.
	Approximately 210 feet upstream from the intersection with South First Street.	None	+643	
Williamson Creek Tributary 5.	Confluence with Williamson Creek	*847	+848	City of Austin.
	Approximately 500 feet upstream from the intersection with South Brook Drive.	*913	+920	
Williamson Creek Tributary 6.	Approximately 5000 feet upstream from the intersection with William Cannon Drive.	None	+864	City of Austin.
	Approximately 5900 feet upstream from the intersection with William Cannon Drive.	None	+899	

ADDRESSES

City of Austin

Maps are available for inspection at 505 Barton Springs Road, 12th Floor, Austin, TX 78704.

Send comments to the Honorable Will Mynn, Mayor, City of Austin, P.O. Box 1088, Austin, TX 78767.

City of Jonestown

Maps are available for inspection at 18649 FM 1431, Suite 4–A, Jonestown, TX 78645.

Send comments to the Honorable James Brown, Mayor, City of Jonestown, 18649 FM 1431, Jonestown, TX 78645.

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	

City of Lago Vista
Maps are available for inspection at 5803 Thunderbird, Lago Vista, TX 78645.
Send comments to the Honorable Dennis Jones, Mayor, City of Lago Vista, P.O. Box 4727, Lago Vista, TX 78645.

City of Lakeway
Maps are available for inspection at 1102 Lohmans Crossing, Lakeway, TX 78734.
Send comments to the Honorable Steve Swan, Mayor, City of Lakeway, 1102 Lohmans Crossing, Lakeway, TX 78734.

City of Rollingwood
Maps are available for inspection at 403 Nixon Drive, Austin, TX 78746.
Send comments to the Honorable Hollis Jeffries, Mayor, City of Rollingwood, 403 Nixon Drive, Austin, TX 78746.

City of Round Rock
Maps are available for inspection at 2008 Enterprise, Round Rock, TX 78664.
Send comments to the Honorable Nyle Maxwell, Mayor, City of Round Rock, 221 East Main Street, Round Rock, TX 78664.

City of San Leanna
Maps are available for inspection at 11906 Sleepy Hollow, Manchaca, TX 78652.
Send comments to the Honorable James Payne, Mayor, City of San Leanna, P.O. Box 1107, Manchaca, TX 78652.

City of Sunset Valley
Maps are available for inspection at 3205 Jones Road, Sunset Valley, TX 78745.
Send comments to the Honorable Terry Cowan, Mayor, City of Sunset Valley, 3205 Jones Road, Sunset Valley, TX 78745.

City of Webberville
Maps are available for inspection at Webberville City Hall, 1701 Webberwood, Elgin, TX 78621.
Send comments to the Honorable Hector Gonzales, Mayor, City of Webberville, P.O. Box 367, Webberville, TX 78653.

City of West Lake Hills
Maps are available for inspection at 911 Westlake Drive, West Lake Hills, TX 78746.
Send comments to the Honorable Dwight Thompson, Mayor, City of West Lake Hills, 911 Westlake Drive, West Lake Hills, TX 78746.

Unincorporated Areas of Travis County
Maps are available for inspection at 411 13th Street, 8th Floor, Austin, TX 78767.
Send comments to the Honorable Samual Biscoe, Judge, Travis County, 511W. 13th Street, Austin, TX 78767.

Village of Briarcliff
Maps are available for inspection at 402 Sleat Drive, Briarcliff, TX 78669.
Send comments to the Honorable James Hamnett, Mayor, Village of Briarcliff, 402 Sleat Drive, Briarcliff, TX 78669.

Village of Point Venture
Maps are available for inspection at 549 Venture Blvd South, Point Venture, TX 78645.
Send comments to the Honorable Kevin Sheffer, Mayor, Village of Point Venture, 549 Venture Blvd South, Point Venture, TX 78645.

Village of Volente
Maps are available for inspection at 15403 Hill Street, Volente, TX 78641.
Send comments to the Honorable Jen Yenawine, Mayor, Village of Volente, 15403 Hill Street, Volente, TX 78641.

Davis County, Utah and Incorporated Areas

Great Salt Lake	Approximately 1000 feet West of intersection of N 800 W and W Jim Bridger.	None	+4217	City of Centerville.
	At intersection of 900 W and Parish Lane	None	+4218	
Great Salt Lake	Approximately 400 feet Northwest of intersection of N Ranch and W Prairie View.	None	+4218	City of Farmington.
	Approximately 1400 feet West of intersection of N Ranch and W Prairie View.	None	+4219	
Great Salt Lake	Approximately 1800 feet South-Southeast of intersection of S View Crest and W Thomas.	None	+4218	City of Kaysville.
Great Salt Lake	Approximately 400 feet West of intersection of N 5000 W and W 300 North.	None	+4217	City of West Point.
Great Salt Lake	Approximately 0.9 miles West of intersection of W 2425 S and N Redwood.	None	+4218	City of Woods Cross.
Great Salt Lake	Approximately 1600 feet West of intersection of W York and N Skipton.	None	+4218	City of North Salt Lake City.
Great Salt Lake	Approximately 1500 feet West of intersection of County Road 127 and County Road 110.	None	+4217	Davis County (Unincorporated Areas).
	Approximately 0.6 miles Northwest of intersection of W Porter and N 1100 W.	None	+4219	
Great Salt Lake	Approximately 200 feet West of Intersection of N Willowbrook and N 880 W.	None	+4218	City of West Bountiful.
Jordan River	Approximately 1600 feet South of intersection of W Interchange and S Enterprise.	None	+4217	City of North Salt Lake City.

Flooding source(s)	Location of referenced elevation	+Elevation in feet (NAVD) *Elevation in feet (NGVD)		Communities affected
		Effective	Modified	
	Approximately 600 feet west of intersection of W Interchange and S Enterprise.	None	+4218	

ADDRESSES

City of Centerville
Maps are available for inspection at 655 North 1250 West, Centerville, UT 84014.
Send comments to the Honorable Michael Deamer, Mayor, City of Centerville, 732 South 650 East, Centerville, UT 84014.
City of Farmington
Maps are available for inspection at 130 North Main, Farmington, UT 84025.
Send comments to the Honorable Gregory Bell, Mayor, City of Farmington, P.O. Box 160, Farmington, UT 84025.
City of Kaysville
Maps are available for inspection at 23 East Center Street, Kaysville, UT 84037.
Send comments to the Honorable Brian Cook, Mayor, City of Kaysville, 23 East Center Street, Kaysville, UT 84037.
City of North Salt Lake City
Maps are available for inspection at 20 South Highway 89, North Salt Lake City, UT 84054.
Send comments to the Honorable Duke Dixon, Mayor, City of North Salt Lake, P.O. Box 540208, North Salt Lake City, UT 84054.
City of West Bountiful
Maps are available for inspection at 550 North 800 West, West Bountiful, UT 84087.
Send comments to the Honorable Carl Martin, Mayor, City of West Bountiful, 550 North 800 West, West Bountiful, UT 84087.
City of West Point
Maps are available for inspection at 3200 West 300 North, West Point, UT 84015.
Send comments to the Honorable John Petroff Jr. Mayor, City of West Point, 3200 West 300 North, West Point, UT 84015.
City of Woods Cross
Maps are available for inspection at 1555 South 800 West, Woods Cross, UT 84087.
Send comments to the Honorable Jerry Larrabee, Mayor, City of Woods Cross, 1555 South 800 West, Woods Cross, UT 84087.
Unincorporated Areas of Davis County
Maps are available for inspection at 28 East State Street, Farmington, UT 84025.
Send comments to the Honorable Dannie McConkie, Chairman, Davis County, Davis County Memorial Courthouse, Farmington, UT 84025.

Depth in feet above ground.
+North American Vertical Datum.
* National Geodetic Vertical Datum.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: July 24, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–12909 Filed 8–8–06; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 01–92, DA 06–1510]

Missoula Intercarrier Compensation Reform Plan

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on an intercarrier compensation reform plan, the ''Missoula Plan,'' filed by the National Association of Regulatory Utility Commissioners' Task Force on Intercarrier Compensation (the NARUC Task Force). According to its supporters, the Missoula Plan would unify intercarrier charges for the majority of lines and move intercarrier rates charged for all traffic closer together.

DATES: Submit comments on or before September 25, 2006. Submit reply comments on or before November 9, 2006.

ADDRESSES: You may submit comments, identified by CC Docket No. 01–92, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Agency Web Site: http://www.fcc.gov*. Follow the instructions for submitting comments on the Electronic Comment Filing System (ECFS) *http://www.fcc.gov/cgb/ecfs/*.
- *E-mail:* To *victoria.goldberg@fcc.gov*. Include CC Docket 01–92 in the subject line of the message.
- *Fax:* To the attention of Victoria Goldberg at 202–418–1587. Include CC Docket 01–92 on the cover page.
- *Mail:* All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Victoria Goldberg, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–A266, 445 12th Street, SW., Washington, DC 20554.
- *Hand Delivery/Courier:* The Commission's contractor, Natek, Inc., 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.

Instructions: All submissions received must include the agency name and docket number. All comments received will be posted without change to *http://www.fcc.gov/cgb/ecfs/*, including any personal information provided. For detailed instructions on submitting

comments and additional information on the rulemaking process, see the ''Comment Filing Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530, or Victoria Goldberg, Wireline Competition Bureau, Pricing Policy Division, (202) 418–7353.

SUPPLEMENTARY INFORMATION: By this Public Notice, the Commission seeks comment on the Missoula Plan, an intercarrier compensation reform plan filed July 24, 2006 by the NARUC Task Force. The Missoula Plan is the product of a 3-year process of industry negotiations led by NARUC. Supporters of the plan include AT&T, BellSouth Corp., Cingular Wireless, Global Crossing, Level 3 Communications, and 336 members of the Rural Alliance, among others. According to its supporters, the Missoula Plan ''unifies intercarrier charges for the majority of lines, and moves all intercarrier rates charged for all traffic closer together.'' Its supporters maintain that adoption of the Missoula Plan would represent a major step forward in intercarrier compensation reform.

Interested parties may file comments on or before September 25, 2006, and reply comments on or before November 9, 2006. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs/*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, in this case, CC Docket No. 01–92. Parties may also submit an electronic comment by Internet e-mail. 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.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Paper filings can be sent 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). Parties are strongly encouraged to file comments electronically using the Commission's ECFS.

The Commission's contractor, Natek, Inc., 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, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Victoria Goldberg, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–A266, 445 12th Street, SW., Washington, DC 20554, or by e-mail to *Victoria.Goldberg@fcc.gov*. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com*.

Documents in CC Docket No. 01–92 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail *fcc@bcpiweb.com*.

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. 47 CFR 1.1206(b)(2). Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules. 47 CFR 1.1206(b).

Authority: 47 U.S.C. 152, 153, 154, 155.

Federal Communications Commission.

Julie A. Veach,

Acting Chief, Wireline Competition Bureau.

[FR Doc. E6–12854 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No 06–121; MB Docket No 02–277; FCC 06–93]

2006 Quadrennial Regulatory Review; 2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission seeks comment on how to address issues raised by the U.S. Court of Appeals for the Third Circuit with respect to rules, as adopted or revised in the 2002 Biennial Review of the Commission's broadcast ownership rules. Concurrently, the next quadrennial review of the broadcast ownership rules is initiated as required by section 202(h) of the Telecommunications Act of 1996.

DATES: The Commission must receive comments on or before September 22, 2006, and reply comments on or before November 21, 2006.

ADDRESSES: You may submit comments, identified by MB Docket No 06–121 and/or MB Docket No 06–277, 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.

• E-mail: *ecfs@fcc.gov.* Include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

• Mail: 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, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

• 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: Mania Baghdadi, Industry Analysis Division, Media Bureau, Federal Communications Commission, (202) 418–2330. Press inquiries should be directed to Rebecca Fisher, (202) 418–2359, TTY: (202) 418–7365 or (888) 835–5322.

SUPPLEMENTARY INFORMATION: Pursuant to Sec. 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to this Further Notice of Proposed Rule Making should refer to MB Docket No. 06–121 and/or MB Docket No. 02–277. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). The public may view a full copy of this document at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC–06–93A1.doc.*

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the website for submitting comments.

For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent 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). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

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, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Initial Paperwork Reduction Act Analysis. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any proposed new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4). However, depending on the rules adopted as a result of this Further Notice of Proposed Rule Making, the Report and Order (R&O) ultimately adopted in this proceeding may contain information collections. The Commission will provide a period for public comment on any PRA burdens contained in the R&O and will submit such burdens to the Office of Management and Budget for approval when the R&O is adopted and released.

I. Introduction

1. With this Further Notice of Proposed Rule Making (''FNPRM''), MB Docket No. 06–121, MB Docket No. 02–277, FCC 06–93, released July 24, 2006, the Commission seeks comment on how to address issues raised by the U.S. Court of Appeals for the Third Circuit with respect to the rules as adopted or revised in the 2002 Biennial Review of the Commission's broadcast ownership rules. Section 202(h) of the Telecommunications Act of 1996 (''1996 Act'') requires the Commission to periodically review its media ownership rules to determine ''whether any of such rules are necessary in the public interest as the result of competition'' and to ''repeal or modify any regulation it determines to be no longer in the public interest.'' On June 2, 2003, the Commission adopted a Report and Order in its third biennial review of its broadcast ownership rules (''2002 Biennial Review Order'') 68 FR 46286 (August 5, 2003). The 2002 Biennial Review Order addressed all six of the Commission's broadcast ownership rules: the national television multiple ownership rule; the local television multiple ownership rule; the radio-television cross-ownership rule; the dual network rule; the local radio ownership rule; and the newspaper/broadcast cross-ownership rule. In the 2002 Biennial Review Order, the Commission concluded that neither the newspaper/broadcast cross-ownership rule nor the radio/television cross-ownership rule remained necessary in the public interest. Accordingly, it replaced those rules with new cross-ownership regulations called the Cross Media Limits (''CML''). The Commission also revised its market definition and the way it counts stations for purposes of the local radio ownership rule, revised the local television multiple ownership rule, modified the national television ownership cap, and retained the dual network rule. Several parties sought appellate review of various aspects of the 2002 Biennial Review Order; others

filed petitions for reconsideration. The court challenges were consolidated into a single proceeding, and on June 23, 2004, the U.S. Court of Appeals for the Third Circuit issued its decision on review of the 2002 Biennial Review Order, affirming some Commission decisions and remanding others for further Commission justification or modification. (the ''*Prometheus* decision'').

2. In this FNPRM, we discuss each rule that was remanded individually and invite comment on how we should address the issues remanded by the U.S. Court of Appeals for the Third Circuit. We encourage commenters to buttress their arguments with current empirical evidence and sound economic theory. Concurrently, this FNPRM initiates the next review of the media ownership rules as required by section 202(h).

II. Discussion

3. In the 2002 Biennial Review Order, the Commission determined that its longstanding goals of competition, diversity, and localism would continue to guide its actions in regulating media ownership. These policy objectives also will guide our actions on remand. In addition to the other requests for comment discussed below, we ask that commenters address whether our goals would be better addressed by employing an alternative regulatory scheme or set of rules.

4. The *Prometheus* court noted that the Commission deferred consideration of certain proposals for advancing ownership by minorities. We therefore seek comment on the proposals to foster minority ownership advanced by Minority Media and Telecommunications Council in its filings in the 2002 biennial review proceeding, including those that were listed in the 2002 Biennial Review Order and referenced by the court. Are any of these proposals effective and practical ways to increase minority ownership? If so, how could they best be implemented? Do we have the statutory authority to adopt them? Are there any constitutional impediments to adoption? Are there any other alternatives that we should consider that would be more effective and/or would avoid any statutory or constitutional impediments?

5. More generally, we urge commenters to explain the effects, if any, that their ownership rule proposals will have on ownership of broadcast outlets by minorities, women and small businesses. We also urge commenters to discuss the potential effects, if any, of the broadcast ownership rules currently in effect, and any changes proposed in this proceeding on advertising markets, the ability of independent stations to compete, the availability of family-friendly and children's programming, the amount of indecent and/or violent content broadcast over-the-air, and the availability of independent programming.

6. The Commission has a long-standing policy to foster broadcast ''localism,'' which it has defined as the airing of ''programming that is responsive to the needs and interests of their communities of license.'' In its 2002 Biennial Review, the Commission invited comment on the extent to which its broadcast ownership rules were necessary to foster localism. Subsequently, the Commission established its Localism Task Force (''Task Force'') to study the issue of localism and advise the Commission on whether any new rules or policies were required to promote it. In addition, the Commission issued a Notice of Inquiry, 19 FCC Rcd 12425 (not published in the Federal Registrar) seeking comment from the public on how broadcasters are serving the interests and needs of their communities, whether the Commission needs to adopt new policies, practices, or rules designed to promote localism in broadcast television and radio; and what those policies, practices, or rules should be. The record compiled in the localism docket, MB Docket No. 04–233, is extensive. The Media Bureau will compile a summary of the comments in the localism proceeding and submit it into this docket. The Commission will consider the evidence received in MB Docket No. 04–233 as it moves forward with this rulemaking.

7. Finally, we note that the media marketplace continues to evolve. We seek comment on the impact of new technologies and providers such as digital video recorders, video-on-demand, and the availability of television programming and music on the Internet on media consumption and ownership issues.

A. Local TV Ownership Rule

8. The Commission's local TV ownership rule, as currently in effect, provides that an entity may own two television stations in the same designated market area (''DMA'') if: (1) The Grade B contours of the stations do not overlap; or (2) at least one of the stations in the combination is not ranked among the top four stations in terms of audience share, and at least eight independently owned and operating commercial or non-commercial full-power broadcast television stations would remain in the DMA after the combination.

9. In the 2002 Biennial Review, the Commission revised the local TV ownership rule to permit an entity to own up to two television stations in markets with 17 or fewer television stations, and up to three television stations in markets with 18 or more television stations. The Commission retained the prohibition on combinations involving more than one station ranked among the top four in the market, thus prohibiting combinations in markets with four or fewer television stations. The Commission also eliminated consideration of overlapping Grade B contours, and decided to look instead only at whether a station is assigned by Nielsen to a DMA. All full-power commercial and non-commercial television stations within the DMA would be counted for purposes of applying the rule. The 2002 Biennial Review Order also modified the Commission's criteria for waiver of the local TV ownership rule.

10. On review, the *Prometheus* court, remanded the numerical limits of the new rule for further justification. The court upheld the Commission's decision to retain the top four-ranked station restriction. The court also remanded for further consideration the Commission's elimination of the requirement to demonstrate that no out-of-market buyer is reasonably available when seeking a failed, failing, or unbuilt television station waiver.

11. We invite comment on all of the issues remanded by the *Prometheus* court regarding the local TV ownership rule. Should the limits on the number of stations that can be commonly owned adopted in the 2002 Biennial Review Order be revised, or is there additional evidence or analysis upon which the Commission can rely to further justify the limits it adopted? How should we address the court's concern that the revised numerical limits allow concentration to exceed the 1800 HHI benchmark relied upon by the Commission in setting the limits? Is there additional evidence to support the Commission's decision to treat capacity as an important factor in measuring the competitive structure of television markets? Is there evidence to support fluidity of television station market shares? Should the limits vary depending on the size of the market? How would any changes impact the need for the top four-ranked restriction?

12. We also invite comment on the court's remand of the elimination of the requirement that waiver applicants demonstrate that there is no reasonably available out-of-market buyer. Should we reinstate this requirement? Is it unduly burdensome? Are there less

burdensome means of ensuring that unnecessary concentration of ownership does not occur? Has the requirement had an effect on minority and/or female ownership of broadcast stations?

B. Local Radio Ownership Rule

13. In the 2002 Biennial Review Order, the Commission retained the local radio numerical limits and the AM/FM service caps that Congress adopted in the 1996 Act. The Commission modified the definition of a local radio market by replacing the contour-overlap approach with an Arbitron Metro market definition, where Arbitron markets exist. The Commission initiated a rulemaking proceeding, (MB Docket No. 03–130), to seek comment on how to define local radio markets in geographic areas that are not defined by Arbitron. In addition, the Commission decided to include non-commercial stations when determining the number of radio stations in a market for purposes of the ownership rules.

14. The *Prometheus* court concluded that the Commission's decision ''to replace contour-overlap methodology with Arbitron radio metro markets was 'in the public interest' within the meaning of 202(h)'' and that the decision was ''a rational exercise of rulemaking authority.'' The court also upheld the Commission's attribution of JSAs. The court further held that the Commission had justified its decisions to count noncommercial stations in defining the size of a market and to restrict the transfer of grandfathered combinations except to certain eligible entities. The court remanded the Commission's decision to retain the existing specific local radio ownership limits. The court held that the limits were unsupported by the Commission's rationale that they ensure five equal-sized competitors in most markets. The court further faulted the Commission for not explaining why it could not take actual market share into account when deriving the numerical limits. Finally, the court held that the Commission did not support its decision to retain the AM subcaps.

15. We invite comment on the issues remanded by the *Prometheus* court with respect to the local radio ownership limits. In order to address the court's concerns, should the numerical limits be revised, or is there additional evidence that could be used to further justify the limits? If the Commission should revise the limits, what revisions are appropriate? Should we create additional tiers? How should the Commission address the court's concern that the limits adopted do not account for actual market share? Should the rule still seek to ensure a specific number of competitors in a market, and, if so, what is the appropriate benchmark for that number? Finally, should we retain the AM/FM subcaps? Lastly, we seek comment on whether the local radio ownership rule currently in effect is necessary in the public interest as a result of competition.

C. Cross-Media Limits

16. In the 2002 Biennial Review Order, the Commission concluded that neither the newspaper/broadcast cross-ownership rule nor the radio/television cross-ownership rule was necessary in the public interest as the result of competition. The Commission replaced these rules with a single set of cross-media limits. To determine the availability of media outlets in markets of various sizes, the Commission developed a Diversity Index (the ''DI''), which it used to analyze and measure the availability of outlets that contribute to viewpoint diversity in local media markets.

17. The *Prometheus* court affirmed the Commission's decision to eliminate the newspaper/broadcast cross-ownership rule. The court concluded, however, that the specific limits selected by the Commission were not supported by reasoned analysis, and remanded the CML to the Commission for further justification or modification. The court also remanded for further consideration the Commission's decision to assign all outlets within the same media type equal market shares in constructing the DI.

18. We invite comment on all of the issues remanded by the *Prometheus* court regarding cross-ownership. Many of these issues relate to the DI. In light of the court's extensive and detailed criticism of the DI, we tentatively conclude that the DI is an inaccurate tool for measuring diversity. Moreover, we recognize that some aspects of diversity may be difficult to quantify. To the extent that we will not use the DI to justify changes to the existing cross-ownership rules, we seek comment on how we should approach cross-ownership limits. Should limits vary depending upon the characteristics of local markets? If so, what characteristics should be considered, and how should they be factored into any limits? We seek comment on the newspaper/broadcast cross-ownership rule and the radio/television cross-ownership rule. Are there aspects of television and radio broadcast operations that make cross-ownership with a newspaper different for each of these media? If so, should limits on newspaper/radio combinations be different from limits on newspaper/television combinations? Lastly, are the newspaper/broadcast cross-ownership rule and the radio/television cross-ownership rule necessary in the public interest as a result of competition?

D. Dual Network Rule

19. The Commission's dual network rule provides ''A television broadcast station may affiliate with a person or entity that maintains two or more networks of television broadcast stations unless such dual or multiple networks are composed of two or more persons or entities that, on February 8, 1996, were 'networks' as defined in Section 73.3613(a)(1) of the Commission's regulations'' (that is, ABC, CBS, Fox, and NBC). In the 2002 Biennial Review Order, the Commission determined that the dual network rule was necessary in the public interest to promote competition and localism and retained the rule. The Petitioners in *Prometheus* did not appeal the Commission's retention of the rule. We seek comment on whether the dual network rule remains necessary in the public interest as a result of competition.

E. UHF Discount

20. In *Prometheus*, the Third Circuit held that challenges to the Commission's national television ownership rule were moot following Congressional action that set the national cap at 39 percent. In so doing, the court also addressed the Commission's UHF discount rule, which we have used in calculating a UHF station's audience reach under the national TV cap. The court stated that the UHF discount rule ''is insulated from this and future periodic review requirements'' and yet also noted that the ''Commission is now considering its authority going forward to modify or eliminate the discount and recently took public comment on the issue.'' The court then concluded that that Commission may decide the scope of our authority to modify or eliminate the UHF discount outside of the mandate of section 202(h) of the 1996 Act.

21. We seek comment on whether the court's holding on the UHF discount rule was ambiguous. We seek comment on whether the Commission should retain, modify, or eliminate the UHF discount. Commenters who urge us to modify or eliminate the UHF discount rule should discuss the basis for our authority to take such action.

III. Petitions for Reconsideration

22. A number of parties filed petitions for reconsideration of the 2002 Biennial Review Order. These petitions, opposing pleadings, and replies are

listed in Appendix A. The petitions have already been the subject of public notice and comment during their own pleading cycle. Parties who wish to refresh the record concerning the petitions may do so in their comments filed in response to this FNPRM.

IV. Procedural Matters

A. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) in the initial Notice of Proposed Rulemaking, 67 FR 65751 (October 28, 2002), in this proceeding. For the FNPRM, a Supplemental IRFA has been prepared and set forth in Appendix B. Written public comments are requested on the Supplemental IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the FNPRM and should have a separate and distinct heading designating them as responses to the Supplemental IRFA.

B. *Ex Parte Rules.* This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203, 1.1206(a).

V. Ordering Clauses

33. Accordingly, *it is ordered*, that pursuant to authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310, and section 202(h) of the Telecommunications Act of 1996, this Further Notice of Proposed Rulemaking *is adopted.*

34. *It is further ordered* that, pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310, and section 202(h) of the Telecommunications Act of 1996, *notice is hereby given* of the proposals described in this Further Notice of Proposed Rulemaking.

35. *It is furthered order* that MB Docket 03–130 SHALL BE severed from this proceeding.

36. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Further Notice of Proposed Rulemaking, including the Supplemental Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–12856 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 71, No. 153
Wednesday, August 9, 2006

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 4, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Forest Service Ride-Along Program Application.

OMB Control Number: 0596–0170.

Summary of Collection: The Forest Service (FS) ride-along program allows the general public or other interested person to accompany agency law enforcement personnel as they conduct their normal field duties, including access to and discussions about agency law enforcement vehicles, procedures, and facilities. The program provides an opportunity for officers to enhance the public's understanding and support of the agency program and to increase agency understanding of public and community concerns. The program also aids the agency's recruitment program by allowing interested persons to observe a potential career choice or to participate in innovative intern-type programs, and by allowing the agency to showcase the quality of its program and services.

Need and Use of the Information: Information will be collected from any person who voluntarily approaches the FS and wishes to participate in the program. The FS 5300–33 program application form will be used to conduct a minimal background check and the FS 5300–34 is a liability waiver form that requires the applicant's signature and their written assurance that they have read and understood the form. The information collected from the forms will be used by FS and, in appropriate part, by any person or entity needed and authorized by the FS to provide the needed background information (primarily applicable local law enforcement agencies, state criminal justice agencies maintaining state justice records, and by the FBI). If the information is not collected, the program could not operate.

Description of Respondents: Individuals or households; Federal Government; State, Local or Tribal Government.

Number of Respondents: 100.

Frequency of Responses: Reporting: Other (per applicant).

Total Burden Hours: 16.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–12955 Filed 8–8–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Information Collection; Rate Quotation for Transportation Services

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Commodity Credit Corporation is seeking comments from all interested individuals and organizations on the extension with revision of a currently approved information collection associated with Rate Quotation for Transportation Services. The CCC is collecting freight rate quotes from the participating Motor Carriers and Intermodal Marketing Companies who transport agricultural products for the Department of Agriculture and using the collected freight rate quotes to establish the lowest cost of movement to meet the transportation needs of CCC.

DATES: Comments on this notice must be received on or before October 10, 2006.

ADDRESSES: Comments concerning this notice should be addressed to Khristy Baughman, Chief, Planning and Analysis Division, Kansas City Commodity Office, 6501 Beacon Drive, Kansas City, Missouri 64133–4676. Comments also may be submitted by fax to: (816) 926–1648; or by e-mail to: *Khristy.baughman@kcc.usda.gov.* Comments should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Khristy Baughman, Chief of Planning and Analysis Division, (816) 926–6509, or by e-mail to: *Khristy.baughman@kcc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Rate Quotation for Transportation Services.

OMB Control Number: 0560–0235.

Type of Request: Revision and extension of a currently approved collection.

Abstract: Motor Carriers provide over the road trucking, and Intermodal Marketing Companies (IMCs) provide rail trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service that CCC at the Kansas City Commodity Office (KCCO) hires to meet program transportation needs for the agricultural commodities. Motor Carriers and IMCs are required to complete and submit the KC–5, Rate Quotation for Transportation Services form. The CCC is collecting freight rate quotes to establish the lowest cost of movement to meet transportation needs of U.S. Department of Agriculture. CCC must ensure that Motor Carriers and IMCs providing the transportation service have both the willingness and the capacity to meet these needs.

Estimate of Annual Burden: Public reporting burden for collecting information under this notice is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Type of Respondents: Motor Carriers and Intermodal Marketing companies.

Estimated Number of Respondents: 164.

Estimated Number of Annual Responses per Respondent: 41.

Estimated Total Annual Burden on Respondents: 1,681 hours.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information collected; or (d) ways to minimize the burden of the collection of the 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.

All comments received response to this notice, including names and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on August 3, 2006.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E6–12958 Filed 8–8–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Intermountain Region, Boise, Payette, and Sawtooth National Forests; Supplement to the Environmental Impact Statement for the Revised Land and Resource Management Plan Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to supplement an environmental impact statement.

SUMMARY: The Forest Service will prepare a supplement to the final environmental impact statement (EIS) for the Southwest Idaho Ecogroup Revised Land and Resource Management Plan EIS to present additional information concerning terrestrial Management Indicator Species (MIS).

DATES: Comments concerning the scope of the analysis must be received 45 days after publication of the draft supplement to the Southwest Idaho Ecogroup Revised Land and Resource Management Plan (SWIEG FLRMP) EIS. The draft supplement to the SWIEG FLRMP EIS is expected December 2006 and the final supplement is expected March 2007.

ADDRESSES: Send written comments to Sharon LaBrecque, Planning, GIS and Vegetation Staff Officer, Sawtooth National Forest; 2647 Kimberly Road East, Twin Falls, Idaho 83301; or via telephone at (208) 737–3200; or you may hand-deliver your comments to the Sawtooth Forest Supervisor's Officer, located at 2647 Kimberly Road East, Twin Falls, during normal business hours from 8 a.m. to 5 p.m., Monday through Friday, excluding Federal holidays. Electronic comments must be submitted in a format such as an e-mail message, plain text (.txt), rich text format (.rtf), and Word (.doc) to: *comments-intermtn-sawtooth@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Sharon LaBrecque, GIS and Vegetation Staff Officer, Sawtooth National Forest at the address above.

SUPPLEMENTARY INFORMATION: The Forest Service is proposing to prepare a supplement to the final environmental impact statement for the SWIEG FLRMP. In accordance with FSH 1909.15—Chapter 10—Section 18, the 2003 SWIEG FLRMP Final EIS has been reviewed. The Forest Service will prepare a supplement to the Final EIS by analyzing and presenting additional information concerning terrestrial management Indicator Species (MIS) specific to the 1982 regulations at 36 CFR 219.20. The scope and analysis of the proposed supplement to the Final EIS will be limited to the requirements for MIS analysis in 36 CFR 219.20.

The original Notice of Intent for revision of the SWIEG FLRMP EIS was published in the **Federal Register** Vol. 63, No. 79, April 24, 1998. In July, 2003, a separate Record of Decision (ROD) was issued for each of the three SWIEG Forests (Boise, Payette, and Sawtooth) which implemented Alternative 7 as described in their respective ROD. All three RODs were appealed in 2004. The Appeal Deciding Officer affirmed each ROD on March 9, 2005.

Purpose and Need for Action

The supplement will not change the purpose and need which was described in the SWIEG FLRMP Final EIS on pages 1–4 through 1–8. The scope of the supplement is only to provide additional analysis regarding terrestrial MIS.

Proposed Action

The supplement will not change the proposed action which was described in the SWIEG FLRMP Final EIS on pages 1–1 through 1–3. The scope of the supplement is only to provide additional analysis in accordance with 36 CFR 219.20 regarding terrestrial MIS.

Responsible Official

The Responsible Official is Jack Troyer, Intermountain Regional Forester, USDA—Forest Service; 324 25th Street; Ogden, UT 84401.

Nature of Decision To Be Made

The Responsible Official will review the supplement and determine if the 2003 Records of Decision for the Boise, Payette, and Sawtooth National Forests, based on the SWIEG FLRMP Final EIS, should be modified or if the original decisions are to remain in effect and unchanged.

Scoping Process

Extensive public involvement has occurred on this project over the last ten years in the form of news releases, field tours, and public meetings. No additional scoping is planned for this supplement.

Comment Requested

A legal notice will be published in the newspaper of record and a Notice of Availability will be published in the **Federal Register** to inform the public when the supplement to the SWIEG FLRMP EIS is availale for review and comment. The draft supplement to the SWIEG FLRMP EIS will be distributed to all parties that received the 2003 SWIEG FLRMP Final EIS and Record of Decision and to those parties that filed an appeal of the 2003 decision.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft supplement to the SWIEG FLRMP EIS will be prepared for comment. The comment period on the draft supplement to teh SWIEG FLRMP EIS 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 the draft supplement must structure their participation in the environmental reivew 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 supplement stage but that are not raised until after completion of the final supplement 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 supplement to the SWIEG FLRMP EIS. To assist the Forest Service it is helpful if comments refer to specific pages or chapters of the draft supplement. 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: August 3, 2006.

Sharon LaBrecque,

Planning, GIS and Vegetation Staff Officer, Sawtooth National Forest.

[FR Doc. 06–6788 Filed 8–8–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Quachita-Ozark Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Meeting notice for the Quachita-Ozark Resource Advisory Committee under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Quachita-Ozark Resource Advisory Committee pursuant to Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106–393. Topics to be discussed include: general information, including status of the proposed reauthorization of the Act, proposed new Title II projects, updates on current or completed Title II projects, renewal of committee member terms and committee member recruitment needs and, if appropriate, next meeting date and agenda.

DATES: The meeting will be held on August 22, 2006, beginning at 6 p.m. and ending at approximately 9 p.m.

ADDRESSES: The meeting will be held at the Scott County Courthouse, 100 W. First Street, Waldron, AR 71958.

FOR FURTHER INFORMATION CONTACT: Caroline Mitchell, Committee Coordinator, USDA, Quachita National Forest, P.O. Box 1270, Hot Springs, AR 71902. (501–321–5318).

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff, Committee members, and elected officials. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. A public input session will be provided, and individuals who made written requests by August 21, 2006, will have the opportunity to address the committee at that session. Individuals wishing to speak or propose agenda items must send their names and proposals to Bill Pell, DFO, P.O. Box 1270, Hot Springs, AR 71902.

Dated: August 2, 2006.

Bill Pell,

Designated Federal officer.

[FR Doc. 06–6785 Filed 8–8–06; 8:45 am]

BILLING CODE 3410–52–M

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Del Norte County Resource Advisory Committee (RAC) will meet on August 14 and 15, 2006, in Crescent City, California.The purpose of the meeting is to review and vote on FY 2007 proposed title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on August 14 and 15, 2006 from 6 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Del Norte County Unified School District Board Room, 301 West Washington Street, Crescent City, California.

FOR FURTHER INFORMATION CONTACT: Julie Ranieri, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501. Phone: (707) 441–3673. e-mail: *jranieri@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The RAC will review and vote on the Title II proposals presented at the June 12 and 13, 2006, meetings. The meeting is open to the public. Individuals will have the opportunity to address the committee at that time.

Dated: July 20, 2006.

Tyrone Kelley,

Forest Supervisor.

[FR Doc. 06–6801 Filed 8–8–06; 8:45am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

[IN 0596–AC46]

Small Business Timber Sale Set-Aside Program Share Recomputation; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy directive; correction and extension of public comment.

SUMMARY: The Forest Service published a document in the **Federal Register** of August 1, 2006, concerning request for comments on Small Business Timber Sale Set-Aside Program Share Recomputation. The document contained a typographical error in the **SUPPLEMENTARY INFORMATION** caption. The **DATES** caption has been revised to reflect that comments must be received in writing 60 days from the date of publication of this correction notice in the **Federal Register**.

DATES: Comments must be received in writing by October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Richard Fitzgerald, Assistant Director, Forest Management Staff, by telephone at (202) 205–1753 or by Internet at *rfitzgerald@fs.fed.us.*

Correction

In the **Federal Register** of August 1, 2006, in FR Doc. E6–12310, on page 43437, in the first column, first full paragraph, second sentence, correct the **SUPPLEMENTARY INFORMATION** to read:

The Forest Service does not propose to include the IRSCs as they generally have lesser quantities of timber volume and they are governed by the Federal Acquisition Regulation and other procurement related statutes and regulations, as well as the laws and regulations governing set asides for small businesses seeking procurement contracts.

Dated: August 3, 2006.

Joel D. Holtrop,

Deputy Chief for National Forest System.

[FR Doc. E6–12991 Filed 8–8–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–827)

Certain Cased Pencils From The People's Republic of China: Notice of Extension of Time Limit for 2004–2005 Administration Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 9, 2006.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1766 or (202) 482–3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2006, the Department published in the **Federal Register** a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China, covering the period December 1, 2004, through November 30, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 5241 (February 1, 2006). The preliminary results for this administrative review are currently due no later than September 5, 2006.[1]

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department of Commerce (''Department'') to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Extension of Time Limits for Preliminary Results

The Department requires additional time to review and analyze the sales and cost information submitted by the respondent in this administrative review. Moreover, the Department requires additional time to analyze complex issues related to surrogate value selections. Thus, it is not practicable to complete this review within the original time limit (*i.e.*, 245 days). Therefore, the Department is partially extending the time limit for completion of the preliminary results by 90 days to 335 days, in accordance with section 751(a)(3)(A) of the Act. The preliminary results are now due no later than December 1, 2006. The final results continue to be due 120 days after publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 3, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E6–12997 Filed 8–8–06; 8:45 am]

BILLING CODE 3510–DS–S

[1] September 5, 2006, is the next business day after 245 days from the last day of the anniversary month of the order.

DEPARTMENT OF COMMERCE

International Trade Administration

A–823–808

Certain Cut–to-Length Carbon Steel Plate from Ukraine; Preliminary Results of Administrative Review of the Suspension Agreement

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of the Administrative Review of the Suspension Agreement on Certain Cut–to-Length Carbon Steel Plate from Ukraine

SUMMARY: In response to a request from Mittal Steel USA ISG Inc. (Mittal Steel USA), a domestic interested party, the Department of Commerce (the Department) is conducting an administrative review of the suspension agreement on certain cut–to-length carbon steel plate from Ukraine (the Agreement) for the period November 1, 2004 through October 31, 2005, to review the current status of, and compliance with, the Agreement. For the reasons stated in this notice, the Department preliminarily determines that the Government of Ukraine (GOU) is in compliance with the Agreement. The preliminary results are set forth in the section titled ''Preliminary Results of Review,'' infra. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to provide: (1) a statement of the issues, and (2) a brief summary of the arguments.

EFFECTIVE DATE: August 9, 2006.

FOR FURTHER INFORMATION CONTACT: Judith Rudman or Jay Carreiro, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–0192 or (202) 482–3674.

SUPPLEMENTARY INFORMATION:

Background

On October 24, 1997, the Department signed an agreement with the Government of Ukraine which suspended the antidumping duty investigation on certain cut–to-length carbon steel plate (CTL plate) from Ukraine. *See Suspension of Antidumping Duty Investigation: Certain Cut–to-Length Carbon Steel Plate from Ukraine*, 62 FR 61766 (November 19, 1997). In accordance with section 734(g) of the Tariff Act of 1930 (the Tariff Act), on November 19, 1997, the Department also published its final determination of sales at less than fair value in this case. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754 (November 19, 1997).

On November 30, 2005, Mittal Steel USA submitted a request for an administrative review pursuant to *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 65883 (November 1, 2005). The Department initiated a review of the Agreement on December 22, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part (Initiation Notice)*, 70 FR 76024 (December 22, 2005).

Scope of Review

The products covered by the Agreement include hot–rolled iron and non–alloy steel universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non–alloy steel flat–rolled products not in coils, of rectangular shape, hot–rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in the Agreement are flat–rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') for example, products which have been beveled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of the Agreement is dispositive. Specifically excluded from subject merchandise within the scope of this Agreement is grade X–70 steel plate.

Period of Review

The period of review (POR) is November 1, 2004 through October 31, 2005.

Preliminary Results of Review

Section 751(a)(1)(C) of the Tariff Act specifies that the Department shall ''review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.'' In this case the Department and the GOU signed the Agreement suspending the antidumping duty investigation on CTL Plate from Ukraine on October 24, 1997. In order to effectively restrict the volume of exports of CTL Plate from Ukraine to the United States, Article VI of the Agreement provides for the implementation by the GOU of certain legal and administrative provisions. Moreover, Article VIII of the Agreement (Monitoring) requires the GOU to ''provide to the Department such information as is necessary and appropriate to monitor the implementation of and compliance with the terms of [the] Agreement.'' The Department primarily relies upon three tools to administer the Agreement: i) export licenses issued by the GOU, and received by the Department from U.S. Customs and Border Protection (CBP); ii) reference prices, revised quarterly by the Department; and iii) the annual export limits setting a quota on total imports of CTL plate from Ukraine. The GOU must restrict the volume of direct and indirect exports of CTL plate from Ukraine to the United States by means of export licenses. In addition, subject merchandise may not be sold below the quarterly reference prices issued by the Department.

On January 19, 2006 and April 14, 2006, the Department issued questionnaires to the GOU. The GOU submitted its responses on February 27, 2006 and May 12, 2006, respectively. Our review of the information submitted by the GOU indicates that the GOU adhered to the major terms of the Agreement. The GOU implemented the provisions of the Agreement through the passage of Presidential Decrees, Orders of the Ministry of Foreign Economic Relations and Trade of Ukraine, and Statute of the Cabinet of Ministers of Ukraine. *See* Exhibits 1 through 6 of the February 27, 2006 response.

These legal enactments by the GOU established an export licensing program for all exports of CTL plate to the United States and mandated that merchandise would not be sold below the reference price. Pursuant to section VIII of the Agreement, the GOU conformed to the Agreement's monitoring requirement by timely filing semi–annual reports indicating the volume of sales of CTL plate in the home market and to third countries. The GOU has also timely filed monthly reports on export licenses issued for sales of subject merchandise to the United States. The Agreement also stipulates the GOU must ensure compliance ''by any official Ukrainian institution, chamber, or other entities authorized by the [GOU], all producers, exporters, brokers, and traders of CTL plate, and their affiliated parties, as well as independent trading companies/resellers utilized by the Ukrainian producer to make sales to the United States.'' The Ukrainian producers conformed to this requirement by inserting a clause in their contracts which prohibited the re–exportation of subject merchandise to the United States without the written permission of the producer and required their customers to include re–exportation cautions in contracts of further resales of the goods.

Our review of the information submitted by the GOU indicates that each of the export licenses governed by the Agreement were at or above the quarterly FOB reference prices stipulated by the Agreement. Furthermore, data supplied by the GOU in its monthly reports, as well as our independent review of import data compiled by CBP, indicates Ukraine did not exceed its annual export limits. Therefore, we preliminarily determine

that the GOU has been in compliance with the Agreement.

Public Comment

An interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309 (c). Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. See 19 CFR 351.309(d). Parties who submit comments in these proceedings are requested to submit provide: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, parties submitting case briefs and/or rebuttal briefs are requested to provide the Department with an additional copy of the public version of any such briefs on diskette. The Department will issue the final results of this administrative review, including the results of our analysis of the issues raised in any written comments or at a hearing, if requested, within 120 days of publication of these preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: August 2, 2006.

David M. Spooner,

Assistant Secretary forImport Administration.

[FR Doc. E6–12998 Filed 8–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–803]

Light–Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Continuation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce and the International Trade Commission that revocation of the antidumping duty order on light–walled welded rectangular carbon steel tubing from Taiwan would be likely to lead to continuation or recurrence of dumping and of material injury to an industry in the United States within a reasonably foreseeable time, the Department is publishing notice of the continuation of this antidumping duty order.

EFFECTIVE DATE: August 9, 2006.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Minoo Hatten, Office 5, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3931 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2005, the Department of Commerce (the Department) initiated and the International Trade Commission (ITC) instituted the second sunset review of the antidumping duty order on light–walled welded rectangular carbon steel tubing from Taiwan pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-year (''Sunset'') Reviews*, 70 FR 38101 (July 1, 2005); *Institution of Five-year Reviews Concerning the Countervailing Duty Order on Welded Carbon Steel Pipe and Tube from Turkey and the Antidumping Duty Orders on Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey*, 70 FR 38204 (July 1, 2005). As a result of its review, the Department found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked. *See Light–Walled Welded Rectangular Carbon Steel Tubing from Argentina and Taiwan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 67432 (November 7, 2005). On June 29, 2006, the ITC determined pursuant to section 751(c) of the Act that revocation of the antidumping duty order on light–walled welded rectangular carbon steel tubing from Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See *Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey*, 71 FR 42118 (July 25, 2006), and ITC Publication 3867 (July 2006) entitled *Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey: Investigation Nos. 701–TA–253 and 731–TA–132, 252, 271, 409, 410, 532–534, and 536 (Second Review)*.

Scope of the Order

The product covered by this order is light–walled welded carbon steel pipes and tubes of rectangular (including square) cross-section having a wall thickness of less than 0.156 inch. This merchandise is classified under item number 7306.60.50.00 of the Harmonized Tariff Schedule of the United States. It was formerly classified under item number 610.4928 of the Tariff Schedules of the United States.

Determination

As a result of the determinations by the Department and ITC that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on light–walled welded rectangular carbon steel tubing from Taiwan.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than July 2011.

This notice is in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: August 1, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–13000 Filed 8–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–831]

Stainless Steel Sheet and Strip in Coils from Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests by one Taiwanese manufacturer/exporter, Chia Far Industrial Factory Co., Ltd. (Chia

Far) and petitioners,[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (SSSS) from Taiwan. This review covers fifteen producers/exporters of the subject merchandise. The period of review (POR) is July 1, 2004, through June 30, 2005.

The Department has preliminarily determined that some of the companies subject to this review made U.S. sales at prices less than normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. We will issue the final results of review no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: August 9, 2006.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–3518.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1999, the Department published in the **Federal Register** the antidumping duty order on SSSS from Taiwan. *See Notice of Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From United Kingdom, Taiwan, and South Korea*, 64 FR 40555 (July 27, 1999). On July 1, 2005, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on SSSS from Taiwan. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 38099 (July 1, 2005).

On July 29, 2005, Chia Far requested that the Department conduct an administrative review of its sales and entries of subject merchandise into the United States during the POR, in accordance with 19 CFR § 351.213(b)(2). Additionally, on July 29, 2005, petitioners requested that the Department conduct a review of fifteen companies pursuant to 19 CFR § 351.213(b)(1). Based on these requests, the Department initiated an administrative review of the following fifteen companies: Ta Chen Stainless Pipe Co., Ltd. (Ta Chen), China Steel Corporation (China Steel), Yieh Mau Corp. (Yieh Mau), Chain Chon Industrial Co., Ltd. (Chain Chon), Goang Jau Shing Enterprise Co., Ltd. (Goang Jau Shing), PFP Taiwan Co., Ltd. (PFP Taiwan), Yieh Loong Enterprise Co., Ltd. (also known as Chung Hung Steel Co., Ltd. (Yieh Loong), Tang Eng Iron Works (Tang Eng), Yieh Trading Corp. (Yieh Corp.), Chien Shing Stainless Co. (Chien Shing), Chia Far, Yieh United Steel Corporation (YUSCO), Emerdex Stainless Flat–Rolled Products, Inc., Emerdex Stainless Steel, Inc., and the Emerdex Group (the Emerdex companies). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005).

On August 10, 2005, the Department issued its antidumping questionnaire to all of the companies for which a review was initiated except the Emerdex companies (for further discussion of the Emerdex companies, see the section of this notice entitled ''Partial Preliminary Rescission of Review,'' below).[2] Of the seven companies that responded to the questionnaire, only Chia Far reported that it sold subject merchandise to the United States during the POR.

Throughout this administrative review, the Department has issued supplemental questionnaires to Chia Far, YUSCO, and Yieh Mau, and petitioners have submitted comments regarding the respondents' questionnaire responses. The petitioners have also submitted comments regarding the Emerdex companies, Ta Chen, and the respondents claiming no sales or shipments.

On February 23, 2006, the Department notified the following companies by letter that if they did not respond to the Department's requests for information by March 9, 2006, the Department may use adverse facts available (AFA) in determining their dumping margins: Tang Eng, Goang Jau Shing, Chien Shing, PFP Taiwan, China Steel, Chain Chon, and Yieh Corp. On March 8, 2006, Chain Chon reported that it and its affiliates did not export subject merchandise to the United States during the POR. On June 9, 2006, China Steel reported that it did not produce, sell, or export subject merchandise to the United States during the POR.

On March 22, 2006, the Department extended the deadline for issuing the preliminary results in this administrative review until July 31, 2006. *See Stainless Steel Sheet and Strip in Coils from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 14502 (March 22, 2006).

The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Period of Review

The POR is July 1, 2004, through June 30, 2005.

Scope of the Order

The products covered by the order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat–rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold–rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80,

[1] The petitioners are Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., United Steelworks of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under review. Section E requests information on further manufacturing.

7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under the order is dispositive.

Excluded from the scope of the order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat–rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold–rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat–rolled product of stainless steel, not further worked than cold–rolled (cold–reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

Also excluded from the scope of the order are certain specialty stainless steel products described below. Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus–or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of the order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron–chromium-cobalt alloy stainless strip is also excluded from the scope of the order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as Arnokrome III.[3]

Certain electrical resistance alloy steel is also excluded from the scope of the order. This product is defined as a non–magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as Gilphy 36.[4]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of the order. This high–strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as Durphynox 17.[5]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of the order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[6] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as GIN4 Mo. The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is GIN5 steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and

[3] Arnokrome III is a trademark of the Arnold Engineering Company.

[4] Gilphy 36 is a trademark of Imphy, S.A.

[5] Durphynox 17 is a trademark of Imphy, S.A.

[6] This list of uses is illustrative and provided for descriptive purposes only.

0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, GIN6.[7]

Partial Preliminary Rescission of Review

Six respondents, YUSCO, Yieh Mau, Ta Chen, Chain Chon, Yieh Loong, and China Steel, certified to the Department that they did not ship subject merchandise to the United States during the POR. The Department subsequently obtained CBP information consistent with the respondents' claims. *See* Memorandum From Melissa Blackledge To The File, Data Query Results and Entry Packages, dated June 29, 2006.

The evidence on the record does not indicate that YUSCO, Yieh Mau, Ta Chen, Chain Chon, Yieh Loong, or China Steel exported subject merchandise to the United States during the POR. Therefore, it is appropriate to rescind the review for these respondents based on the fact that there were no exports or entries of SSSS during the POR. *See Chia Far Industrial Factory Co., Ltd. v. United States*, 343 F. Supp 2d 1344, 1374 (2004). In accordance with 19 CFR § 351.213(d)(3) and consistent with the Department's practice, we are preliminarily rescinding our review with respect to YUSCO, Yieh Mau, Ta Chen, Chain Chon, Yieh Loong, and China Steel. *See, e.g., Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey, 63 FR 35190, 35191 (June 29, 1998); Certain Fresh Cut Flowers from Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53288 (October 14, 1997).

Emerdex Companies

The Department finds that it is appropriate to rescind the instant review with respect to the Emerdex Companies. During the course of this administrative review, petitioners have submitted the following information which they claim supports their contention that there is an Emerdex company which is a Taiwanese exporter, supplier, or producer of subject merchandise: (1) a 2003 Dun & Bradstreet *Business Information Report* for Emerdex Stainless Flat Roll Products Inc. (Emerdex Flat Roll) indicating the company ''operates blast furnaces or steel mills, specializing in the manufacture of stainless steel,'' (2) Emerdex Flat Roll's 2003 U.S. income tax return indicating at least 25% of the company is owned by someone in Taiwan, (3) the 2002 financial statement of Ta Chen showing the second largest accounts payable balance for the company was owed to Emerdex. According to petitioners, the principal input used by Ta Chen in production is SSSS.[8] Based upon the above information, petitioners urge the Department to explore this matter further by issuing a series of questions regarding affiliation to any parent company that Emerdex might have in Taiwan (via Emerdex Flat Roll or Ta Chen).

Notwithstanding petitioners' arguments, we find it appropriate to preliminarily rescind the instant review with respect to the Emerdex companies rather than undertake an examination of those U.S. companies, and their affiliates, in order to determine the appropriate respondent. Pursuant to 19 CFR § 351.213(b)(2), domestic interested parties may request a review of ''specified individual exporters or producers covered by the order.'' Information in the petitioners' September 27, 2005, submission to the Department indicates that the Emerdex Companies named by petitioners in their review request are United States corporations located in California, U.S.A.[9] *See also* petitioners' November 5, 2005, submission to the Department. The party requesting an administrative review ''must bear the relatively small burden imposed on it by the regulation to name names'' of the appropriate respondent in its review request. *See Floral Trade Council v. United States, et al., 17 CIT 1417, 1418 citing Floral Trade Council v. United States*, 888 F.2d 1366, 1369 (Fed. Cir. 1989) 1993; *see also Potassium Permanganate From the People's Republic of China: Rescission of Antidumping Duty Administrative Review*, 68 FR 58306, 58307 (October 9, 2003) (the Department rescinded the review noting that the party requested a review of a U.S. importer, rather than an exporter or producer of subject merchandise and it failed to identify the exporter or producer to be reviewed). Where this burden has not been met, the ''ITA is not required to conduct an investigation to determine who should be investigated in an administrative review proceeding.'' *Floral Trade Council v. United States et al.*, 707 F. Supp. 1343, 1345 (1989). Moreover, petitioners' failure to name the actual parties to be reviewed has deprived importers of notice that their imports could be affected by the review. As the Court of International Trade (CIT) stated, the Department's initiation notice ''serves to notify any interested party that the antidumping duty rate on goods obtained from exporters named in the notice of initiation for an administrative review may be affected by the outcome of that review. So apprised, ''importers could participate in the administrative review in an effort to ensure that the calculation of antidumping duties on those products was correct.'' *See Transcom, Inc. v. United States*, 182 F.3d 876, 880 (1999). Here, no such notice was given because petitioners failed to name the foreign exporters or producers to be reviewed.

Lastly, we note that none of the information placed on the record by petitioners demonstrates that there is an Emerdex parent corporation in Taiwan that produces or exports subject merchandise. The Dunn & Bradstreet report and Ta Chen's accounts payable balance relate to the Emerdex companies located in California, not companies located in Taiwan.[10] Furthermore, Emerdex Flat Roll's 2003 U.S. tax return does not state that the company has a parent corporation in Taiwan. Rather, the tax return simply notes that during the tax year, a ''foreign person'' in Taiwan owned, directly or indirectly, either 25% or more of the

[7] GIN4 Mo, GIN5 and GIN6 are the proprietary grades of Hitachi Metals America, Ltd.

[8] Ta Chen has been a respondent in the antidumping duty proceeding involving stainless steel butt-weld pipe fittings from Taiwan. In the 2002-2003 segment of that proceeding, the Department found Ta Chen to be affiliated to the Emerdex companies (these companies imported stainless steel butt-weld pipe fittings into the United States). As noted above, Ta Chen is also a respondent in the instant administrative review.

[9] Also, the Department was not able to locate any company in Taiwan named Emerdex or with Emerdex as part of its name, and the petitioners did not submit any information on the record identifying any Emerdex company located or operating in Taiwan.

[10] Additionally, the Department has obtained information from Dunn & Bradstreet indicating that Emerdex Flat Roll is a wholesaler of stainless steel products, not a producer. *See* the Memorandum From Melissa Blackledge To The File regarding the Dun & Bradstreet *Business Information Report* submitted by Collier Shannon Scott, PLLC on behalf of petitioners, dated February 27, 2006. The information the Department obtained from Dunn & Bradstreet is consistent with the business activity code reported for Emerdex Flat Roll in the company's 2003 U.S. income tax return and the information reported to the Department in the 2002-2003 administrative review of stainless steel butt-weld pipe fittings from Taiwan. *See* Ta Chen's January 26, 2003, supplemental questionnaire response (at B-1 and B-2) from the stainless steel butt-weld pipe fittings case (on July 13, 2006, the Department placed these pages on the record of this review).

company's voting shares or 25% or more of the total value of all classes of the company's stock. The information in the tax return does not indicate that the ''foreign person'' is a company, let alone a company that produces or exports subject merchandise. Accordingly, the Department is preliminarily rescinding the instant review with respect to the Emerdex companies.

Use of Facts Available

Section 776(a)(2) of the Act, provides that if any interested party: (A) withholds information that has been requested by the Department, (B) fails to provide such information by the deadlines for submission of the information or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in making its determination.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

The evidence on the record of this review establishes that, pursuant to section 776(a)(2)(A) of the Act, the use of total facts available is warranted in determining the dumping margin for Tang Eng, PFP Taiwan, Yieh Corp., Goang Jau Shing, and Chien Shing, because these companies failed to provide requested information. Specifically, these companies failed to respond to the Department's antidumping questionnaire.

On February 23, 2006, the Department informed these companies by letter that failure to respond to the requests for information by March 9, 2006, may result in the use of facts available in determining their dumping margins. These five manufacturers/exporters, however, did not respond to the Department's February 23, 2006, letter. Because these respondents failed to provide any of the necessary information requested by the Department, pursuant to section 776(a)(2)(A) of the Act, we have based the dumping margins for these companies on the facts otherwise available.

Use of Adverse Inferences

Section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority..., the administering authority ... in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H. Rep. No. 103–316 at 870 (1994). Section 776(b) of the Act also provides that an adverse inference may include reliance on information derived from (1) the petition; (2) a final determination in the investigation under this title; (3) any previous review under section 751 or determination under section 753; or (4) any other information on the record.

Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870; *Mannesmannrohren–Werke AG v. United States*, 77 F. Supp. 2d 1302 (CIT 1999). The Court of Appeals for the Federal Circuit (CAFC), in *Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1380 (Fed. Cir. 2003), held that the Department need not show intentional conduct existed on the part of the respondent in substantiating a finding of ''failure to act to the best of a respondent's ability;'' but rather an adverse inference may be drawn from circumstances in which it is reasonable for Commerce to expect that more forthcoming responses should have been made, i.e., information was not provided ''under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.'' *Id.*

The record shows that Tang Eng, PFP Taiwan, Yieh Corp., Goang Jau Shing, and Chien Shing failed to cooperate to the best of their abilities, within the meaning of section 776(b) of the Act. As noted above, Tang Eng, PFP Taiwan, Yieh Corp., Goang Jau Shing, and Chien Shing failed to provide any response to the Department's requests for information. As a general matter, it is reasonable for the Department to assume that these companies possessed the records necessary to participate in this review; however, by not supplying the information the Department requested, these companies failed to cooperate to the best of their abilities. As these companies have failed to cooperate to the best of their abilities, we are applying an adverse inference in determining their dumping margin pursuant to section 776(b) of the Act. We have therefore assigned these companies a dumping margin of 21.10 percent, which is the highest appropriate dumping margin from this or any prior segment of the instant proceeding. *See* section 776(b)(2) of the Act. This rate was the highest petition margin and was used as AFA in numerous antidumping duty administrative reviews of this order. *See, e.g., Stainless Steel Sheet and Strip from Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 6682 (February 13, 2002) (*1999–2000 AR of SSSS from Taiwan*).

The Department notes that while the highest dumping margin calculated during this or any prior segment of the instant proceeding is 36.44 percent, this margin represents a combined rate applied to a channel transaction in the investigation in this proceeding, and it is based on ''middleman dumping'' by Ta Chen. *See Tung Mung Development Co. v. United States*, 219 F. Supp. 2d 1333, 1345 (CIT 2002), aff'd 354 F. 3d 1371, 1382 (Fed. Cir. 2004). Where circumstances indicate that a particular dumping margin is not appropriate as AFA, the Department will disregard the margin and determine another more appropriate one as facts available. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest dumping margin for use as AFA because the margin was based on another company's uncharacteristic business expense, resulting in an unusually high dumping margin). An AFA rate based on middleman dumping would be inappropriate given that the record does not indicate that any of Tang Eng's, PFP Taiwan's, Yieh Corp.'s, Goang Jau Shing's, or Chien Shing's exports to the United States during the POR involved a middleman. Thus, consistent with previous reviews, the Department has continued to use as AFA the highest dumping margin from any segment of the proceeding for a producer's direct exports to the United States, without middleman dumping, which is 21.10 percent.

Section 776(c) of the Act requires that the Department, to the extent practicable, corroborate secondary information from independent sources that are reasonably at its disposal.

Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. As noted in *F.Lii de Cecco di Filippo Fara S. Martino, S.p.A. v. United States*, 216 F.3d 1027, 1030 (2000), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information.

The rate of 21.10 percent constitutes secondary information. To corroborate this rate we compared recent transaction–specific rates for other respondents covered by the antidumping duty order on SSSS from Taiwan to the 21.10 percent rate and found the 21.10 percent rate to be reliable and relevant for use in this administrative review. For the company–specific information used to corroborate this rate, see Memorandum from Melissa Blackledge, International Trade Analyst, to the File regarding Research for Corroboration for the Preliminary Results in the 2004–2005 Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils From Taiwan, dated concurrently with this notice. We find the 21.10 percent rate to be probative because it does not appear to be aberrational when compared to the respondents' transaction–specific rates and no information has been presented to call into question the relevance of the rate. Thus, we find that the rate of 21.10 percent is sufficiently corroborated for purposes of the instant administrative review.

Affiliation

During the first administrative review in this proceeding, the Department found Chia Far and its U.S. reseller, Lucky Medsup Inc. (Lucky Medsup), to be affiliated by way of a principal–agent relationship. The Department primarily based its finding on: (1) a document demonstrating the existence of a principal–agent relationship; (2) Chia Far's degree of involvement in sales between Lucky Medsup and its customers; (3) evidence indicating Chia Far knew the identity of Lucky Medsup's customers, and the customers were aware of Chia Far; (4) Lucky Medsup's operations as a ''go–through'' who did not maintain any inventory or further manufacture products; and, (5) Chia Far's inability to provide any documents to support its claim that the document indicating a principal–agent relationship was not valid during the POR. *See Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 6682 (February 13, 2002) and the accompanying *Issues and Decision Memorandum* at Comment 23 (upheld by CIT in *Chia Far Industrial Factory Co. Ltd. v. United States, et al.*, 343 F. Supp. 2d 1344, 1356 (August 2, 2004)). The Department continues to treat Chia Far and Lucky Medsup as affiliated parties.

In the instant administrative review Chia Far contends that it is no longer affiliated with Lucky Medsup because: (1) there is no cross–ownership between Chia Far and Lucky Medsup and no sharing of officers or directors; (2) Lucky Medsup's owner operates independently of Chia Far as a middleman; (3) Lucky Medsup's transactions with Chia Far are at arm's length; (4) there are no exclusive distribution contracts between Lucky Medsup and Chia Far (the one that existed in 1994, was terminated in 1995); and, (5) Lucky Medsup is not obligated to sell Chia Far's merchandise and Chia Far is not obligated to sell through Lucky Medsup in the United States.

We, however, find the fact pattern in the instant review mirrors that which existed in the first antidumping duty administrative review when the Department found the parties to be affiliated. *See Stainless Steel Sheet and Strip From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 6682 (February 13, 2002). First and foremost, Chia Far could not provide any documents in response to the Department's request that it demonstrate that the agency agreement was terminated and the principal–agent relationship no longer exists. *See* Chia Far's January 19, 2006, supplemental questionnaire response at page 4. Furthermore, Chia Far's degree of involvement in Lucky Medsup's U.S. sales is similar to that found in prior reviews. Specifically, Chia Far played a role in the sales negotiation process with the end–customer (Chia Far was informed of the identity of the end–customers and of certain sales terms that they had requested before it set its price to Lucky Medsup), Lucky Medsup's sales order confirmation identifies Chia Far as the manufacturer, and Chia Far shipped the merchandise directly to end–customers and provided technical assistance directly to certain end–customers. Lastly, as was true in prior segments of this proceeding, during the instant POR Lucky Medsup did not maintain inventory or further manufacture SSSS. Therefore, we continue to find that Chia Far is affiliated with Lucky Medsup by way of a principal–agent relationship.

Identifying Home Market Sales

Section 773 (a)(1)(B) of the Act defines NV as the price at which foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country (home market), in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade (LOT) as the export price (EP) or constructed export price (CEP). In implementing this provision, the CIT has found that sales should be reported as home market sales if the producer ''knew or should have known that the merchandise {it sold} was for home consumption based upon the particular facts and circumstances surrounding the sales.'' *See Tung Mung Development Co., Ltd. & Yieh United Steel Corp. v. United States, et al.*, 25 CIT 752, 783 (2001); *citing INA Walzlager Schaeffler KG v. United States*, 957 F. Supp. 251 (1997). Where a respondent has no knowledge as to the destination of subject merchandise, except that it is for export, the Department will classify such sales as export sales and exclude them from the home market sales database. *See Final Determination of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products, Certain Cold–Rolled Carbon Steel Plate Products, Certain Corrosion–Resistant Carbon Steel Flat Products, and Certain Cut–to-Length Carbon Steel Plate From Korea*, 58 FR 37176, 37182 (July 9, 1993).

In its September 30, 2005, questionnaire response, Chia Far stated that it has reason to believe that some of the home market customers to whom it sold SSSS during the POR may have exported the merchandise. Specifically, Chia Far indicated that it shipped some of the SSSS it sold to home market customers during the POR to a container yard or placed the SSSS in an ocean shipping container at the home market customer's request. Chia Far stated that even though the merchandise was containerized or sent to a container yard, it could not prove the merchandise was exported to a third country, and therefore, it included those sales in its reported home market sales. Although Chia Far stated that it does not definitively know whether the SSSS in question will be exported, the Department has preliminarily

determined that, based on the fact that these sales were sent to a container yard or placed in a container by Chia Far at the request of the home market customer, Chia Far should have known that the SSSS in question was not for consumption in the home market. Therefore, the Department has preliminarily excluded these sales from Chia Far's home market sales database.

Comparison Methodology

In order to determine whether Chia Far sold SSSS to the United States at prices less than NV, the Department compared the EP and CEP of individual U.S. sales to the monthly weighted–average NV of sales of the foreign like product made in the ordinary course of trade. *See* section 777A(d)(2) of the Act; *see also* section 773(a)(1)(B)(i) of the Act. Section 771(16) of the Act defines foreign like product as merchandise that is identical or similar to subject merchandise and produced by the same person and in the same country as the subject merchandise. Thus, we considered all products covered by the scope of the order that were produced by the same person and in the same country as the subject merchandise, and sold by Chia Far in the comparison market during the POR, to be foreign like products for the purpose of determining appropriate product comparisons to SSSS sold in the United States.

During the POR, Chia Far sold subject merchandise and foreign like product that it made from hot- and cold–rolled stainless steel coils (products covered by the scope of the order) purchased from unaffiliated parties. Chia Far further processed the hot- and cold–rolled stainless steel coils by performing one or more of the following procedures: cold–rolling, bright annealing, surface finishing/shaping, slitting. We did not consider Chia Far to be the producer of the merchandise under review if it performed insignificant processing on the coils (*e.g.*, annealing, slitting, surface finishing). *See Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 69 FR 74495 (December 14, 2004) and the accompanying *Issues and Decision Memorandum* at Comment 4 (listing painting, slitting, finishing, pickling, oiling, and annealing as minor processing for flat–rolled products). Furthermore, we did not consider Chia Far to be the producer of the cold–rolled products that it sold if it was not the first party to cold roll the coils. The cold–rolling process changes the surface quality and mechanical properties of the product and produces useful combinations of hardness, strength, stiffness, and ductility. Stainless steel cold–rolled coils are distinguished from hot–rolled coils by their reduced thickness, tighter tolerances, better surface quality, and increased hardness which are achieved through cold–rolling. Chia Far's cold rolling of the cold–rolled coils that it purchased may have modified these characteristics to suit the needs of particular customers; however, it did not impart these defining characteristics to the finished coils. Thus, we considered the original party that cold–rolled the product to be its producer.

The Department compared U.S. sales to sales made in the comparison market within the contemporaneous window period, which extends from three months prior to the month in which the U.S. sale was made until two months after the month in which the U.S. sale was made. Where there were no sales of identical merchandise made in the comparison market in the ordinary course of trade, the Department compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making product comparisons, the Department selected identical and most similar foreign like products based on the physical characteristics reported by Chia Far in the following order of importance: grade, hot- or cold–rolled, gauge, surface finish, metallic coating, non–metallic coating, width, temper, and edge. Where there were no appropriate sales of the foreign like product to compare to a U.S. sale, we compared the price of the U.S. sale to constructed value (CV), in accordance with section 773(a)(4) of the Act.

Export Price and Constructed Export Price

The Department based the price of Chia Far's U.S. sales of subject merchandise on EP or CEP, as appropriate. Specifically, when Chia Far sold subject merchandise to unaffiliated purchasers in the United States prior to importation, and CEP was not otherwise warranted based on the facts of the record, we based the price of the sale on EP, in accordance with section 772 (a) of the Act. On the other hand, when Chia Far sold subject merchandise to unaffiliated purchasers in the United States after importation through its U.S. affiliate, Lucky Medsup, we based the price of the sale on CEP, in accordance with section 773(b) of the Act. Although Chia Far based the date of sale for its EP and CEP transactions on the order confirmation date, in response to questions from the Department, Chia Far reported information showing that the material terms of U.S. sales changed after the order confirmation date (*e.g.*, ordered quantities in excess of the allowable variation and changes to prices). *See* Chia Far's January 19, 2006, at 24, and April 5, 2006, at 1, supplemental questionnaire responses.

Normally, the Department considers the respondent's invoice date as recorded in its business records to be the date of sale unless a date other than the invoice date better reflects the date on which the company establishes the material terms of sale. *See* 19 CFR § 351.401(i). Given that changes to the material terms of sale occurred after the order confirmation date, the record does not support using order confirmation as the date of sale. Therefore, we have preliminarily used invoice date as the date of sale for Chia Far's EP and CEP transactions. However, consistent with the Department's practice, where the invoice was issued after the date of shipment to the first unaffiliated U.S. customer, we relied upon the date of shipment as the date of sale. *See Certain Cold–Rolled and Corrosion Resistant Carbon Steel Flat Products From Korea; Final Results of Antidumping Duty Administrative Reviews*, 64 FR 12927, 12935 (March 16, 1999), citing *Certain Cold–Rolled and Corrosion Resistant Carbon Steel Flat Products From Korea; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13172–73 (March 18, 1998) (''in these final results we have followed the Department's methodology from the final results of the third reviews, and have based date of sale on invoice date from the U.S. affiliate, unless that date was subsequent to the date of shipment from Korea, in which case that shipment date is the date of sale.'').

In accordance with sections 772 (a) and (c) of the Act, we calculated EP using the prices Chia Far charged for packed subject merchandise, from which we deducted, where applicable, the following expenses: foreign inland freight (from Chia Far's plant to the port of exportation), brokerage and handling, international ocean freight, marine insurance, container handling, and harbor construction. Additionally, we added to the starting price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act.

In accordance with sections 772(c)(2)(A) and 772(d)(1) and (3) of the Act, we calculated CEP using the prices charged for packed subject merchandise sold to the first unaffiliated purchaser in the United States, from which we deducted the following expenses: foreign inland freight (from Chia Far's plant to the port of exportation), brokerage and handling, international

ocean freight, marine and inland insurance, container handling, harbor construction, other U.S. transportation, U.S. duty, direct and indirect selling (to the extent these expenses are associated with economic activity in the United States), and CEP profit (profit allocated to expenses deducted under sections 772(d)(1) and (d)(2) of the Act in accordance with sections 772(d)(3) and 772(f) of the Act). We computed profit by deducting from total revenue realized on sales in both the U.S. and comparison markets, all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets. Lastly, we added to the starting price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act.

Normal Value

After testing home market viability and whether comparison–market sales were at below–cost prices, we calculated NV for Chia Far as noted in the ''Price–to-Price Comparisons'' and ''Price–to-CV Comparisons'' sections of this notice.

A. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared the aggregate volume of Chia Far's home market sales of the foreign like product to the aggregate volume of its U.S. sales of subject merchandise. Because the aggregate volume of Chia Far's home market sales of foreign like product is more than five percent of the aggregate volume of its U.S. sales of subject merchandise, we based NV on sales of the foreign like product in the respondent's home market. *See* section 773(a)(1)(C)(ii) of the Act.

B. Cost of Production Analysis

In the previous administrative review in this proceeding, the Department determined that Chia Far sold foreign like product at prices below the cost of producing the product and excluded such sales from the calculation of NV. *See Stainless Steel Sheet and Strip in Coils from Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 7519 (February 13, 2006). As a result, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department has determined that there are reasonable grounds to believe or suspect that during the instant POR, Chia Far sold foreign like product at prices below the cost of producing the product. Thus, the Department initiated a sales below cost inquiry with respect to Chia Far.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, for each foreign like product sold by Chia Far during the POR, we calculated a weighted–average COP based on the sum of the respondent's materials and fabrication costs, selling, general and administrative (G&A) expenses, including interest expenses and packing costs. We made the following adjustments to Chia Far's cost data: (1) we set interest expenses to zero, (2) we used Chia Far's July 11, 2006, cost database, which excludes costs related to subject merchandise not produced by Chia Far, and (3) for the cost of subject merchandise not produced by Chia Far, we used, as facts available, Chia Far's costs to produce merchandise with characteristics identical or similar to characteristics of the subject merchandise not produced by Chia Far. For further information see Memorandum to Neal M. Halper from Laurens van Houten, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Chia Far Industrial Factory Co., Ltd., dated concurrently with this notice.

2. Test of Comparison–Market Sales Prices

In order to determine whether sales were made at prices below the COP on a product–specific basis, we compared the respondent's weighted–average COP to the prices of its home market sales of foreign like product, as required under section 773(b) of the Act. In accordance with sections 773(b)(1)(A) and (B) of the Act, in determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made: (1) in substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time. We compared the COP to home market sales prices, less any applicable movement charges and direct and indirect selling expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were made at prices less than the COP, we did not disregard any below–cost sales of that product because the below–cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were made at prices less than the COP during the POR, we determined such sales to have been made in ''substantial quantities'' within an extended period of time (*i.e.*, one year) pursuant to sections 773(b)(2)(B) and (C) of the Act. Based on our comparison of POR average costs to reported prices, we also determined, in accordance with section 773(b)(2)(D) of the Act, that these sales were not made at prices which would permit recovery of all costs within a reasonable period of time. As a result, we disregarded below–cost sales for Chia Far.

Price–to-Price Comparisons

Where it was appropriate to base NV on prices, we used the prices at which the foreign like product was first sold by Chia Far for consumption in the home market, in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same LOT as the comparison U.S. sale. We excluded from our analysis Chia Far's home market sales of foreign like product identified by the Department as having been manufactured by parties other than the parties who manufactured the subject merchandise sold by Chia Far to U.S. customers during the POR.

In accordance with sections 773(a)(6)(A), (B), and (C) of the Act, where appropriate, we deducted from the starting price rebates, warranty expenses, movement expenses, home market packing costs, credit expenses and other direct selling expenses and added U.S. packing costs and, for NVs compared to EPs, credit expenses, and other direct selling expenses. Additionally, where appropriate, we made price adjustments for physical differences in the merchandise. *See* 773(a)(6)(C)(ii) of the Act and 19 CFR § 351.410(e). Finally, in accordance with the Department's practice, where all contemporaneous matches to a U.S. sale resulted in difference–in-merchandise adjustments exceeding 20 percent of the cost of manufacturing the U.S. product, we based NV on CV.

Price–to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we based NV on CV when we were unable to compare the U.S. sale to a home market sale of an identical or similar product. For each unique SSSS product sold to unaffiliated customers in the United States during the POR, we calculated a weighted–average CV based on the sum of the respondent's materials

and fabrication costs, SG&A expenses, including interest expenses, packing costs, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the home market. We based selling expenses on weighted–average actual home market direct and indirect selling expenses. In calculating CV, we adjusted the reported costs as described in the COP section above.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP sales. The NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on CV, the starting price of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. LOT is based on the starting price of the sales to the U.S. market. For CEP sales, the U.S. LOT is based on the starting price of the sales, as adjusted under section 772(d) of the Act. *See Micron Technology, Inc. v. United States*, 243 F.3d, 1301, 1315 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than the EP and CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison–market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In determining whether separate LOTs exist, we obtained information from Chia Far regarding the marketing stages for the reported U.S. and comparison market sales, including a description of the selling activities performed for each channel of distribution. Generally, if the reported LOTs are the same, the functions and activities of the seller at each level should be similar. Conversely, if a party reports that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

Chia Far reported that it sold foreign like product in the home market to two types of customers, distributors and end users, through one channel of distribution. Chia Far performed the following sales activities for both types of home market customers: price negotiation/order processing, arranging freight and delivery, inventory maintenance, providing technical advice to customers and providing warranty services. *See* Chia Far's Section A questionnaire response at Exhibit A–6. Moreover, Chia Far performed corresponding selling functions at the same level of intensity for each type of customer. Therefore, we have preliminarily determined that there is one LOT in the home market.

For the U.S. market, Chia Far reported that it sold to unaffiliated distributors directly (*i.e.*, EP sales) and through its U.S. affiliate, Lucky Medsup (*i.e.*, CEP sales). Since the Department bases the LOT of CEP sales on the price in the United States after making CEP deductions under section 772(d) of the Act, we based the LOT of Chia Far's CEP sales on the price after deducting U.S. selling expenses. Chia Far performed the following activities with respect to its EP and CEP sales: price negotiation/order processing, arranging freight and delivery, providing technical advice to customers and providing warranty services. *See* Chia Far's Section A questionnaire response at Exhibit A–6. Moreover, Chia Far performed corresponding selling functions at the same level of intensity for each sale type (*i.e.*, EP or CEP sale). Therefore, we have preliminarily determined that there is one LOT in the U.S. market.

To determine whether NV is at a different LOT than the U.S. transactions, the Department compared home market selling activities in the home market LOT with those for the U.S. LOT. Chia Far engaged in the following selling activities, and performed corresponding selling activities at the same or at a similar level of intensity, for both the home market LOT and U.S. market LOT: price negotiation/order processing, arranging freight and delivery, providing technical advice to customers, and providing warranty services. *See* Chia Far's Section A questionnaire response at Exhibit A–6. While Chia Far may have engaged in inventory maintenance/warehousing with respect to the LOT of its home market sales but not with respect to its U.S. sales, the record indicates that the significance of this difference is minimal. Thus, the Department has determined that the differences between the home and U.S. market LOTs are at the same level.

In its questionnaire response, Chia Far requested a CEP offset. *See* Chia Far's Section A questionnaire response at 16. The Department will grant a CEP offset if NV is at a more advanced LOT than the CEP transactions and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability (*e.g.*, a LOT adjustment is not possible because there is only one LOT in the home market). Here, the Department has not found the NV LOT to be more advanced than the CEP LOT, and thus, it has not granted Chia Far a CEP offset.

Currency Conversion

Pursuant to section 773A(a) of the Act, we converted amounts expressed in foreign currencies into U.S. dollar amounts based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determined that the following weighted–average dumping margins exist for the period July 1, 2004, through June 30, 2005:

Manufacturer/Exporter	Margin (percent)
Chia Far Industrial Factory Co., Ltd.	0.81
Tang Eng Iron Works	21.10
Goang Jau Shing Enterprise Co., Ltd.	21.10
PFP Taiwan Co., Ltd.	21.10
Yieh Trading Corp. (also known as Yieh Corp.)	21.10
Chien Shing Stainless Co.	21.10

Public Comment

Within 10 days of publicly announcing the preliminary results of this review, we will disclose to interested parties any calculations performed in connection with the preliminary results. *See* 19 CFR § 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. *See* 19 CFR § 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice in the **Federal Register**, or the first workday thereafter. Interested parties are invited to comment on the preliminary results of this review. The Department will consider case briefs filed by interested parties within 30

days after the date of publication of this notice in the **Federal Register**. Also, interested parties may file rebuttal briefs, limited to issues raised in the case briefs. The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument: (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we request that parties submitting written comments provide the Department with an electronic copy of the public version of such comments. Unless the deadline for issuing the final results of review is extended, the Department will issue the final results of this administrative review, including the results of its analysis of issues raised in the written comments, within 120 days of publication of the preliminary results in the **Federal Register**.

Assessment Rates

In accordance with 19 CFR § 351.212(b)(1), in these preliminary results of review we calculated importer–specific assessment rates for Chia Far. If the importer–specific assessment rate is above *de minimis* (*i.e.*, 0.50 percent *ad valorem* or greater), we will instruct CBP to assess the importer/customer–specific rate uniformly, as appropriate, on all entries of subject merchandise during the POR that were entered by the importer or sold to the customer. For the respondents receiving dumping margins based upon AFA, the Department will instruct CBP to liquidate entries according to the AFA *ad valorem* rate. Within 15 days of publication of the final results of review, the Department will issue instructions to CBP directing it to assess the final assessment rates (if above *de minimis*) uniformly on all entries of subject merchandise made by the relevant importers during the POR.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification applies to POR entries of subject merchandise produced by companies examined in this review (*i.e.*, companies for which a dumping margin was calculated) where the companies did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the companies examined in the instant review will be the rates established in the final results of this review (except that if the rate for a particular company is *de minimis, i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 12.61 percent, which is the ''all others'' rate established in the LTFV investigation. *See Final Determination*, 64 FR 30592. These cash deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR § 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–12999 Filed 8–8–06; 8:45 am]

BILLING CODE 3510–DS–S

COMMISSION OF FINE ARTS

Notice of Schedule of Meetings

Listed below is the schedule of meetings of the Old Georgetown Board for 2007. The Commission's office is located at the National Building Museum, Suite 312, Judiciary Square, 401 F Street, NW., Washington, DC, 20001–2728. The Old Georgetown Board meetings are held on the 1st Thursday of each month, excluding August. Items of discussion affecting he appearance of Georgetown in Washington, DC, may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *http://www.cfa.gov.* Inquiries regarding the agenda and request to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, August 3, 2006.

Thomas Luebke,

Secretary.

Commission meetings	Submission deadlines
4 January	14 December 2006
1 February	11 January
1 March	8 February
5 April	15 March
3 May	12 April
7 June	17 May
5 July	14 June
6 September	16 August
4 October	13 September
1 November	11 October
6 December	15 November

[FR Doc. 06–6800 Filed 8–8–06; 8:45am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS). The purpose of the Committee meeting is to introduce new members and conduct orientation training. The meeting is open to the

public, subject to the availability of space.

Interested persons may submit a written statement for consideration by the Committee and make an oral presentation of such. Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed below no later than 5 p.m., 15 August 2006. Oral presentation by members of the public will be permitted only on Tuesday, 22 August 2006 from 4:30 p.m. to 5 p.m. before the full Committee. Presentations will be limited to two minutes. Number of oral presentations to be made will depend on the number of requests received from members of the public. Each person desiring to make an oral presentation must provide the point of contact listed below with one (1) copy of the presentation by 5 p.m., 18 August 2006 and bring 35 copies of any material that is intended for distribution at the meeting. Persons submitting a written statement must submit 35 copies of the statement to the DACOWITS staff by 5 p.m. on 18 August 2006.

DATES: 22 August 2006, 8:30 a.m.–5 p.m.

23 August 2006, 10:00 a.m.—5 p.m.

Location: Double Tree Hotel Crystal City National Airport, 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: MSgt Gerald Posey, USA DACOWITS, 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. Telephone (703) 697–2122. Fax (703) 614–6233.

SUPPLEMENTARY INFORMATION: Meeting agenda.

Tuesday, 22 August 2006 8:30 a.m.—5 p.m.

Welcome & Administrative Remarks.
New member Orientation.
Public Forum.

Wednesday, 23 August 2006 8:30 a.m.—10 a.m. (Not Open to Public)

Committee Administrative and Security Training.

Wednesday, 23 August 2006 10 a.m.—5 p.m.

Outline and Review 2006 Report Protocols.

Note: Exact order may vary.

Dated: August 2, 2006.

C.R. Choate,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–6797 Filed 8–8–06; 8:45 am]

BILLING CODE 5001–06–M

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 248. This bulletin lists revisions 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 248 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* August 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 247. 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:

Dated: August 2, 2006.

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 CHANGE IN CIVILIAN BULLETIN 248 IS A CORRECTION TO THE SEASONAL DATES FOR FAJARDO (INCL ROOSEVELT RDS) 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						
05/01 - 09/30	129		75		204	04/01/2006

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
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
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				

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	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
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

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
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	195	77	272	08/01/2006
CAROLINA	195	77	272	08/01/2006
CEIBA				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FAJARDO [INCL ROOSEVELT RDS NAVS				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FT. BUCHANAN [INCL GSA SVC CTR,	195	77	272	08/01/2006
HUMACAO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
LUIS MUNOZ MARIN IAP AGS	195	77	272	08/01/2006
LUQUILLO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
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
SABANA SECA [INCL ALL MILITARY]	195	77	272	08/01/2006
SAN JUAN & NAV RES STA	195	77	272	08/01/2006
[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				

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
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. 06–6796 Filed 8–8–06; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

Availability of the Draft Environmental Assessment for an Airspace Proposal in the Ft. Campbell, KY Area

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Draft Environmental Assessment (EA) for an airspace proposal in the Ft. Campbell, KY area. The airspace proposal is required for the establishment of Helicopter Aerial Refueling routes utilizing United States Army helicopters and United States Air Force and/or Marine Corp airplanes to conduct air-to-air refueling training. In order to use these routes on a recurring basis they are required to be published in the Department of Defense publication system therefore requiring an environmental study. The EA assesses the potential environmental impacts of all areas that underlie the flight routes. There are six routes in the proposal which will be utilized by an U.S. Army tenant unit of Ft. Campbell, KY.

DATES: The draft EA will be available for public review from August 9, 2006 through September 8, 2006. Written comments must be received by September 8, 2006.

ADDRESSES: Written comments are to be provided to Mr. Troy Wagner at United States Army Special Operations Command, Aviation Standardization Officer, ATTN:AOAO–STD, Bldg E–2929, Desert Storm Drive, Ft. Bragg, NC 28310 or at *dennis.troy.wagner@us.army.mil.*

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Four Troy Wagner, at (910) 432–7706.

SUPPLEMENTARY INFORMATION:

1. The Federal Aviation Administration is serving as a cooperating agency on the preparation of the EA.

2. The EA is available for review at the following location:

Dial-Cordy and Associates, Inc. Environmental Consultants Web site at: *http://www.dialcordy.com*

Use the following steps to access the Ft. Campbell EA:

(1) Log onto the Dial Corty Web site at *Dialcordy.com*;

(2) Click on ''Library'';

(3) Click on ''FTP Site'';

(4) Enter user name: dialcord_campbell;

(5) Enter password: 040793.

3. Public coordination and communications with the State Historical Preservation Offices from the states of Illinois, Tennessee, Kentucky, and Alabama has been accomplished. Each of the states listed have reviewed the proposal and have returned correspondence stating that there will be no impacts to any historical sites during the conduct of the proposed training.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 06–6790 Filed 8–8–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Draft Environmental Impact Statement (DEIS) in Support of New Facilities for the U.S. Army Medical Research Institute of Infectious Diseases (USAMRIID), Fort Detrick, MD

AGENCY: U.S. Army Medical Research and Materiel Command, Department of the Army, DoD.

ACTION: Notice of availability (NOA).

SUMMARY: The U.S. Army announces the availability of DEIS which evaluates the potential environmental impacts of the construction and operation of new USAMRIID facilities and the decommissioning and demolition and/or re-use of existing USAMRIID facilities at Fort Detrick, Maryland.

DATES: The public comment period for the DEIS will end 45 days after publication of this NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

FOR FURTHER INFORMATION CONTACT: Caree Vander Linden, USAMRIID Public Affairs, 1425 Porter Street, Fort Detrick, MD 21702–5011; telephone: (301) 619–2285; fax: (301) 619–4625, or through the public USAMRIID EIS Web site at *http://www.usamriid.army.mil/eis.*

SUPPLEMENTARY INFORMATION: The Proposed Action and subject of the EIS is the construction and operation of new USAMRIID facilities and the decommissioning and demolition and/or re-use of existing USAMRIID facilities at Fort Detrick, Maryland.

The proposed new USAMRIID facilities will provide biocontainment laboratory space, animal facilities, and administrative offices, as well as operational and administrative support

facilities. These new facilities will be located adjacent to the existing USAMRIID facilities within the National Interagency Biodefense Campus on Area A of Fort Detrick and near the biomedical research facilities of mission partners, including the Agricultural Research Service Foreign Disease-Weed Research Unit, Department of Agriculture; the National Institute of Allergy and Infectious Diseases' Integrated Research Facility, Department of Health and Human Services; and the National Biodefense Analysis and Countermeasures Center, Department of Homeland Security. The USAMRIID facilities on Area A will be decommissioned and either demolished and/or re-used following occupancy of the new USAMRIID facilities.

The construction will occur in two stages. Stage 1 will provide approximately 700,000 gross square feet (gsf) of new building space for the replacement of outdated and compressed existing facilities in order to sustain the current mission and to expand medical test and evaluation (T&E) capacity in support of immediate Department of Defense (DoD) and national demand. Stage 2 will encompass approximately 400,000 gsf of new building space for the balance of USAMRIID's expanded mission and for additional capacity to meet intensified national requirements for medical T&E in support of biodefense research as well as to accommodate increased collaborative efforts among USAMRIID's mission partners. In addition, approximately 200,000 gsf of the existing USAMRIID facilities may be renovated and re-used for laboratory or non-laboratory use, to be determined by evolving biodefense requirements.

The significant issues analyzed in the DEIS included safety of laboratory operations and demolition of the existing biocontainment laboratories; public health and safety; handling, collection, treatment, and disposal of research wastes; analysis of other risks; and pollution prevention.

Three alternatives were considered: Construction and Operation of New USAMRIID Facilities and Decommissioning and Demolition of the Existing USAMRIID Facilities on Area A of Fort Detrick, Maryland (Alternative I), Construction and Operation of New USAMRIID Facilities and Decommissioning and Partial Demolition of the Existing USAMRIID Facilities and Re-Use of the Remaining Facilities on Area A of Fort Detrick, Maryland (Alternative II), and the No Action Alternative, under which the proposed new USAMRIID facilities would not be built and operated and the existing USAMRIID facilities would not be decommissioned and demolished and/or re-used.

The U.S. Army Medical Research and Materiel Command and the U.S. Army Garrison of Fort Detrick will hold a public hearing to receive comments on the DEIS on Wednesday, August 30, 2006 from 7 p.m. to 9 p.m. at the Governor Thomas Johnson High School, 1501 N. Market St., Frederick, MD 21701.

Dated: August 3, 2006.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA(I&E).

[FR Doc. 06–6791 Filed 8–8–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of the Draft Environmental Assessment for an Airspace Proposal in the Savannah, GA, Hunter Army Airfield Area

AGENCY: Department of the Army. DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Draft Environmental Assessment (EA) for an airspace proposal in the Savannah, GA, Hunter Army Airfield area. The airspace proposal is required for the establishment of Helicopter Aerial Refueling routes utilizing United States Army helicopters and United States Air Force and/or Marine Corp. airplanes to conduct air-to air refueling training. In order to use these routes on a recurring basis they are required to be published in the Department of Defense publication system therefore requiring an environmental study. The EA assesses the potential environmental impacts of all areas that underlie the flight routes. There are four routes in the proposal which will be utilized by an U.S. Army tenant unit of Hunter Army Airfield, GA.

DATES: The draft EA will be available for public review from August 9, 2006 through September 8, 2006. Written comments must be received by September 8, 2006.

ADDRESSES: Written comments are to be provided to Mr. Troy Wagner at United States Army Special Operations Command, Aviation Standardization Officer, ATTN: AOAO–STD, Bldg. E–2929, Desert Storm Drive, Ft. Bragg, NC 28310 or at *dennis.troy.wagner@us.army.mil.*

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Four Troy Wagner, at (910) 432–7706.

SUPPLEMENTARY INFORMATION:

1. The Federal Aviation Administration is serving as a cooperating agency on the preparation of the EA.

2. The EA is available for review at the following location:

Dial-Cordy and Associates, Inc. Environmental Consultants Web site at: *http://www.dialcordy.com.*

Use the following steps to access the Ft. Campbell EA:

(1) Log onto the Dial Cordy Web site at *Dialcordy.com;*

(2) Click on ''Library'';

(3) Click on ''FTP Site'';

(4) Enter user name: dialcord_hunter;

(5) Enter password: 040784.

3. Public coordination and communications with the State Historical Preservation Offices from the states of Georgia, Florida, South Carolina and Alabama has been accomplished. Each of the states listed have reviewed the proposal and have returned correspondence stating that there will be no impacts to any historical sites during the conduct of the proposed training.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 06–6795 Filed 8–8–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Mississippi Coastal Improvements Program, Hancock, Harrison, and Jackson Counties, MS

AGENCY: Department of the Army, U.S. Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Mobile District, U.S. Army Corps of Engineers (Corps), intends to prepare a Draft Environmental Impact Statement (DEIS) to address the potential impacts associated with actions to comprehensively address hurricane and storm damage reduction, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and other related water resource purposes in coastal Mississippi. These actions are related to the consequences of hurricanes in the Gulf of Mexico in 2005. The Corps will forward recommendations to Congress

authorized by the Department of Defense Appropriations Act, 2006 (Pub. L. 109–148) dated December 30, 2005. The EIS will be used as a basis for ensuring compliance with the National Environmental Policy Act (NEPA).

ADDRESSES: Questions about the proposed action and the DEIS should be addressed to Dr. Susan Ivester Rees, Planning and Environmental Division, Mobile District, U.S. Army Corps of Engineers, P.O. Box 2288, Mobile, AL 36628–0001.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Ivester Rees, (251) 694–4141 or e-mail at *susan.i.rees@sam.usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. Hurricane Katrina made landfall in Mississippi on August 29,2005 causing catastrophic damage to lives, property, and natural resources throughout coastal Mississippi. In response, the U.S. Congress has directed the Secretary of the Army through the Corps to conduct an analysis and design for comprehensive improvements or modifications to existing improvements in the coastal area of Mississippi in the interest of hurricane and storm damage reduction, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and other related water resources purposes. Further, the Corps was directed to provide interim recommendations for near term improvements by June 30, 2006, with final recommendations provided by December 30, 2007. This activity has been named the Mississippi Coastal Improvements Program (MsCIP) and the required interim recommendations for near term improvements have been submitted through Corps Headquarters to the Assistant Secretary of the Army for submission to Congress. Environmental impacts associated with implementation of 15 identified near term improvements were addressed in an Environmental Assessment and a Finding of No Significant Impact was signed to Mobile District Commander, Colonel Peter F. Taylor, Jr., on June 29, 2006.

2. The EIS will address potential impacts associated with MsCIP proposed actions as part of the development of the comprehensive plan of improvements to provide increased levels of protection within the coastal area of Mississippi as directed by Congress. Alternatives to be considered in the DEIS will include a comprehensive array of measures to promote the recovery of coastal Mississippi from the hurricanes of 2005 and to provide for a reduction of future damages to the maximum extent practicable. The EIS will evaluate multiple natural and engineered alternatives to provide various measures for various levels of protection for the Mississippi mainland coast. Development of this overall damage reduction system will involve identifying potential ''Lines of Defense'' moving from offshore to nearshore, shoreline, and along existing elevated features inland, to effectively reduce damage from large hurricane and storm events. This will require analysis of the barrier islands, nearshore features such as rubble and movable wall breakwaters, beachfront measures such as dunes, berms, and seawalls, coastal roadways and beach front property barriers such as elevation of roadways and property, and various other inland features such as installation of levees, elevated highway-topped levee systems, and surge protection gates, for potential inclusion in the overall damage reduction system. Additionally, consideration of ''non-structural measures'', such as development of a ''Probable Maximum Hurricane Inundation Boundary'' or other maximum event planning boundaries will serve to identify hurricane and storm damage reduction planning features. Other alternatives to be considered include restoration of storm damaged habitats such as coastal marshes, beaches, forests, oyster reefs, and submerged aquatic vegetation in Mississippi Sound; restoration of historical water flows to coastal watersheds including freshwater diversion from Louisiana; and watershed based drainage modifications for flood damage reduction. The DEIS will identify, screen, evaluate, prioritize, and ultimately optimize an array of alternatives.

Combinations of the alternatives will be used to develop recommendations for cost effective measures to reduce hurricane and storm damages, interior flooding damages, and provide environmental benefits while fully considering the environmental consequences of the recommended actions. It is anticipated that alternatives will be developed during scoping and evaluated during development of the DEIS. Combinations of the alternatives will be used to maximize benefits while reducing impacts.

3. Scoping: a. The Corps invites full public participation to promote open communication on the issues surrounding the proposal. All Federal, State, and local agencies, and other persons or organizations that have an interest are urged to participate in the NEPA scoping process. In order to develop near-term recommendations for the interim report, the Corps met with local government officials, Federal, State, and local agencies, and interested members of the public to discuss first hand, impacts of the storm, ongoing recovery efforts, conditions on the coast, and present and future needs and opportunities for improvements. A facilitated two-step public involvement process was used that included ten workshop opportunities (2 in each coastal county and 2 web casts) held between April 7 and May 4, 2006, and a Web site was maintained as a repository of information and a vehicle to allow public input while providing public information during the project planning period. With this public input, the Corps began development of a conceptual comprehensive plan of action that will serve as the basis for development of an overall balanced natural and engineered solution for hurricane and storm damage reduction. The Corps anticipates future public meetings to gain further public input regarding information gathered from ongoing modeling efforts to collaboratively identify significant issues, associated risks, present and future needs, and opportunities in development of the comprehensive plan. A Web site will be established and used to disseminate information, receive public input, and facilitate participation by persons interested in development of the comprehensive plan including those still displaced as a result of Hurricane Katrina.

b. The DEIS will analyze potential social, economic, and environmental impacts and benefits associated with proposed projects and alternatives. Specifically, the following major issues will be analyzed in the DEIS: Hydrologic and hydraulic regimes, threatened and endangered species, essential fish habitat and other marine habitat, air quality, cultural resources, parks and protected lands, recreation, watersheds, wetlands, transportation systems, alternatives, secondary and cumulative impacts, socioeconomic impacts including effects on children, minorities, and economically disadvantaged groups per Executive Order 12898 (Environmental Justice) and Executive Order 13045 (Protection of Children).

c. The Corps will serve as the lead Federal agency during preparation of the DEIS. The following agencies will be invited to participate as cooperating agencies: U.S. Environmental Protection Agency; U.S. Department of Interior—Fish and Wildlife Service, National Park Service, U.S. Geological Survey, U.S. Department of Transportation—Federal Highway Administration; U.S.

Department of Commerce—National Marine Fisheries Service; U.S. Department of Homeland Security—Federal Emergency Management Agency; Mississippi Department of Marine Resources and Department of Environmental Quality, and Mississippi Department of Archives and History. Participation from other agencies, interest groups, and individual citizens is being encouraged and sought.

5. The first scoping meeting is expected to be held in mid-September in Biloxi, MS.

6. It is anticipated that the DEIS will be made available for public review in April 2007.

Curtis M. Flakes,

Chief, Planning and Environmental Division.

[FR Doc. 06–6794 Filed 8–8–06; 8:45 am]

BILLING CODE 3710–CR–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Second Supplemental Environmental Impact Statement to the Final EIS on Herbert Hoover Dike Major Rehabilitation and Evaluation Report, Reaches 2 and 3, in Palm Beach and Glades Counties, FL

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: On July 8, 2005, the Jacksonville District, U.S. Army Corps of Engineers (Corps) issued a Final Supplemental Environmental Impact Statement (FSEIS) for the Major Rehabilitation actions proposed for Herbert Hoover Dike (HHD), Reach One. Herbert Hoover Dike is the levee that completely surrounds Lake Okeechobee. On September 23, 2005, a Record of Decision was signed adopting the preferred alternative as the Selected Plan for Reach One.

At this time the Corps plans to extend rehabilitation along Reaches Two and Three of HHD. This stretch of HHD extends for approximately 27 miles between an area west of Belle Glade, Palm Beach County to east of Moore Haven, Glades County, FL.

ADDRESSES: U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232–0019.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Cintron at (904) 232–1692 or e-mail at *Barbara.b.cintron@usace.army.mil*.

SUPPLEMENTARY INFORMATION:

a. The proposed action will be the selected plan described in the July 2005 SEIS with the additional action of extending construction along Reaches Two and Three of the levee. The proposed action will not affect the Regulation Schedule for Lake Okeechobee. It s expected that all construction will take place within the existing real estate footprint of the HHD.

b. Alternatives to be considered separately for each reach include alternative structural modifications to the existing levee which are currently under development.

c. A scoping letter will be used to invite comments on alternatives and issues from Federal, State, and local agencies, affected Indian tribes, and other interested private organizations and individuals. A scoping meeting is not anticipated.

d. A public meeting will be held after release of the Draft SEIS; the exact location, date, and times will be announced in a public notice and local newspapers.

e. DSEIS Preparation: The 2nd DSEIS is expected to be available for public review in the fourth quarter of CY 2006.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 06–6793 Filed 8–8–06; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Record of Decision for the Boston Harbor Inner Harbor Maintenance Dredging Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: The U.S. Army Corps of Engineers, New England District announces its decision to maintenance dredge the following Federal navigation channels in Boston Harbor, Massachusetts: the Main Ship Channel upstream of Spectacle Island to the Inner Confluence, the upper Reserved Channel, the approach to the Navy Dry Dock, a portion of the Mystic River, and a portion of the Chelsea River (previously permitted). Maintenance dredging of the navigation channels landward of Spectacle Island is needed to remove shoals and restore the Federal navigation channels to their authorized depths. Dredged material suitable for unconfined open water disposal will be disposed at the Massachusetts Bay Disposal Site; material not suitable for unconfined open water disposal will be disposed in confined aquatic disposal (CAD) cell(s) located within the navigation channels. Major navigation channel improvements (deepening) were made in 1999 through 2001 in the Reserved Channel, the Mystic River, Inner Confluence, and the Chelsea River. A Final Environmental Impact Statement (EIS) prepared in June 1995 for this previous navigation improvement project (Boston Harbor Navigation Improvement Project—BHNIP) identified selected use of CAD cells in the Mystic River, Inner Confluence, and Chelsea River for disposal. A Supplemental Draft and Final EIS was prepared for this maintenance dredging project and built on the lessons learned from the previous improvement project. A new CAD cell for the proposed maintenance project will be constructed in the Mystic River (previously permitted) and in the Main Ship Channel just below the Inner Confluence.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Keegan, (978) 318–8087.

SUPPLEMENTARY INFORMATION: The U.S. Army Corps of Engineers is authorized by the various River and Harbor Acts and Water Resources Development Acts to conduct maintenance dredging of the Federal navigation channels and anchorage areas in Boston Harbor.

Alternatives Considered: The National Environmental Policy Act (NEPA) requires a discussion of alternatives to the project, including the No Action Alternative. Since a Supplemental EIS was prepared, the preferred alternative is evaluated in the context of the alternatives addressed in the EIS for the navigation improvement project, including alternatives to full maintenance dredging, dredging methods, and disposal options.

Dredging—The Boston Harbor terminal operators, and shipping interests were contacted to identify the type and size of vessels currently using the navigation channels and if they were experiencing any delay or impacts associated with the navigation project. The results of the survey were used to determine if maintenance of all or just a portion of the currently authorized navigation channels in the proposed project is required. Based on the results of the survey, it was determined that shoaling in the Charles River channel does not affect any of the current operations in that channel and will not be dredged.

Dredging Methods—Various types of dredging methods were considered for this project including a hydraulic dredge, a hopper dredge, and a

mechanical dredge. The type of dredge proposed for a project is dependent upon the type of material to be dredged and the disposal site selected. Due to the fine nature of the materials to be dredged from Boston Harbor, and the aquatic sites selected for disposal, it was determined that a mechanical dredge would best suit the needs of the project. To minimize turbidity impacts from dredging, an enclosed ''environmental'' bucket will be used during silt dredging. In addition, no overflow from the scows will be allowed to further reduce the effects of turbidity on water quality.

Disposal Alternatives—Over 370 disposal sites were identified and evaluated during preparation of the EIS for the previous navigation improvement project (BHNIP). The screening process selected in-channel CAD cells for disposal of the material unsuitable for unconfined open water disposal and the Massachusetts Bay Disposal Site (MBDS) for disposal of the suitable material. In addition, seven sites were identified in the BHNIP Final EIS as potential disposal sites for future maintenance dredged material. The sites included the MBDS, Subaqueous B and E, Meisburger 2 and 7, Boston Lightship, and Spectacle Island CAD.

The Subaqueous B and E sites, the Meisburger sites and the Spectacle Island CAD are all located in previously undisturbed areas. The Boston Lightship is a historic disposal site and would need to go through a lengthy site selection process before disposal could be considered. This site also recovering from previous disposal events. The MBDS is an EPA-designated ocean disposal site that is currently in use. Sites that have not been previously disturbed are not as desirable for disposal of dredged material. Therefore, the MBDS was selected as the preferred site for the suitable material and the in-channel CAD cells selected for material unsuitable for unconfined open water disposal.

No Action Alternative—Under a No Action Alternative, the Federal navigation channels in Boston Harbor would not be dredged. Failure to dredge Boston Harbor will further restrict and delay commercial deep draft vessels. Shoaling has reduced depths in the channel as much as five feet in some sections of the project area. Without maintenance dredging to restore authorized depths in the inner portion of the Main Ship Channel, shippers will experience even longer tidal delays and be restricted to operating within narrower time periods of higher tidal stages. This results in a significant and negative impact to the region, and raises significant operational, safety, economic, and environmental concerns. With the increase in costs and reduction in vessel movement opportunities, it is likely that shippers will by-pass the port and will unload their products at other ports and ship the products back to the region via trucks. This could impact limited roadway capacity, resulting in increased air emissions, traffic, and deterioration of highways and bridges. Although the No Action Alternative is the environmentally preferred alternative, it does not meet the project objectives, and is not considered a viable alternative. Therefore the preferred alternative is dredging the above described navigation channels to their authorized depth using a mechanical dredge with disposal at the MBDS and in-channel CAD cells.

Environmental Impacts: Potential environmental impacts associated with dredging and disposal includes water quality impacts from turbidity plumes, potential release contaminants during dredging and disposal activities, and impacts to biological resources. In particular, concerns about biological resources centered on potential blockage of anadromous fish transiting to spawning grounds, sediment deposition from suspended solids on winter flounder eggs, and direct impacts to lobsters.

Extensive environmental monitoring was conducted during construction of the BHNIP as a requirement of the Water Quality Certification (WQC). Environmental monitoring required as part of the WQC included: (1) Silt plume tracking during dredging of and after disposal into CAD cells, (2) water quality testing after disposal into the CAD cells, (3) biological testing, (4) dissolved oxygen (DO) testing within and outside the CAD cells, and (5) fisheries monitoring. The results of the monitoring showed no water quality violations or significant impacts to biological resources.

Additional investigations (i.e., outside the scope of the WQC) were performed during construction to address concerns raised by the Technical Advisory Committee (TAC) to address potential impacts from changes in operations suggested by the dredging contractor. The TAC met periodically to review monitoring results and discuss recommended amendments to the WQC. These additional investigations included water quality monitoring of disposal at low tide, plume monitoring of the contractor's enclosed bucket, monitoring turbidity caused by vessel passage over an uncapped and capped CAD cell, bathymetric measurements, and lobster monitoring. Monitoring results showed no water quality violations or significant environmental impacts from construction of the project. One-year surveys and five-year surveys of the CAD cells constructed in the Inner Confluence, Mystic River, and Chelsea River for the BHNIP have also been completed, as required by the BHNIP WQC. The results of the monitoring show that the CAD cells are performing as expected. Experience gained from placing a sand cap on the CAD cells will be incorporated into this project.

Mitigation: As a result of the extensive monitoring conducted for the BHNIP, and the lack of any water quality violations or significant impacts, only confirmatory water quality monitoring during initial disposal operations is recommended for this project. It is recommended that total suspended solids and turbidity monitoring be performed during the initial disposal events at both the Mystic River CAD cell and at the Main Ship Channel CAD cell.

To reduce potential impacts to resources in the project area, based on lessons learned, the following mitigation measures will be implemented:

- An enclosed ''environmental'' bucket will be used for silt dredging. To reduce the effects of turbidity on water quality, no overflow from the scows will be allowed.
- Disposal into the CAD cells will occur only around periods of slack tide: three hours at low tide and high tide (one hour before and two hours after slack tide).
- A three-foot sand cap will be placed in the CAD cells when the silt has consolidated enough to support a cap. The cap material will be released from a moving as opposed to a stationary platform. No spudding over the cap or mechanical disturbance of the cap will be allowed.
- To reduce the impact to biological resources from blasting, all blasting will be conducted using inserted delays of a fraction of a second per hole. Rock or similar material will be placed into the top of the borehold to deaden the shock wave reaching the water column. A fisheries and mammal observer, and fish detecting sonar system, will be used to avoid blasting when mammals are present in the area or when significant schools of fish are observed.
- A fisheries observer, sonar detection, and use of a fish startle system from February 15 to June 15 will be required for the Mystic River and Main Ship Channel CAD disposal activities to avoid disposal during the time of anadromous fish migration.
- To reduce potential impacts to egg-bearing lobsters that are less mobile in

the colder months, no dredging or blasting will occur seaward of the Third Harbor Tunnel between December 1 and March 31.

• A marine mammal observer will be on board the scows transiting to the MBDS from February 1 to May 31 to avoid potential ship strikes with marine mammals, and in particular the North Atlantic Right Whale.

• Rock removed from the Presidents Road Anchorage area will be placed within a new area of the MBDS to increase habitat diversity.

• The dredge contractor will provide advance notice to the lobstermen on anticipated significant dredge movements.

• The dredge contractor will maintain a short tow while inside Boston Harbor to minimize disruption of lobster pots.

Based on incorporation of the above mitigation measures, the experience gained during construction of the BHNIP, and lack of any water quality violations or other significant effects from the BHNIP, no significant impacts to the environment are expected from the Boston Harbor Inner Harbor Maintenance Dredging Project. All practicable means to avoid or minimize adverse environmental effects have been incorporated into the recommended plan. The public interest will best be served by implementing maintenance dredging as identified and described in the Supplemental Environmental Impact Report.

Dated: August 1, 2006.

Curtis L. Thalken,

Colonel, Corps of Engineers, New England District.

[FR Doc. 06–6792 Filed 8–8–06; 8:45 am]

BILLING CODE 3710–24–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Policy and Standards Team, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 10, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Policy and Standards Team, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 3, 2006.

Leo J. Eiden,

Leader, Information Policy and Standards Team, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Priority Needs for Educational Research Needs of the Southwest and Establishing a Baseline for SWREL Performance.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 8,052.

Burden Hours: 4,030.

Abstract: The Southwestern Regional Educational Laboratory (SWREL) has been tasked with establishing a baseline for SWREL performance and identifying the educational needs (Pre-K through Higher Education) of constituents within its five state region. The respondents will consist of parents, business leaders, and educators (e.g., teachers, principals, testing directors, etc.) from Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. The information obtained in this project will provide a landscape of the region. It will also identify the educational research needs of SWREL constituents and create insights needed to most efficiently serve those constituents. In addition, it will identify satisfaction levels with current research available, identify educational issues facing SWREL constituents, and identify unique areas of technical assistance most needed.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3165. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–12986 Filed 8–8–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, October 12, 2006, 8:30 a.m. to 6 p.m.; Friday, October 13, 2006, 8:30 a.m. to 4 p.m.

ADDRESSES: The Latham Hotel, Georgetown, 3000 M Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: John Kogut, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; SC–25/Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290; telephone: 301–903–1298.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following:

Thursday, October 12, 2006, and Friday, October 13, 2006.

- Discussion of Department of Energy High Energy Physics Program.
- Discussion of National Science Foundation Elementary Particle Physics Program.
- Reports on and Discussions of Topics of General Interest in High Energy Physics.
- Public Comment (10-minute rule).

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact John Kogut, 301–903–1298 or *John.Kogut@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 90 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW.; Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 4, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–12973 Filed 8–8–06; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8207–2]

EPA Office of Children's Health Protection and Environmental Education Staff Office; Request for Nominations of Candidates for the National Environmental Education Advisory Council

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Office of Children's Health Protection and Environmental Education Staff Office is soliciting applications of environmental education professionals for consideration on the National Environmental Education Advisory Council (NEEAC). There are currently five (5) vacancies on the Advisory Council that must be filled: Business and Industry—one vacancy (2007–2009); Non-Profit Organization—two vacancies (2007–2009); Primary and Secondary Education—one vacancy (must be a classroom teacher) (2007–2009); College and University—one vacancy (2007–2009).

Additional avenues and resources may be utilized in the solicitation of applications.

DATES: Applications should be submitted by October 13, 2006 per instructions below.

ADDRESSES: Submit non-electronic application materials to Ginger Potter, Designated Federal Officer, National Environmental Education Advisory Council, U.S. Environmental Protection Agency, Office of Children's Health Protection and Environmental Education (MC: 1704A), 1200 Pennsylvania Ave., NW., Washington, DC 20460, Ph: 202–564–0453, FAX: 202–564–2754, e-mail: *potter.ginger@epa.gov.*

FOR FURTHER INFORMATION: For information regarding this Request for Nominations, please contact Ms. Ginger Potter, Designated Federal Officer (DFO), EPA National Environmental Education Advisory Council, at *potter.ginger@epa.gov* or (202) 564–0453. General information concerning NEEAC can be found on the EPA Web site at: *http://www.epa.gov/enviroed.*

SUPPLEMENTARY INFORMATION:

Background: Section 9(a) and (b) of the National Environmental Education Act of 1990 (Pub. L. L–101–619) mandates a National Environmental Education Advisory Council. The Advisory Council provides the Administrator with advice and recommendations on EPA implementation of the National Environmental Education Act. In general, the Act is designed to increase public understanding of environmental issues and problems, and to improve the training of environmental education professionals. EPA will achieve these goals, in part, by awarding grants and/or establishing partnerships with other Federal agencies, state and local education and natural resource agencies, not-for-profit organizations, universities, and the private sector to encourage and support environmental education and training programs. The Council is also responsible for preparing a national biennial report to Congress that will describe and assess the extent and quality of environmental education, discuss major obstacles to improving environmental education, and identify the skill, education, and training needs for environmental professionals.

The National Environmental Education Act requires that the Council be comprised of eleven (11) members appointed by the Administrator of EPA. Members represent a balance of perspectives, professional qualifications, and experience. The Act specifies that members must represent the following sectors: Primary and secondary education (one of whom shall be a classroom teacher)—two members; colleges and universities—two members; business and industry—two members; non profit organizations involved in environmental education—two members; state departments of education and natural resources—one member each; senior Americans—one member. Members are chosen to represent various geographic regions of the country, and the Council strives for a diverse representation. The professional backgrounds of Council members should include education, science, policy, or other appropriate disciplines.

Each member of the Council shall hold office for a one (1) to three (3) year period. Members are expected to participate in up to two (2) meetings per year and monthly or more conference calls per year. Members of the Council shall receive compensation and allowances, including travel expenses, at a rate fixed by the Administrator.

Expertise Sought: The NEEAC staff office seeks candidates with demonstrated experience and/or knowledge in any of the following environmental education issue areas:

(a) Integrating environmental education into state and local education reform and improvement;

(b) state, local and tribal level capacity building; (c) cross-sector partnerships; (d) leveraging resources for environmental education; (e) design and implementation of environmental education research; (f) evaluation methodology; professional development for teachers and other education professionals; and (g) targeting under-represented audiences, including low-income, multi-cultural, senior citizens and other adults.

The NEEAC staff office is also looking for individuals who demonstrate the ability to make the time commitment, strong leadership skills, strong analytical skills, strong communication and writing skills, the ability to stand apart and evaluate programs in an unbiased manner, team players, have the conviction to follow-through and to meet deadlines, and the ability to review items on short notice.

How to Submit Applications: Any interested and qualified individuals may be considered for appointment on the National Environmental Education Advisory Council. Applications should be submitted in electronic format to the Designated Federal Officer (*potter.ginger@epa.gov*) and contain the following: Contact information including name, address, phone and fax numbers and an e-mail address; a curriculum vita or resume; the specifc area of expertise in environmental education and the sector/slot the applicant is applying for; recent service on other national advisory committees or national professional organizations and; a one-page commentary on the applicant's philosophy regarding the need for, development, implementation and/or management of environmental education nationally. Additionally, a supporting letter of endorsement is required. This letter may also be submitted electronically as described above.

Persons having questions about the application procedure or who are unable to submit applications by electronic means, should contact Ginger Potter, DFO, at the contact information provided above in this notice. Non-electronic submissions must contain the same information as the electronic. The NEEAC Staff Office will acknowledge receipt of the application. The NEEAC Staff Office will develop a short list of for more detailed consideration. Short list candidates will be required to fill out the Confidential Disclosure Form for Special Government Employees Serving Federal Advisory Committees at the U.S. Environmental Protection Agency (EPA Form 3110–48). This confidential form allows government officials to determine whether there is a statutory conflict between that person's public responsibilities (which include membership on a Federal advisory committee) and private interests and activities and the appearance of a lack of impartiality as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: *http://www.wpa.gov/sab/pdf/epaform3110–48.pdf.*

Dated: July 21, 2006.

Ginger Potter,

Designated Federal Officer.

[FR Doc. E6–12965 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8207–4]

Science Advisory Board Staff Office; Notification of a Public Meeting of the Science Advisory Board Hypoxia Advisory Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA's Science Advisory Board (SAB) Staff Office is announcing a public meeting of the SAB Hypoxia Advisory Panel.

DATES: The meeting will be held from 10 a.m. (EST) September 6, 2006 to 3 p.m. September 7, 2006.

ADDRESSES: The meeting will be held at the Doubletree Hotel located at 1515 Rhode Island Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), U.S. EPA Science Advisory Board Staff Office by telephone/voice mail at (202) 343–9867, or via e-mail at *stallworth.holly@epa.gov.* The SAB mailing address is: US EPA, Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB, as well as any updates concerning the meeting announced in this notice, may be found in the SAB Web site at: *http://www.epa.gov/sab*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the SAB Hypoxia Advisory Panel will hold a public meeting to plan its work for developing a report that details advancements in the state of the science regarding hypoxia in the Northern Gulf of Mexico. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: EPA participates with other Federal agencies, state and tribes in the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force. In 2001, the Task Force released the *Action Plan for Reducing, Mitigating and Controlling Hypoxia in the Northern Gulf of Mexico* (or *Action Plan* available at *http://www.epa.gov/msbasin/taskforce/actionplan.htm*). The Action Plan was informed by the science described in *An Integrated Assessment of Hypoxia in the Northern Gulf of Mexico* (or *Integrated Assessment* (available at *http://www.noaa.gov/products/hypox_finalfront.pdf*) developed by the National Science and Technology Council, Committee on Environment and Natural Resources. Six technical reports provided the scientific foundation for the Integrated Assessment and are available at *http.//www.nos.noaa.gov/products/pub_hypox.html.* The aforementioned documents provide a comprehensive summary of the state-of-the-science for the Gulf of Mexico hypoxic zone through about the year 2000.

EPA's Office of Water has requested that the SAB develop a report that evaluates the state-of-the-science regarding the causes and extent of hypoxia in the Gulf of Mexico, as well as the scientific basis of possible management options in the Mississippi River Basin. The SAB is asked to focus on scientific advances since 2000 that may have increased scientific understanding and control options in three general areas.

1. *Characterization the Cause(s) of Hypoxia.* The physical, biological and chemical processes that affect the development, persistence and extent of hypoxia in the northern Gulf of Mexico.

2. *Characterization of Nutrient Fate, Transport and Sources.* Nutrient loadings, fate, transport and sources in the Mississippi River that impact Gulf Hypoxia.

3. *Scientific Basis for Goals and Management Options.* The scientific basis for, and recommended revisions to, the goals proposed in the Action Plan; and the scientific basis for the efficacy of recommended management

actions to reduce nutrient flux from point and nonpoint sources.

In developing its report on scientific advancements since 2000, the SAB is also asked to focus on the strengths and limitations of the science in managing the Gulf hypoxia problem, including available data, models and model results and uncertainty. The SAB is asked to pay particular attention to any new information that has emerged since or was not adequately considered in the last *Integrated Assessment.* In response to EPA's request, the SAB Staff Office has formed the SAB Hypoxia Advisory Panel. Background on the Panel formation process was provided in a **Federal Register** notice published on February 17, 2006 (71 FR 8578–8580).

Availability of Meeting Materials: Materials in support of this meeting will be placed on the SAB Web Site at: *http://www.epa.gov/sab/* in advance of this meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Stallworth, DFO, at the contact information noted above, by August 25, 2006, to be placed on the public speaker list for the September 6–7, 2006 meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by August 25, so that the information may be made available to the SAB for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail to *stallworth.holly@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Meeting Access: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at (202) 343–9867 or *stallworth.holly@epa.gov.* To request accommodation of a disability, please contact Dr. Stallworth, preferably at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: August 4, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–12954 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8207–5]

Science Advisory Board Staff Office; Notification of a Public Meeting of the Science Advisory Board Committee on Valuing the Protection of Ecological Systems and Services (C–VPESS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Committee on Valuing the Protection of Ecological Systems and Services (C–VPESS) to discuss components of a draft committee report related to valuing the protection of ecological systems and services.

DATES: A public meeting of the C–VPESS will be held from 9 a.m. to 5:30 p.m. (Eastern Time) on October 5, 2006 and from 8 a.m. to 3 p.m. (Eastern Time) on October 6, 2006.

ADDRESSES: The meeting will take place at the SAB Conference Center, 1025 F Street, NW., Suite 3700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Members of the public wishing further information regarding the SAB C–VPESS meeting may contact Dr. Angela Nugent, Designated Federal Officer (DFO), via telephone at: (202) 343–9981 or e-mail at: *nugent.angela@epa.gov.* The SAB mailing address is: U.S. EPA, Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB, as well as any updates concerning the meetings announced in this notice, may be found in the SAB Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: Background on the SAB C–VPESS and its charge was provided in 68 FR 11082 (March 7, 2003). The purpose of the meeting is for the SAB C–VPESS to discuss components of a draft advisory report calling for expanded and integrated approach for valuing the protection of ecological systems and services. The Committee will discuss: Application of methods for valuing the protection of ecological systems and services; general ecological valuation methods (e.g., the need for a data and model bank for Agency information about ecological valuation, how to implement the concept of ecological services, how to address uncertainties in ecological services) and how to address them; and next steps for characterizing methods and approaches involved in ecological valuation.

These activities are related to the Committee's overall charge: To assess Agency needs and the state of the art and science of valuing protection of ecological systems and services and to identify key areas for improving knowledge, methodologies, practice, and research.

Availability of Meeting Materials: Materials in support of this meeting will be placed on the SAB Web site at: *http://www.epa.gov/sab/* in advance of this meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Nugent, DFO, at the contact information noted above, by September 25, 2006, to be placed on the public speaker list for the October 5–6, 2006 meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by September 24, 2006, so that the information may be made available to the SAB for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail to *nugent.angela@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Meeting Access: For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at (202) 343–9981 or

nugent.angela@epa.gov. To request accommodation of a disability, please contact Dr. Nugent, preferably at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: August 3, 2006.

Anthony Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–12956 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8207–6]

Science Advisory Board Staff Office; Notification of Public Meetings of the Science Advisory Board Radiation Advisory Committee (RAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public meetings of the SAB Radiation Advisory Committee (RAC) to conduct an advisory on the Environmental Protection Agency's (EPA) Office of Radiation and Indoor Air (ORIA) draft *White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII* and other committee business.

DATES: The SAB Radiation Advisory Committee (RAC) will hold a public teleconference on Wednesday, September 6, 2006 from 2 p.m. to 4 p.m. and a public face-to-face meeting on September 26 through September 28, 2006. A public face-to face meeting of the SAB Radiation Advisory Committee (RAC) will be held on September 28, 2006 following completion of the advisory on the draft White Paper, where the RAC will be briefed on ORIA activities and will plan upcoming meetings of the SAB's RAC. The final agendas for these public meetings will be posted on the SAB's Web site at *http://www.epa.gov/sab.*

ADDRESSES: The public teleconference meeting of September 6, 2006 will take place via telephone only. The September 26—28, 2006 meeting will take place at the Science Advisory Board's Conference Room Suite #3700, located at 1025 F Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code for the public teleconference meeting, or further information concerning the face-to-face public meeting may contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), by mail at the EPA SAB Staff Office (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343–9984; by fax at (202) 233–0643; or by e-mail at: *kooyoomjian.jack@epa.gov.* General information concerning the SAB can be found on the SAB Web site at: *http://www.epa.gov/sab.*

Technical Contact: For questions and information concerning the Agency's draft document being reviewed, contact Dr. Mary E. Clark, U.S. EPA, ORIA by telephone at (202) 343–9348, fax at (202) 243–2395, or e-mail at *clark.marye@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The EPA's Office of Radiation and Indoor Air (ORIA) requested the SAB to provide advice on a draft *White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII,* dated August 2006. In 1994, EPA published a report, referred to as the ''Blue Book,'' which lays out EPA's methodology for quantitatively estimating radiogenic cancer risks: *http://epa.gov/radiation/docs/assessment/402-r-93–076.pdf.* A follow-on report made minor adjustments to the previous estimates and presented a partial analysis of the uncertainties in the numerical estimates: *http://epa.gov/radiation/docs/assessment/402-r-99–003.pdf.* Finally, the Agency published Federal Guidance Report 13: *http://epa.gov/radiation/docs/federal/402-r-99–001.pdf* which utilized the previously published cancer risk models, in conjunction with International Commission on Radiological Protection (ICRP) dosimetric models and U.S. usage patterns, to obtain cancer risk estimates for over 800 radionuclides, and for several exposure pathways updated at *http://epa.gov/radiation/federal/techdocs.htm#report13.*

The National Research Council (NRC 2006) recently released *Health Risks from Exposure to Low levels of Ionizing Radiation BEIR VII Phase 2* which primarily addresses cancer and genetic risks from low doses of low-LET radiation (BEIR VII) (NRC 2006 *http://newton.nap.edu/catalog/11340.html#toc*). In the EPA draft *White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII,* the Agency proposes changes to EPA's methodology for estimating radiogenic cancers, based on the contents of BEIR VII. The Agency expects to adopt the models and methodology recommended in BEIR VII, but believes that certain modifications and expansions are desirable or necessary for EPA's purposes. EPA's ORIA staff is seeking this Advisory from the Agency's SAB Radiation Advisory Committee (RAC) to obtain advice on the application of BEIR VII and on issues relating to these modifications and expansions.

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the SAB Staff Office hereby gives notice of one public teleconference meeting and one face-to-face meeting of the SAB Radiation Advisory Committee (RAC). The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The RAC will comply with the provisions of FACA and all appropriate SAB procedural policies.

The purpose of the teleconference is to: introduce the subject; determine if the review and background materials provided are adequate to respond to the charge questions directed to the SAB's RAC; receive public statements; and to discuss assignments to the RAC members in preparation for developing its draft advisory. The purpose of the meeting is to: receive presentations by the ORIA Staff; deliberate on the charge questions; receive public statements; and draft an advisory in response to the charge questions pertaining to the draft White Paper. Additionally, the RAC will receive briefings on ORIA activities, and will discuss plans for future activities.

Availability of Meeting Materials: A roster and biosketches of the RAC members, the meeting agenda, and the charge to the SAB's RAC will be posted on the SAB Web site at (*http://www.epa.gov/sab*) prior to each meeting. Additional background information on this review include the draft White Paper (available at: *http://epa.gov/radiation/news/recentadditions.htm*) and background materials, such as the BEIR VII document (available at *http://newton.nap.edu/catalog/11340.html#toc*). The RAC was initially briefed on the BEIR VII draft White Paper topic at its planning meeting of December 21, 2005 which was held at the National Air and Environmental Radiation Laboratory (NAERL) Laboratory in Montgomery, Alabama (see notification of a public teleconference and meeting 70 Fed. Reg. 69550, November 16, 2005). These notices, the charge to the RAC, and other supplemental information may be found at the SAB's Web site (*http://www.sab.gov/sab*).

Persons who wish to obtain additional background materials on the draft White

Paper may find them at the following Web site: *http://epa.gov/radiation/news/recentadditions.htm.* Copies of the materials provided to the RAC, including the Agency's draft document entitled ''*White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII,*'' dated August 2006, as well as briefing materials and other background materials pertinent to the activities announced in this notice may be requested from Dr. Mary E. Clark of the U.S. EPA, ORIA by telephone at (202) 343–9348, fax at (202) 243–2395, or e-mail at *clark.marye@epa.gov.*

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker with no more than a total of fifteen minutes for all speakers. For face-to-face meetings, in general, individuals or groups requesting an oral presentation at a public face-to-face meeting will be limited to five minutes per speaker. Interested parties should contact the DFO, contact information provided above, in writing via e-mail seven days prior to the teleconference meeting date. For the September 6, 2006 teleconference meeting, the deadline is Wednesday, August 30, 2006. For the September 26 to 28, 2006 meeting, the deadline is Tuesday, September 19, 2006 to be placed on the public speaker list. *Written Statements:* Written statements should be received in the SAB Staff Office seven days prior to the teleconference meeting. For the September 6, 2006 teleconference meeting, the deadline is Wednesday, August 30, 2006; for the September 26 to 28, 2006 meeting the deadline is Tuesday, September 19, 2006, so that the information may be made available to the SAB's RAC for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail to *kooyoomjian.jack@epa.gov* (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Meeting Accommodations: For information on access or services for individuals with disabilities, please contact the DFO, contact information provided above. To request accommodation of a disability, please contact the DFO, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: July 31, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–12957 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0123; FRL–8083–1]

Methyl Bromide Tolerance Reassessment and Risk Management Decision (TRED) for Methyl Bromide, and Reregistration Eligibility Decision (RED) for Methyl Bromide's Commodity Uses; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Tolerance Reassessment and Risk Management Decision (TRED) for Methyl Bromide, and Reregistration Eligibility Decision (RED) for Methyl Bromide's Commodity Uses, and opens a public comment period on this document. The Agency's risk assessments and other related documents also are available in the methyl bromide docket. Methyl bromide is a broad-spectrum fumigant chemical that can be used as an acaricide, antimicrobial, fungicide, herbicide, insecticide, nematicide, and vertebrate control agent. This reregistration decision document covers the methyl bromide uses that have accompanying food residue tolerances such as post-harvest fumigation of food commodities in chambers at ports or specialized structural fumigations at food processing facilities, as well as some uses without tolerances that are performed in similar facilities. EPA has reviewed the methyl bromide commodity uses 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. EPA is currently assessing risks and will develop risk management decisions for five soil fumigant pesticides: Chloropicrin, dazomet, metam sodium, methyl bromide, and a new active ingredient, iodomethane. Risks of a sixth soil fumigant, 1, 3-D (Telone), will be discussed for comparative purposes because the risk management decision was completed in 1998. A decision on the reregistration of methyl bromide's non-commodity uses that do not have food tolerances (*e.g.*, pre-plant soil, greenhouse, residential) is scheduled to be completed in 2007 with the other soil fumigants.

DATES: Comments must be received on or before October 10, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0123, 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–2005–0123. 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 *http://www.regulations.gov* or E-mail. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an E-mail comment directly to EPA without going through *http://www.regulations.gov*, your E-mail address will be automatically captured and included as part of the comment that is placed in the 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: Steven Weiss, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8293; fax number: (703) 308-8005; E-mail address: *weiss.steven@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 *http://www.regulations.gov* or E-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Tolerance Reassessment and Risk Management Decision (TRED) for Methyl Bromide, and Reregistration Eligibility Decision (RED) for Methyl Bromide's Commodity Uses under section 4(g)(2)(A) of FIFRA. Methyl bromide is a broad-spectrum fumigant chemical that can be used as an acaricide, antimicrobial, fungicide, herbicide, insecticide, nematicide, and vertebrate control agent. The most prevalent use pattern is as a soil fumigant; however, it is also used as a structural fumigant and for post-harvest treatment of commodities, which are the uses considered in these decisions. EPA has determined that the data base to support reregistration is substantially complete and that products containing methyl bromide are eligible for reregistration depending on their specific uses, 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 methyl bromide.

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 has reviewed and made the requisite safety finding for the methyl bromide tolerances.

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, methyl bromide was reviewed through the full 6-Phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for methyl bromide commodity uses.

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. The Agency is issuing the methyl bromide commodity use RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the

Agency Docket for methyl bromide. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and *http://www.regulations.gov*. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the methyl bromide RED will be implemented as it is now presented.

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: August 2, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–12898 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0203; FRL–8083–3]

Ethylene Oxide; Tolerance Reassessment Decision for Low Risk Pesticide; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Tolerance Reassessment Decision (TRED) for the pesticide ethylene oxide, and opens a public comment period on this document, related risk assessments, and other support documents. EPA has reviewed this pesticide ethylene oxide through a modified, streamlined version of the public participation process that the Agency uses to involve the public in developing pesticide tolerance reassessment and reregistration decisions. Through the tolerance reassessment program, EPA is ensuring that all pesticides meet current health and food safety standards.

DATES: Comments must be received on or before October 10, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0203, 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–2005–0203. 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 *http://www.regulations.gov* or E-mail. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an E-mail comment directly to EPA without going through *http://www.regulations.gov*, your E-mail address will be automatically captured and included as part of the comment that is placed in the 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: Joy Schnackenbeck, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8072; fax number: (703) 308-7070; E-mail address:*schnackenbeck.joy@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 *http://www.regulations.gov* or E-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* 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

EPA has reassessed the uses of ethylene oxide (ETO), and reassessed the four existing tolerances or legal residue limits established for residues of this fumigant/sterilant. Additional tolerances are to be proposed for ethylene chlorhydrin (ECH), a reaction product of ETO. As a fumigant/sterilant, ETO is used to sterilize medical or laboratory equipment, pharmaceuticals, and aseptic packaging (21 CFR part 201), or to reduce microbial load on cosmetics, whole and ground spices or other seasoning materials (40 CFR part 180) and artifacts, archival material or library objects. Sterilization/fumigation with ETO must be performed only in vacuum or gas tight chambers designed for use with ETO. It is applied by commercial applicators only; there are no residential uses of ETO.

The Agency is now issuing for comment the resulting Report on Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision for ethylene oxide, known as a TRED, as well as related risk assessments and technical support documents. This TRED will be followed by a Reregistration Eligibility Decision (RED) for ETO, scheduled for 2007. The RED will be prepared once the Agency's Office of Research and Development (ORD) completes its assessment of ETO carcinogenicity. These results will be incorporated into the Office of Pesticide Programs' (OPP) risk assessment for ETO and a RED will be prepared.

EPA developed the ETO TRED through a modified, streamlined version of its public process for making tolerance reassessment and reregistration eligibility decisions. Through these programs, the Agency is ensuring that pesticides meet current standards under the Federal Food, Drug, and Cosmetic Act (FFDCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended by FQPA. EPA must review tolerances and tolerance exemptions that were in effect when the FQPA was enacted, 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 has reviewed and made the requisite safety finding for the ETO tolerances.

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** of May 14, 2004 (69 FR 26819) (FRL–7357–9), explains that in conducting these programs, the Agency 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. EPA can expeditiously reach decisions for pesticides like ETO, which pose no risk concerns after risk mitigation. This mitigation includes the voluntary cancellation of ethylene oxide use on basil and the mandatory requirement of a sterilization method that uses a single sterilization chamber to pre-condition and aerate with an alternating vacuum and aeration purging procedure which reduces ethylene oxide and reaction product residues. Once EPA assesses uses and risks for such low risk pesticides, the Agency may go directly to a decision and prepare a document summarizing its findings, such as the ETO TRED.

The tolerance reassessment program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public in finding ways to effectively mitigate pesticide risks. ETO, however, poses no risks after mitigation. The Agency therefore is issuing the ETO TRED, its risk assessments, and related support documents simultaneously for public comment. The comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the TRED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency docket for ETO. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

EPA will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the docket and *http://www.regulations.gov*. If any comment significantly affects the document, EPA also will publish an amendment to the TRED in the **Federal Register**. In the absence of substantive comments requiring changes, the decisions reflected in the TRED will be implemented as presented.

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

Section 408(q) of the 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: August 1, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–12906 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0558; FRL–8085–4]

Coppers Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for copper-containing pesticides and opens a public comment period on this document and its supporting documents. The Agency's risk assessments and other related documents also are available in the coppers docket. Coppers are used in agriculture as a broad-spectrum fungicide and bactericide on virtually all food and ornamental crops, for algae control in catfish aquaculture, and in direct aquatic applications as an algaecide, herbicide, molluscicide, and leech control. Coppers are also registered for antimicrobial applications including use as an anti-foulant and preservative. EPA has reviewed coppers through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before October 10, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0558, 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–2005–0558. 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: Rosanna Louie, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0037; fax number: (703) 308-7070; e-mail address: *louie.rosanna@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for pesticides containing coppers under section 4(g)(2)(A) of FIFRA. Coppers are used in agriculture as a broad-spectrum fungicide and bactericide used on virtually all food and ornamental crops, in catfish aquaculture, and in direct aquatic applications as an algaecide, herbicide, molluscicide, and leech control. Direct aquatic application sites include a wide range of water bodies including irrigation waterways, potable water sources and systems, and quiescent water bodies. Coppers are also registered for antimicrobial applications including use as an anti-foulant and preservative in wood treatments and anti-fouling paints. EPA has determined that the data base to support reregistration is substantially complete and that products containing coppers that are used in agricultural applications (crops, ornamentals, and direct aquatic applications) are eligible for reregistration under FIFRA, provided that the mitigation measures are adopted and product labels are amended as described in the RED document. The Agency assessed the homeowner root control use of copper sulfate pentahydrate, which may potentially pose additional cost burdens to publicly owned treatment works (POTWs) to remove the excess copper from wastewaters until copper concentrations reach acceptable levels as required, as well as the potential risk to non-target aquatic animals and plants. However, there is insufficient data to fully assess this potential burden to POTWs. The Agency is seeking comments on the extent of copper use as a root killer, and the potential burden placed on POTWs from this use. 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 reregister specific products under section 4(g)(2)(C).

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 has reviewed and made the requisite safety finding for the copper tolerances.

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, coppers were reviewed through the modified 4-Phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for coppers.

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. The Agency is issuing the coppers RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for coppers. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments document in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the coppers RED will be implemented as it is now presented.

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: August 2, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–12899 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0231; FRL–8067–1]

Metaldehyde Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide metaldehyde, and opens a public comment period on this document. The Agency's risk assessments and other related documents also are available in the metaldehyde Docket. Metaldehyde is a molluscicide used to control snails and slugs on a wide variety of sites, including turf, ornamentals, berries, citrus, and vegetables. EPA has reviewed metaldehyde through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and

tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before October 10, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0231, 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–2005–0231. 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 *http://www.regulations.gov* or E-mail. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an E-mail comment directly to EPA without going through *http://www.regulations.gov*, your E-mail address will be automatically captured and included as part of the comment that is placed in the 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: Jill Bloom, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8019; fax number: (703) 308–7070; E-mail address:*bloom.jill@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 *http://www.regulations.gov* or E-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide metaldehyde under section 4(g)(2)(A) of FIFRA. Metaldehyde is a molluscicide used to control snails and slugs on a wide variety of sites, including turf, ornamentals, berries, citrus, and vegetables. EPA has determined that the data base to support reregistration is substantially complete. The technical registrant of metaldehyde, Lonza, elected not to support many uses through the development of residue and other data. Of the uses Lonza is supporting, turf and dichondra lawns are not eligible for reregistration, mainly based on the risks these residential uses pose to domestic animals, which may be

poisoned by ingesting metaldehyde pellets intended as snail and slug baits. The uses of metaldehyde that are eligible for reregistration are: Ornamentals, citrus, cole crops, several leafy greens (including lettuce and spinach), tomato, strawberry, berries (including blackberry, blueberry, currant, elderberry, gooseberry, and raspberries), artichoke, and grass grown for seed. To mitigate the risks associated with the eligible uses of metaldehyde, the Agency is requiring that the registrants implement a number of measures aimed at reducing exposures to domestic animals and wildlife, mainly through reduced numbers of applications and reduced application rates, and product labeling and reformulation. In addition, the Agency is requiring that the registrants undertake a comprehensive incident monitoring program, data from which will be used by the Agency to determine whether these risk mitigation measures adequately reduce numbers and severity of poisoning incidents for domestic animals. Upon submission of any required generic and product-specific data pursuant to the RED, and any necessary changes to metaldehyde registrations and product labeling (either to address concerns identified in the RED or resulting from the use of product-specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing metaldehyde.

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 has reviewed and made the requisite safety finding for the sole existing metaldehyde tolerance.

Although the metaldehyde RED was signed on July 27, 2006, certain components of the document, which did not affect the final regulatory decision, are undergoing final editing at this time. These components, including the list of additional generic data requirements, summary of labeling changes, appendices, and other relevant information, will be added to the metaldehyde RED when they are complete. None of these additions will alter the conclusions documented in the July 27, 2006 metaldehyde RED.

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, metaldehyde was reviewed through the modified 4-Phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for metaldehyde.

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. The Agency is issuing the metaldehyde RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for metaldehyde. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

In particular, during the 60–day comment period following the publication of this Notice, the Agency is soliciting input on several of the mitigation measures required by the RED.

The Agency is specifically seeking public comment on how the directions on home and garden product labels to exclude children and domestic animals from treated areas may be enhanced. As an example, the RED requires that these product labels include a graphic representing the prohibition for allowing children and domestic animals access to treated areas (*e.g.*, the words ''Children and Pets'' within a red circle with a red bar running diagonally through the circle). The formulators of metaldehyde products have commented that they believe a ''Children and Pets'' graphic of this nature could be misleading to consumers. Comments on this feature in particular are requested.

In addition, the Agency seeks public comment on a requirement that all metaldehyde granular products be formulated with a bright blue pigment, which anecdotal evidence suggests may deter ingestion by animals. Some registrants have expressed concern that the blue color could attract children who might mistake the granules for candy. The Agency is soliciting input on this issue and data on the potential effect of the blue color on ingestion of such material by animals. The registrants are also concerned that the blue color in granules could transfer to produce or the containers in which harvested produce is transported, reducing the marketability of the produce. The Agency believes that the soil-applied baits should have little likelihood of transferring color to plants, but is seeking public comment on experience with the pigmented formulations in agricultural sites, where they are already used.

The Agency is also seeking input on a prohibition of use for metaldehyde in strawberries grown as annuals. The annual growth pattern is typically associated with lower populations of slugs which may do little economic damage to the fruits. The Agency seeks information to be able to confirm or refute that the use of metaldehyde on strawberries grown as annuals is not necessary.

The Agency will carefully consider all comments received by the closing date and subsequently will post a Response to Comments Memorandum to the metaldehyde Docket. If any comment significantly affects the reregistration decision, EPA also will publish an amendment to the RED in the**Federal Register**. In the absence of substantive comments requiring changes, the metaldehyde RED will be implemented as it is now presented.

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: August 2, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–12896 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0201; FRL–8085–9]

Organic Arsenical Herbicides (MSMA, DSMA, CAMA, and Cacodylic Acid), Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the organic arsenical herbicides MSMA, DSMA, CAMA, and cacodylic acid, and opens a public comment period on this document. The Agency has determined that all products containing MSMA, DSMA, CAMA, and cacodylic acid are not eligible for reregistration. The Agency's risk assessments and other related documents also are available in the organic arsenical herbicides docket. MSMA, DSMA, CAMA, and cacodylic acid are collectively referred to as the ''organic arsenical herbicides.'' The organic arsenic herbicides are used primarily on cotton and turf, including golf courses, home lawns, recreational areas such as school yards and athletic fields, and rights-of-way. Overall, use in the United States appears to be declining. While EPA has identified some risk associated with the direct use of these herbicides, the Agency's primary concern is the potential for applied organic arsenical products to transform to a more toxic inorganic form of arsenic in soil with subsequent transport to drinking water. EPA has reviewed the organic arsenical herbicides through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before October 10, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0201, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0201, 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 *http://www.regulations.gov* or E-mail. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an E-mail comment directly to EPA without going through *http://www.regulations.gov*, your E-mail address will be automatically captured and included as part of the comment that is placed in the 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 Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Lance Wormell, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 603-0523; fax number: (703) 308-7070; E-mail address: *wormell.lance@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 *http://www.regulations.gov* or E-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a RED for the pesticides MSMA, DSMA, CAMA, and cacodylic acid under section 4(g)(2)(A) of FIFRA. MSMA, DSMA, CAMA, and cacodylic acid were first registered in the United States for use as herbicides in the 1950s (DSMA) and 1960s (MSMA, CAMA, and cacodylic acid). MSMA and DSMA are herbicides registered for weed control on cotton, for turf grass and lawns, and under trees, vines, and shrubs. CAMA is an herbicide registered for post-emergent weed control on lawns. Cacodylic acid is a defoliant and herbicide registered for weed control under non-bearing citrus trees, around buildings and sidewalks, and for lawn renovation. EPA has determined that the database to support reregistration is substantially complete and that all products containing MSMA, DSMA, CAMA, and cacodylic acid are not eligible for reregistration.

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 has reviewed and cannot make the requisite safety finding for the MSMA, DSMA, and cacodylic acid tolerances.

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, the organic arsenical herbicides were reviewed through the modified 4-Phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for MSMA, DSMA, CAMA, and cacodylic acid.

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. The Agency is issuing the MSMA, DSMA, CAMA, and cacodylic acid RED for public comment. This comment period is intended to provide an additional opportunity for public input. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for the organic arsenical herbicides. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and any significant comments will be addressed and communicated through a Response to Comments Memorandum in the Docket and *http://www.regulations.gov*. If any comment significantly affects the decision, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the MSMA, DSMA, CAMA, and cacodylic acid RED will be implemented as it is now presented.

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: August 1, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–12905 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0253; FRL–8066–9]

Propylene Oxide (PPO) Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide propylene oxide (PPO), and opens a public comment period on this document. This comment period is intended to provide an additional opportunity for public input; in particular, the Agency is seeking comments regarding what additional measures, beyond emission control techniques, are available to protect bystanders from unsafe exposure to PPO resulting from use in vacuum-sealed pressurized chambers. The Agency's risk assessments and other related documents also are available in the PPO docket. PPO is an insecticidal fumigant/sterilant used both to control bacteria contamination, mold contamination, insect infestations, and microbial spoilage of food products as well as to control stored product insects in nonfood products. PPO is registered for use on several food items such as processed spices, cocoa (beans and

powder), and in-shell and processed nutmeats (except peanuts). PPO also has nonfood uses for cosmetic articles, gums, ores, packaging, pigments, pharmaceutical materials, and discarded nutshells prior to disposal. EPA has reviewed PPO through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before October 10, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0253, 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–2005–0253. 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: Eric Olson, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8067; fax number: (703) 308-8005; e-mail address: *olson.eric@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, PPO under section 4(g)(2)(A) of FIFRA. PPO is an insecticidal fumigant/sterilant used both to control bacteria contamination, mold contamination, insect infestations, and

microbial spoilage of food products as well as to control stored product insects in nonfood products. PPO is registered for use on several food items such as processed spices, cocoa (beans and powder), and in-shell and processed nutmeats (except peanuts). PPO also has nonfood uses for cosmetic articles, gums, ores, packaging, pigments, pharmaceutical materials, and discarded nutshells prior to disposal. EPA has determined that the data base to support reregistration is substantially complete and that products containing PPO 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 PPO.

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 has reviewed and made the requisite safety finding for the PPO tolerances.

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, PPO was reviewed through the modified 4-Phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for PPO.

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. The Agency is issuing the PPO RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the RED. In order to protect bystanders, the RED requires emission control technologies, such as scrubbers or acid bubblers, which achieve a performance standard of 99% emission reduction of PPO from vacuum-sealed pressurized chambers. However, the Agency is also interested in receiving comments describing other means to protect bystanders from this use. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for PPO. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the PPO RED will be implemented as it is now presented.

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: August 1, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–12897 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0585; FRL–8082–6]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Comments must be received on or before September 8, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0585, 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–2006–0585. 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 *http://www.regulations.gov* or E-mail. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an E-mail

comment directly to EPA without going through *http://www.regulations.gov*, your E-mail address will be automatically captured and included as part of the comment that is placed in the 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:

Tony Kish, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9443; E-mail address: *kish.tony@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 *http://www.regulations.gov* or E-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* 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. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients not Included in any Previously Registered Products

1. *File Symbol*: 100–RELU. *Applicant*: Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, North Carolina 27419–8300. *Product name*: Mandy. Fungicide. *Active ingredient*: Mandipropamid at 23.3%. *Proposal Classification/Use*: None. For use on brassica leafy vegetables, bulb vegetables, grapes, cucurbits, fruiting vegetables, potatoes, tomatoes, and tuberous and corm vegetables. (R. Kearns).

2. *File Symbol*: 59639–RUN. *Applicant*: Valent Corporation, P.O. Box 8025, Walnut Creek, CA 94596–8025. *Product name*: V-10161 4SC. Fungicide. *Active ingredient*: Fluopicolide at 39.5%. *Proposal Classification/Use*: For use on outdoor agricultural food crops. (J. Whitehurst).

3. *File Symbol*: 59639–RUR. *Applicant*: Valent Corporation. *Product name*: V-10161 VPP Fungicide. Fungicide. *Active ingredient*: Flupicolide at 39.5%. *Proposal Classification/Use*: For use on outdoor ornamentals, turf, and greenhouse grown ornamentals. (J. Whitehurst.)

4. *File Symbol*: 59639–RUE. *Applicant*: Valent Corporation. *Product name*: V-10161 Premix. Fungicide. *Active ingredients*: Fluopicolide at 5.54% and Propamocarb at 55.4%. *Proposal Classification/Use*: For use on outdoor agricultural food crops. (J. Whitehurst).

5. *File Symbol*: 59639–RUG. *Applicant*: Valent Corporation. *Product name*: V-10162 VPP Fungicide. Fungicide. *Active ingredient*: Fluopicolide and Propamocarb at 5.54%. *Proposal Classification/Use*: For use on outdoor ornamentals, turf, and greenhouse grown ornamentals. (J. Whitehurst).

6. *File Symbol*: 59639–RGO. *Applicant*: Valent Corporation, P.O. Box 8025, Walnut Creek, CA 94596–8025. *Product name*: Fluopicolide Technical. Fungicide. *Active ingredient*: Fluopicolide at 98.8%. *Proposal Classification/Use*: Manufacturing Use Only. (J. Whitehurst).

List of Subjects

Environmental protection, Pesticides and pest.

Dated: July 31, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–12903 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0652; FRL–8082–9]

Notice of Filing of Pesticide Petitions for Establishment or Amendment to Regulations for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or amendment of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before September 8, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0652 and pesticide petition number (PP), 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 telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0652. 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 www.regulations.gov or e-mail. The Federal *http://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 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 telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Bipin Gandhi, Office of Pesticide Programs Registration Division (7505P), Inert Ingredient Assessment Branch, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number (703) 308–8380; fax number (703) 305–0599; e-mail address: *gandhi.bipin@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 www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. 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.

1. PP 6E7078. Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27410, proposes to establish an exemption from the requirement of a tolerance for residues of the phosphoric acid tris(2-ethyl hexyl) ester, CAS Reg. No. 78–42–2, in or on food commodities. Because this petition is a request for an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 26, 2006.

Lois Rossi,

Director, Registration Division, Office Pesticide Programs.

[FR Doc. 06–6686 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2006–0656, FRL–8207–3]

Notice of Draft Guidance for Implementing the January 2001 Methylmercury Water Quality Criterion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comments.

SUMMARY: EPA announces the availability of draft guidance for implementing the water quality criterion for methylmercury and requests comments on the draft guidance. The draft document provides technical guidance to states, territories, and authorized tribes exercising responsibility under Clean Water Act (CWA) section 303(c) on how to use EPA's fish tissue-based methylmercury criterion recommendation in developing their own water quality standards for methylmercury and in implementing these standards in Total Maximum Daily Loads (TMDLs) and National Pollutant Discharge Elimination System (NPDES) permits. The guidance document does not impose any legally binding requirements on any entity. It provides various technical and policy approaches to implementing the criterion. These approaches are recommendations only. States, territories and authorized tribes may choose to implement other technically-sound approaches that are consistent with the CWA and EPA's implementing regulations.

DATES: Comments must be received on or before October 10, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2006–0656, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *ow-docket@epa.gov*.
- Mail: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Please include a total of four copies.
- Hand Delivery: EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460. Please include a total of four copies. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OW–2006–0656. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or *ow-docket@epa.gov*. The *http://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 *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://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 *http://*

www.regulations.gov or in hard copy at the Water 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 Water Docket is (202) 566–2426).

Note: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *http://www.epa.gov/epahome/dockets.htm* for current information on docket operations, locations and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to www.regulations.gov are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: Jim Pendergast, Standards and Health Protection Division, Office of Water, (4305T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC, 20460; telephone number: 202–566–0398; fax number: 202–566–0409; e-mail address: *Pendergast.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

Entities potentially interested in today's notice are those that discharge or release mercury and methylmercury to surface waters, and federal, state, tribal, and local authorities that regulate methylmercury levels in surface water. Categories and entities interested in today's notice include but are not limited to:

Category	Examples of potentially affected entities
State/Local/Tribal Government.	States, municipalities, tribes.
Industry	Mining, coal-fired power generation, other industries using mercury in their processing

This table is not intended to be exhaustive. Other types of entities not listed in the table may also be interested.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background and Today's Action

A. What Is Methylmercury and Why Are We Concerned About It?

Mercury occurs naturally in the earth's crust and cycles in the environment as part of both natural and human-induced activities. The amount of mercury mobilized and released into the biosphere has increased since the beginning of the industrial age. Most of the mercury in the atmosphere is elemental mercury vapor, which circulates in the atmosphere for up to a year, and, hence, can be widely dispersed and transported thousands of miles from sources of emission. Most of the mercury in water, soil, sediments, plants, and animals is in the form of inorganic mercury salts and organic forms of mercury (*e.g.*, methylmercury). Methylmercury most often results from microbial activity in wetlands, the water column, and sediments and is the form of mercury that presents the greatest risk to human health. Divalent mercury, when bound to airborne particles, is readily removed from the atmosphere by precipitation and is also dry deposited. Even after it deposits, mercury commonly returns to the atmosphere either as a gas or associated with particles, and redeposits elsewhere. As mercury cycles between the atmosphere, land, and water, mercury undergoes a series of complex chemical and physical transformations, many of which are not completely understood.

Exposure to methylmercury can result in a variety of health effects in humans. Children who are exposed to low concentrations of methylmercury prenatally might be at risk of poor performance on neurobehavioral tests, such as those measuring attention, fine motor function, language skills, visual-spatial abilities, and verbal memory. (NRC 2000, USEPA 2002, USEPA 2005). The primary route by which the U.S. population is exposed to methylmercury is through the consumption of fish containing methylmercury. For most people, methylmercury exposure from consumption of fish and shellfish is not a health concern. Yet, the exposure levels at which neurological effects have been observed in children can occur via maternal consumption of fish (rather than high-dose poisoning episodes) (USEPA 2005). The risks from methylmercury in fish and shellfish depend on the amount of fish and shellfish eaten and the levels of methylmercury in the fish and shellfish. Therefore, the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) are advising women who may become pregnant, pregnant women, nursing mothers, and young children to avoid some types of fish and eat fish and shellfish that are lower in methylmercury. You can find more information about this joint Federal advisory on EPA's Web site at *http://www.epa.gov/waterscience/fish*.

In 2000, the National Academy of Sciences (NAS)/National Research Council (NRC) reviewed the health studies on methylmercury (NRC 2000). In its review of the literature, NRC found neurodevelopmental effects to be the most sensitive endpoints and appropriate for establishing a

methylmercury Reference Dose (RfD) (NRC 2000). EPA defines an RfD as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily oral exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. On the basis of the NRC report, EPA established an RfD of 0.0001 mg/kg per day (0.0001 milligram of methylmercury per day for each kilogram of a person's body mass) in 2001 (USEPA 2002). EPA believes that exposures at or below the RfD are unlikely to be associated with appreciable risk of deleterious effects. It is important to note, however, that the RfD does not define an exposure level corresponding to zero risk; methylmercury exposure near or below the RfD could pose a very low level of risk that EPA deems to be non-appreciable. It is also important to note that the RfD does not define a bright line, above which individuals are at risk of adverse effects (USEPA 2005). NAS determined that EPA's RfD ''is a scientifically justified level for the protection of public health.''

With regard to other health effects of methylmercury, some recent epidemiological studies in men suggest that methylmercury is associated with a higher risk of acute myocardial infarction, coronary heart disease, and cardiovascular disease in some populations. Other recent studies have not observed this association. The studies that have observed an association suggest that the exposure to methylmercury might attenuate the beneficial effects of fish consumption (USEPA 2005). There also is some recent evidence that exposures of methylmercury might result in genotoxic or immunotoxic effects. Other research with less corroboration suggests that reproductive, renal, and hematological impacts could be of concern. There are insufficient human data to evaluate whether these effects are consistent with methylmercury exposure levels in the U.S. population (USEPA 2005).

B. What Is the Current Methylmercury Criterion?

In a January 8, 2001, **Federal Register** notice (66 FR 1344), EPA announced the availability of its recommended water quality criterion for methylmercury. The methylmercury water quality criterion is derived from the methylmercury RfD (described above) and data about the target population to be protected (*i.e.*, exposure parameters and assumptions). The equation for calculating the methylmercury fish tissue residue water quality criterion for the protection of human health is:

$$TRC = \frac{BW \times (RfD - RSC)}{\sum_{i=2}^{4} FI_i}$$

Where:

TRC = Fish tissue residue criterion (mg methylmercury/kg fish tissue) for freshwater and estuarine fish and shellfish

RfD = Reference Dose (based on non-cancer human health effects). For methylmercury the RfD is 0.0001 mg/kg BW-day (0.1 ug/kg BW-day)

RSC = Relative source contribution (subtracted from the RfD to account for marine fish consumption) estimated to be 2.7 x 10–5 mg/kg BW-day

BW = Human body weight default value of 70kg (for adults)

FI = Fish intake at trophic level (TL) i (i = 2, 3, 4); total default intake is 0.0175 kg fish/day for general adult population. Trophic level breakouts for the general population are: TL2 = 0.0038 kg fish/day; TL3 = 0.0080 kg fish/day; and TL4 = 0.0057 kg fish/day.

This equation and all values used in the equation are described in Water Quality Criterion for the Protection of Human Health, Methylmercury (USEPA 2001b). This equation is essentially the same equation used in the 2000 Human Health Methodology to calculate a water quality criterion for a pollutant that may cause non-cancer health effects, but is rearranged to solve for a protective concentration in fish tissue rather than in water. Thus, the equation does not include a bioaccumulation factor (BAF) or drinking water intake value (methylmercury exposure from drinking water is negligible (USEPA 2001a)). Incorporating the relevant values into the above equation, EPA obtained a fish tissue concentration (TRC) of 0.3 mg methylmercury/kg fish as the concentration in fish tissue that should not be exceeded. EPA's preference is for states and authorized tribes to use local or regional consumption rates, if these would better reflect the target populations.

C. What Is The Draft Implementation Guidance?

In the 2001 **Federal Register** notice of the availability of EPA's recommended water quality criterion for methylmercury, EPA stated that it would develop associated procedures and guidance for implementing the criterion. We are issuing that draft guidance today. The guidance will assist states in developing a water quality criterion for methylmercury in their water quality standards. States can either adopt EPA's recommended criterion or another criterion that is scientifically defensible and consistent with the Act and its implementing regulations. 40 CFR 131.11(a)(2).

This guidance document presents suggested approaches to criteria adoption and implementation. These approaches are recommendations and do not represent the only technically defensible approaches. The discussion in the guidance document is intended solely as guidance. This guidance does not change or, substitute for, applicable sections of the CWA or EPA's regulations; nor is it a regulation itself. Thus, it does not impose legally binding requirements on EPA, states, authorized tribes, or the regulated community and may not apply to a particular situation. EPA, state, territorial, and tribal decision makers retain the discretion to adopt approaches on a case-by-case basis that differ from this guidance where appropriate.

D. Why Did EPA Draft This Guidance?

The methylmercury criterion is expressed as a fish and shellfish tissue value, and this raises both technical and programmatic implementation questions. EPA expects that, as a result of the revised methylmercury water quality criterion, together with a more sensitive method for detecting mercury in effluent and the water column, and increased monitoring of previously unmonitored waterbodies, the number of waterbodies that states report on CWA section 303(d) lists as impaired due to methylmercury contamination might continue to increase. Development of water quality standards, NPDES permits, and TMDLs present challenges because these activities typically have been based on a water concentration (*e.g.*, as a measure of mercury levels in effluent). This guidance addresses issues associated with states and authorized tribes adopting the new water quality criterion into their water quality standards programs and implementation of the revised water quality criterion in TMDLs and NPDES permits. Further, because atmospheric deposition serves as a large source of mercury for many waterbodies, implementation of the criterion involves coordination across various media and program areas.

E. What Does the Draft Guidance Recommend?

For states and authorized tribes exercising responsibility under CWA section 303(c), this document provides technical guidance on how they might want to use the recommended 2001 fish tissue-based criterion to develop their own water quality standards for

methylmercury. States and authorized tribes may decide to adopt the EPA recommended methylmercury fish tissue-based criterion based on the national default fish consumption rate or translate the tissue value to a water column value through use of methylmercury BAFs. If a state or authorized tribe decides to translate the fish tissue criterion to a water column criterion, EPA recommends three approaches for relating a concentration of methylmercury in fish tissue to a concentration of methylmercury in ambient water: (1) Deriving site-specific methylmercury BAFs; (2) using bioaccumulation models; and (3) using EPA's draft default methylmercury BAFs. All three approaches have limitations, such as the amount of data necessary to develop a BAF. This guidance discusses the advantages and limitations of each approach.

States and authorized tribes may also consider calculating their own fish tissue criteria or adopting site-specific criteria for methylmercury to reflect local or regional fish consumption rates or relative source contributions. This guidance also discusses variances and use attainability analyses relating to methylmercury.

This document describes analytical methods for determining the concentrations of mercury and methylmercury in both tissue and water. These methods can detect mercury and methylmercury in tissue and water at very low levels—well below the levels of the previous criterion for mercury in the water column and the current criterion of methylmercury in fish tissue. This document also provides guidance for field sampling plans, laboratory analysis protocols, and data interpretation that is based on previously published EPA guidance on sampling strategies for contaminant monitoring. This guidance also describes how states can assess the attainment of water quality criteria and protection of designated uses by comparing sampling data to water quality criteria.

This guidance also discusses approaches for the development of TMDLs for waterbodies impaired by mercury. This includes approaches for TMDLs for waterbodies where much of the mercury is from atmospheric sources and suggestions regarding how such TMDLs can take into account ongoing efforts to address sources of mercury, such as programs under the Clean Air Act (CAA) and pollution prevention activities.

EPA's Technical Support Document for Water Quality-based Toxics Control (TSD), EPA 505/2–90–001, explains how to implement criteria expressed in terms of pollutant concentrations in water in NPDES permits. States that decide to implement the methylmercury tissue criterion as a water concentration for NPDES permits should continue to use the TSD guidance. However, for states that decide to implement the methylmercury tissue criterion directly, that is, without translating it into a water column value, the TSD doesn't provide relevant guidance. Today's draft guidance also includes a recommended approach for directly incorporating the methylmercury tissue criterion in NPDES permits.

F. Are There Particular Issues on Which EPA is Requesting Comment?

EPA requests comments only on the draft methylmercury criterion implementation guidance. EPA is not requesting comments on the 2001 methylmercury criterion itself. Although EPA solicits comment on the entire draft guidance, it is particularly interested in the following topics:

1. Implementation Approach for NPDES Permits Where the Criterion Is Implemented as a Fish Tissue Value

Today's guidance presents a recommended approach for directly incorporating the methylmercury tissue criterion in NPDES permits. This approach does not rely upon a state developing a bioaccumulation factor to convert the methylmercury tissue criterion into a water concentration equivalent. The approach recommends that facilities that use, accept or receive mercury into their wastewaters develop mercury minimization plans. For discharges that are small contributors of mercury to a watershed or do not use mercury in their processes, the approach recommends that current permit effluent levels remain constant. EPA expects that most facilities will fall into this category due to significant loadings from other sources (e.g., air deposition, abandoned mines). For discharges that are significant contributors of mercury to a watershed and use mercury in their processes, the approach recommends that permit effluent limits ensure the attainment of water quality standards. EPA expects that few dischargers should fall into this category. For new or increased discharges, the approach recommends that permit effluent limits hold watershed loadings constant using antidegradation principles.

EPA solicits comment on the recommendations for directly incorporating the methylmercury tissue criterion in NPDES permits. The draft guidance recommends that a permitting authority could reasonably conclude that reasonable potential exists if two conditions are present (1) The NPDES permitted discharger has mercury in its effluent at a quantifiable level and (2) fish tissue from the waterbody into which the discharger discharges exceeds the fish tissue water quality criterion. EPA specifically solicits comment on alternate methods, based on using other information, for determining that there is reasonable potential to exceed the water quality standard where fish tissue data show that the methylmercury tissue criterion in a water quality standard is achieved.

2. Applying Water Quality Variances on a Watershed or State-Wide Basis

Traditionally, states establish water quality variances that are specific to a pollutant and a facility. EPA recognizes that, for mercury, there are situations where a number of NPDES dischargers are located in the same area or watershed and the justification supporting granting a variance applies to all of the dischargers. Two states, Ohio and Michigan, have already developed variances that apply to multiple discharges for mercury. Today's guidance encourages states and authorized tribes to consider establishing a multiple-discharger variance for a group of dischargers collectively.

EPA solicits comment on whether it should discuss multi-discharge, watershed, or state-wide variances in the final guidance.

G. References Cited

NRC (National Research Council). 2000. Toxicological effects of methylmercury. Committee on the Toxicological Effects of Methylmercury. National Academy Press. Washington, DC.

USEPA (U.S. Environmental Protection Agency). 1991. Technical Support Document for Water Quality-based Toxics Control. EPA 505/2–90–001. U.S. Environmental Protection Agency, Office of Water Enforcement and Permits and Office of Water Regulations and Standards.

USEPA (U.S. Environmental Protection Agency). 2001a. Water quality criteria: Notice of Availability of water quality criterion for the protection of human health: Methylmercury. U.S. Environmental Protection Agency, Office of Water, Washington, DC. Fed. Regist., 66:1344.

USEPA (U.S. Environmental Protection Agency). 2001b. Water quality criterion for the protection of human health: Methylmercury. EPA–823–R–01–001. U.S. Environmental Protection Agency, Office of Water, Washington, DC.

USEPA (U.S. Environmental Protection Agency). 2002. Integrated Risk Information System (IRIS). Methylmercury. U.S. Environmental Protection Agency, Office

of Research and Development, National Center for Environmental Assessment.
USEPA (U.S. Environmental Protection Agency). 2005. Regulatory Impact Analysis of the Clean Air Mercury Rule. Final Report. EPA–452/R–05–003. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Research Triangle Park, NC.

Dated: August 3, 2006.

Benjamin H. Grumbles,

Assistant Administrator for Water.

[FR Doc. 06–6803 Filed 8–8–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

August 1, 2006.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

FOR FURTHER INFORMATION CONTACT: Zenji Nakazawa, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–0600 or via the Internet at *Zenji.Nakazawa@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0783.

OMB Approval date: January 31, 2006.

Expiration Date: January 31, 2009.

Title: Section 90.176, Coordinator notification requirements on frequencies below 512 MHz or at 764–776/794–806 MHz.

Form No.: N/A.

Estimated Annual Burden: 3,900 responses; 1,950 total annual burden hours; .50 hours average per respondent.

Needs and Uses: Section 90.176 requires each Private Land Mobile frequency coordinator to provide, within one business day, a listing of their frequency recommendations to all other frequency coordinators in their respective pool, and, if requested, an engineering analysis. Any method can be used to ensure this compliance with the ''one business day requirement'' and must provide, at a minimum, the name of the applicant; frequency or frequencies recommended; antenna locations and heights; the effective radiated power; the type(s) of emission; the description of the service area; and the date and time of the recommendation. If a conflict in recommendations arises, the affected coordinators are jointly responsible for taking action to resolve the conflict, up to and including notifying the Commission that an application may have to be returned.

Federal Communications Commission.

Jacqueline R. Coles,

Associate Secretary.

[FR Doc. E6–12993 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

August 3, 2006.

SUMMARY: The Federal Communications Commission (Commission) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

FOR FURTHER INFORMATION CONTACT: Paul J. Laurenzano, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–1359 or via the Internet at *plaurenz@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0855.

OMB Approval Date: 7/27/2006.

Expiration Date: 1/31/2007.

Title: Telecommunications Reporting Worksheet, WC Docket No. 06–112, CC Docket No. 96–45.

Form No.: FCC Forms 499 (FCC Forms 499–A and 499–Q).

Estimated Annual Burden: 17,465 responses; 263,230 total annual burden hours; 10–25 hours per quarterly filing and 13.5–25 hours per annual filing per respondent.

Needs and Uses: This collection was submitted as a revision to an existing collection to obtain emergency clearance for FCC Forms 499–A and 499–Q (3060–0855). Universal Service obligations have been extended to interconnected Voice over Internet Protocol (interconnected VoIP) providers. The Commission requires telecommunications carriers and certain other providers of interstate telecommunications to contribute to the universal service fund. The Commission has found that interconnected VoIP providers are providers of interstate telecommunications. As such, the Commission has determined that interconnected VoIP providers must contribute to the universal service fund. By including interconnected VoIP providers in the contribution base, the Commission ensures that its contribution mechanism remains equitable, nondiscriminatory, and competitively neutral. The Commission determined that interconnected VoIP providers may contribute based on an interim safe harbor amount, under which interconnected VoIP providers treat 64.9 percent of their telecommunications revenues as interstate; their actual interstate end-user telecommunications revenues; or an estimate of their interstate end-user telecommunications revenues as determined by a traffic study, which must first be submitted to, then affirmatively approved by, the Commission. In addition, the Commission revised the interim wireless safe harbor that wireless providers may use to report their interstate revenues to 37.1 percent. The Commission also determined that, to the extent wireless providers report interstate telecommunications revenue based on traffic studies, in lieu of reporting revenues based on actual interstate end-user telecommunications revenues or based on the interim wireless safe harbor of 37.1 percent, such traffic studies must be filed with the Commission and the Universal Service Administrative Company.

OMB Control No.: 3060–0859.

OMB Approval Date: 6/23/2006.

Expiration Date: 6/30/2009.

Title: Suggested Guidelines for Petitons for Ruling Under Section 253 of the Communications Act.

Form No.: N/A.

Estimated Annual Burden: 80 Responses; 6,280 total annual burden hours; 63–125 hours per respondent.

Needs and Uses: This collection was submitted to extend an existing collection. The collection establishes various procedural guidelines related to the Commission's processing of petitions for preemption pursuant to Section 253 of the Communications Act of 1934, as amended. The Commission uses the information to discharge its statutory mandate relating to the preemption of state or local statutes or other state or local legal requirements.

Federal Communications Commission.

Jacqueline R. Coles,

Associate Secretary.

[FR Doc. E6–12994 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 95–116; CCB/CPD File No. 01–16; DA 06–1448]

Citizens Communications Company Petition for Waiver of Section 52.33(A) of the Commission's Number Portability Rules

AGENCY: Federal Communications Commission.

ACTION: Notice, termination of proceeding.

SUMMARY: This document provides notice of final termination of the petition for waiver of the Commission's number portability rules. No oppositions to the prior notice of termination were received; therefore, interested parties are hereby notified that this proceeding has been terminated.

DATES: This proceeding was terminated effective June 30, 2006.

FOR FURTHER INFORMATION CONTACT: Lynne Hewitt Engledow, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1520.

SUPPLEMENTARY INFORMATION: On May 19, 2006, the Wireline Competition Bureau's Pricing Policy Division issued a Public Notice in the above-listed proceeding stating that the proceeding would be terminated effective 30 days after publication of the Public Notice in the **Federal Register**, unless the Bureau received oppositions to the termination before that date. The notice was published in the **Federal Register** on May 31, 2006. *See* 71 FR 30924–30925, May 31, 2006. The Bureau did not receive any oppositions to the termination of this proceeding within 30 days of **Federal Register** publication of the notice; therefore, the above-listed proceeding was terminated as of June 30, 2006.

Federal Communications Commission.

Thomas J. Navin,

Chief, Wireline Competition Bureau.

[FR Doc. E6–12534 Filed 8–8–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011405–019.

Title: Ocean Carrier Working Group Agreement.

Parties: Latin America Agreement; Israel Trade Conference; Trans-Atlantic Conference Agreement; Transpacific Stabilization Agreement; Middle East Indian Subcontinent Discussion Agreement; United States Australasia Discussion Agreement; Westbound Transpacific Stabilization Agreement; Middle East Indian Subcontinent Discussion Agreement; A.P. Moller-Maersk A/S; Evergreen Marine Corporation (Taiwan) Ltd.; King Ocean Service de Venezuela, S.A.; Star Shipping A/S; Tropical Shipping & Construction Company, Limited; Wallenius Wilhelmsen Logistics AS; Zim Integrated Shipping Services, Ltd.; and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment updates the membership of various underlying agreement parties and the names of various carrier parties.

Agreement No.: 011426–039.

Title: West Coast of South America Discussion Agreement.

Parties: APL Co. Pte Ltd.; CMA CGM, S.A.; Compania Chilena de Navigacion Interoceanica, S.A.; Compania Sud Americana de Vapores, S.A.; Frontier Liner Services, Inc.; Hamburg-Süd; Hapag-Lloyd AG; King Ocean Services Limited, Inc.; Mediterranean Shipping Company, S.A.; Seaboard Marine Ltd.; South Pacific Shipping Company, Ltd.; and Trinity Shipping Line, S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment adds the trade between the U.S. Pacific Coast and the West Coast of South America to the scope of the agreement and adds Maruba S.C.A. as a party.

Agreement No.: 011539–013.

Title: Montemar/CP Ships Space Charter and Sailing Agreement.

Parties: CP Ships USA, LLC and Montemar Maritima S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell, LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes CP Ships USA LLC as a party to the agreement, adds Hapag-Lloyd AG, replaces CP Ships with Hapag-Lloyd throughout the agreement, and restates and renames the agreement.

Agreement No.: 011830–006.

Title: CMA CGM–CP/HL–APL Indamex 3 Cross Space Charter, Sailing and Cooperative Working Agreement.

Parties: American President Lines, Ltd.; APL Co. PTE Ltd.; CMA CGM, S.A.; CP Ships (UK) Limited; and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell, LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes CP Ships as a party to the agreement, makes corresponding changes reflecting that removal, updates Hapag-Lloyd's corporate name, deletes obsolete language, and restates the agreement.

Agreement No.: 011894–002.

Title: CP Ships/Montemar Slot Swap Agreement.

Parties: CP Ships USA, LLC and Montemar Maritima, S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes CP Ships as a party to the agreement, adds Hapag-Lloyd AG as a party, replaces CP Ships with Hapag-Lloyd throughout the agreement, and restates and renames the agreement.

Agreement No.: 011928–001.

Title: Maersk Line/CP Ships Slot Charter Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line, CP Ships (UK) Limited/CP Ships USA, LLC.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes the two CP Ships' entities as parties to the agreement, adds Hapag-Lloyd AG, replaces CP Ships with Hapag-Lloyd throughout the agreement, and restates and renames the agreement. It also replaces Article 12 of the agreement to reflect Australian legal requirements.

Agreement No.: 011931–001.

Title: CMA CGM/CP Ships/Marfret Vessel Sharing Agreement.

Parties: CMA CGM, S.A./CMA CGM (UK) Limited; Compagnie Maritime Marfret S.A.; and CP Ships (UK) Limited.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes CP Ships (UK) Limited as a party to the agreement, makes corresponding changes reflecting that removal, deletes certain limitations on Hapag-Lloyd's participation under the agreement, deletes obsolete language, and restates and renames the agreement.

Dated: August 4, 2006.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–12990 Filed 8–8–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date Reissued
017992NF	A&C Import Export Services, Inc., 6317 18th Avenue, Brooklyn, NY 11209	July 12, 2006.
019534N ..	AICS, Inc. dba Airwaves International Cargo Services, 12333 S. Van Ness Avenue #107, Hawthorne, CA 90250.	June 23, 2006.
018946F ...	AMF Global Transportation, Inc., 2681 Coyle Avenue, Elk Grove Village, IL 60007	May 31, 2006.
019248N ..	Allcargo Net, Inc., 1900 NW. 97th Avenue, Miami, FL 33172	June 11, 2006.
016671F ...	Lee Ann Tyus dba Lee Ann Tyus Maritime Services, 9648 Bailey Road, Cornelius, NC 28031	June 14, 2006.
019296N ..	Ours Logis, Inc., 1139 E. Dominquez Street Unit L, Carson, CA 90746	June 12, 2006.
015385N ..	Plane Cargo Inc. dba Marine Cargo, 753 Port America Place, Suite 102, Grapevine, TX 76051	June 8, 2006.
019794N ..	Via Mat International (USA) Inc., 130 Sheridan Blvd., Inwood, NY 11096	June 30, 2006.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E6–12987 Filed 8–8–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 017992NF.
Name: A&C Import Export Services, Inc.
Address: 6317 18th Ave., Suite 302, Brooklyn, NY 11204.
Date Revoked: July 12, 2006.
Reason: Failed to maintain valid bonds.

License Number: 018823N.
Name: ACGroup Worldwide Logistics Inc.
Address: 701 W. Manchester Blvd., Suite 203, Inglewood, CA 90301.
Date Revoked: July 5, 2006.
Reason: Failed to maintain a valid bond.

License Number: 019534NF.
Name: AICS, Inc. dba Airwaves International Cargo Services.
Address: 12333 S. Van Ness Ave., #107, Hawthorne, CA 90250.
Date Revoked: June 23, 2006.
Reason: Failed to maintain valid bonds.

License Number: 014272N.
Name: CDC USA, Inc.
Address: 2000 Kennedy Ave., 3rd Floor, San Juan, PR 00920.
Date Revoked: July 10, 2006.
Reason: Failed to maintain a valid bond.

License Number: 016017N.
Name: Carotrans International, Inc.
Address: 2401 Morris Ave., 2nd Floor West, Union, NJ 07083.
Date Revoked: June 18, 2006.
Reason: Failed to maintain a valid bond.

License Number: 010708N.
Name: Dukes Clearance Corporation.
Address: 11222 La Cienega Blvd., Ste. 455, Inglewood, CA 90304.
Date Revoked: July 15, 2006.
Reason: Failed to maintain a valid bond.

License Number: 004674F.
Name: G & A International Freight Forwarder, Inc.
Address: 6595 NW 36th Street, Ste. 213A, Miami, FL 33166.
Date Revoked: April 28, 2006.
Reason: Failed to maintain a valid bond.

License Number: 004593F.
Name: ISCO 1 (International Service Company 1).
Address: 7322 Onyx Street, New Orleans, LA 70124.
Date Revoked: July 4, 2006.
Reason: Surrendered license voluntarily.

License Number: 002352F.
Name: Intermar Export Services, Inc.
Address: 3 Pequot Path, Oakland, NJ 07436.
Date Revoked: June 17, 2006.
Reason: Failed to maintain a valid bond.

License Number: 017198F.
Name: OMJ International Freight Inc.
Address: 2401 NW 93rd Ave., Miami, FL 33172.
Date Revoked: June 23, 2006.
Reason: Failed to maintain a valid bond.

License Number: 019519NF.
Name: Ocean Star Shipping Inc.
Address: East 80, Route 4, Suite 410, Paramus, NJ 07652.
Date Revoked: July 13, 2006.
Reason: Failed to maintain valid bonds.

License Number: 018528NF.
Name: Payson International Freight, Inc.
Address: 145–52 157th Street, Jamaica, NY 11434.
Date Revoked: July 2, 2006.
Reason: Failed to maintain valid bonds.

License Number: 019284N.
Name: Petcon Freight Systems, LLC.
Address: 175–01 Rockaway Blvd., Ste. 215–218, Jamaica, NY 11434.
Date Revoked: July 5, 2006.
Reason: Failed to maintain a valid bond.

License Number: 005820N.
Name: Ren International Services, Inc.
Address: 860 East Carson Street, #114, Carson, CA 90745.
Date Revoked: July 11, 2006.
Reason: Failed to maintain a valid bond.

License Number: 016664NF.
Name: Trans Global Projects, Inc. dba Trans Global Shipping.
Address: 4607 World Houston Parkway, Ste. 100, Houston, TX 77032.
Date Revoked: June 29, 2006.
Reason: Failed to maintain valid bonds.

License Number: 017824N.
Name: Trans World Freight Services, Inc. dba Trans Young Shipping Co.
Address: 165–55 148th Ave., Jamaica, NY 11434.
Date Revoked: July 6, 2006.

Reason: Failed to maintain a valid bond.

License Number: 019471NF.

Name: Turk Group, Incorporated dba M.T.G.

Address: 13921 S. Figueroa Street, Los Angeles, CA 90061.

Date Revoked: July 11, 2006.

Reason: Failed to maintain valid bonds.

License Number: 019794F.

Name: Via Mat International (USA) Inc.

Address: 130 Sheridan Blvd., Inwood, NY 11096.

Date Revoked: June 30, 2006.

Reason: Surrendered license voluntarily.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E6–12988 Filed 8–8–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel—Operating Common Carrier Ocean Transportation Intermediary Applicants:

Embarque El Comando, 488 E. 164 Street, Bronx, NY 10456. Officer: Antolin German, President, (Qualifying Individual).

Lead Young Logistics Inc., 777 East Pico Blvd., Los Angeles, CA 90021. Officers: Wade Lun Chuang, Treasurer, (Qualifying Individual), Moises De La Vega, President.

Orient Star Shipping of Chicago, Inc., dba Orient Star Shipping, Inc., 7321 Hamlin Avenue, Skokie, IL 60076. Officers: Marissa Carido, President, (Qualifying Individual), Dan David Carido, Vice President.

E.P. Stereo Plus, Inc., 216 Warren Avenue, East Providence, RI 02914. Officers: Jeffrey A. Renaut, Vice President, (Qualifying Individual), Marta V. Morais, President.

Embarque M. Calvo, Inc., 1220 Brook Avenue, Bronx, NY 10456. Officer: Modesto Calvo, President, (Qualifying Individual).

Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Fresh Logistics, LLC, 760 So. Second Street, St. Louis, MO 63102. Officers: Chris Burnette Rowland, Manager, (Qualifying Individual), Keith Robinson, President.

AOL Freight Solutions, 1836 Center Park Drive, Charlotte, NC 28217. Officers: Eric Taghehchian, Vice President, (Qualifying Individual), Arthur Cottingham, President.

Eastern Direct System International Corp., 149–09 183rd Street, Suite 210, Springfield Garden, NY 11413. Officer: Xiao Chun Leung, President, (Qualifying Individual).

World Port Inc. dba Worldport Logistics, 182–08 149th Avenue, Springfield Gardens, NY 11413. Officer: Mario M. Ruiz, President, (Qualifying Individual).

Unity Container Line, Inc., 9010 SW. 137th Avenue, Suite 246, Miami, FL 33188. Officer: Pedro Streb, President, (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Worldpack LLC, 200 First Avenue West, Suite 400, Seattle, WA 98119. Officer: Rafael Flores, Director, (Qualifying Individual).

AMR Investments Incorporated dba Amerussia Shipping Company Inc. dba AMR, 547 Boulevard, Kenilworth, NJ 07033. Officers: Gary Walter Pedersen, Vice President, (Qualifying Individual), James Madden, President.

Ambassadors Moving & Shipping, LLC, 8301 Torresdale Avenue, Suite 13, Philadelphia, PA 19136. Officer: Daisy Pacheco, President, (Qualifying Individual).

Active Link Logistics, L.L.C., 34900 Riesling Point, Waukee, IA 50263. Officers: Melinda F. Dunsmoor, General Manager, (Qualifying Individual), May May Ng, Member.

American Freight Line—Southeast, Inc. dba American Freight Line, 671 NW. 4th Avenue, Fort Lauderdale, FL 33311. Officer: Gabriele Heinrichs, President, (Qualifying Individual).

Secure Transportation and Relocation Inc. dba Star International Movers, 21598 Atlantic Blvd., Suite 100, Sterling, VA 20166. Officer: James V. Re, Director, (Qualifying Individual).

Dated: August 4, 2006.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–12989 Filed 8–8–06; 8:45 am]

BILLING CODE 6730–01–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 *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 September 1, 2006.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Exchange Bancshares, Inc., Mayfield, Kentucky; to acquire 100 percent of the voting shares of Purchase Area Bancorp, Inc., Bardwell, Kentucky, and thereby indirectly acquire voting shares of Bardwell Deposit Bank, Bardwell, Kentucky.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. VB Texas, Inc., Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Community State Bank, Boling, Texas.

Board of Governors of the Federal Reserve System, August 3, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–12921 Filed 8–8–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 23, 2006.

A. Federal Reserve Bank of New York (Anne McEwen, Financial Specialist) 33 Liberty Street, New York, New York 10045-0001:

1. Westpac Banking Corporation, Sydney, Australia; to engage *de novo* through its subsidiary, Hastings Funds Management (US), Inc., New York, New York, in providing investment and financial advice, pursuant to section 225.28(b)(6) of Regulation Y.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Belvedere Capital Fund II L.P. and Belvedere Capital Partners II LLC, both of San Francisco, California; to acquire Hometown Commercial Capital, LLC, Burlingame, California, and thereby engage in funding commercial real estate loans through established warehouse lines and subsequently securitizing pools through major Wall Street firms, pursuant to sections 225.28(b)(1) and (b)(2)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, August 3, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–12922 Filed 8–8–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initiative To Integrate Clinical Laboratories into Public Health Testing, Funding Opportunity Number CDC–PA–HM06–605

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initiative to Integrate Clinical Laboratories into Public Health Testing, Funding Opportunity Number (FON) CDC–PA–HM06–605.

Times and Dates: 8:30 a.m.–4:30 p.m., August 3, 2006 (Closed).

8:30 a.m.–4 p.m., August 4, 2006 (Closed).

Place: Centers for Disease Control and Prevention, Building 19, Conference Room 256, 1600 Clifton Road, Atlanta, GA 30333, Telephone 404.498.2329.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to FON CDC–PA–HM06–605, ''Initiative to Integrate Clinical Laboratories into Public Health Testing.''

Due to programmatic matters, this **Federal Register** Notice is being published on less than 15 calendar days notice to the public (41 CFR 102–3.150(b)).

Contact Person for More Information: Jack Rogers, Ph.D., Program Analyst, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS E–21, Atlanta, GA 30333, Telephone 404.498.2329.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: August 3, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 06–6802 Filed 8–8–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10207]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320(a)(2)(ii). This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because of an unanticipated event, as stated in 5 CFR 1320.13(a)(2)(iii).

The Centers for Medicare & Medicaid Services (CMS) is submitting an emergency information collection request for the approval of the information collection requirements associated with two new exceptions to section 1877 of the Social Security Act (the Act). The approval of this collection process is essential to protect the Medicare program and its beneficiaries against fraud and abuse. In addition, emergency approval is essential to permit members of the health care industry to immediately reap the benefits of this important regulation. Once the new exceptions are effective, entities that furnish certain designated health services to Medicare beneficiaries will be permitted to assist physicians with the implementation of electronic prescribing and electronic health records technology. The benefits of this technology include reducing medical errors, coordinating care, improving efficiency, and decreasing health care costs by eliminating unnecessary and/or duplicative diagnostic services.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Physician Self-Referral Exceptions for Electronic Prescribing and Electronic Health Records; *Use:* Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), directs the Secretary of the Department of Health and Human Services (''HHS'') to create an exception to the physician self-referral prohibition in section 1877 of the Social Security Act (the Act) for certain arrangements in which a physician receives compensation in the form of items or services (not including cash or cash equivalents) (''nonmonetary remuneration'') that is necessary and used solely to receive and transmit electronic prescription information. In addition, using our separate legal authority under section 1877(b)(4) of the Act, this rule creates a separate regulatory exception for certain arrangements involving the provision of nonmonetary remuneration in the form of electronic health records software or information technology and training services necessary and used predominantly to create, maintain, transmit, and receive electronic health records.

The conditions for both exceptions require that arrangements for the items and services provided must be set forth in a written agreement, signed by the involved parties, specify the items or services being provided and the value of those items or services, and cover all of the electronic health records technology to be furnished by the entity. We have suggested that instead of one master contract that is updated with each new donation, the parties may choose to create a specific new contract and then reference other agreements or cross-reference a master list.

The requirements associated with these exceptions are limited to donations made to physicians by providers, members of integrated delivery systems, Federally Qualified Health Centers, or rural health clinics (for purposes of this Collection of Information Requirement, ''Providers''); by group practices to their physician members, and by Prescription Drug Plan (PDPs) sponsors and Medicare Advantage (MA) organizations to prescribing physicians. The paperwork burden is the creation of the written contracts. The burden associated with the written agreement requirement is the time and effort necessary for documentation of the agreement between the parties, including signatures of the parties. *Form Number:* CMS–10207 (OMB#: 0938–NEW); *Frequency:* Recordkeeping and Reporting—On occasion; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 87,230; *Total Annual Responses:* 87,080; *Total Annual Hours:* 50,731.

CMS is requesting OMB review and approval of this collection by September 22, 2006, with a 180-day approval period. Written comments and recommendations will be considered from the public if received by the individuals designated below by September 18, 2006.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by September 18, 2006: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—B, Attn: William N. Parham, III, Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850 and, OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395–6974.

Dated: August 2, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 06–6773 Filed 8–3–06; 4:04 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0219]

Antiviral Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Antiviral Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 19, 2006, from 8 a.m. to 4 p.m. and on October 20, 2006, from 8 a.m. to 4 p.m.

Addresses: Electronic comments should be submitted to *http://www.fda.gov/dockets/ecomments.* Select ''2006N–0219—Clinical Trial Design Issues in the Development of Products for Treatment of Chronic Hepatitis C'' and follow the prompts to

submit your statement. Written comments should be submitted to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, by close of business on October 5, 2006. All comments received will be posted without change, including any personal information provided. Comments received on or before October 5, 2006, will be provided to the committee before the meeting.

Location: Hilton Washington DC/Silver Spring, The Ballrooms, 8727 Colesville Rd., Silver Spring, MD. The hotel phone number is 301–589–5200.

Contact Person: Cicely Reese, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *cicely.reese@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512531. Please call the Information Line for up-to-date information on this meeting.

Agenda: On both days, the committee will discuss clinical trial design issues in the development of products for treatment of chronic hepatitis C infection. This meeting is being convened in response to the growing number of products in development for this indication. The primary objectives for committee deliberations are to discuss issues relating to the identification of appropriate control arms, populations for study, endpoints, and long-term followup. On October 20, 2006, the meeting will be open to the public from 8 a.m. to 12 noon, unless public participation does not last that long; from 1 p.m. to 4 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information.

The background material will become available no later than 1 business day before the meeting and will be posted on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*. (Click on the year 2006 and scroll down to the Antiviral Drugs Advisory Committee meeting.)

Procedure: On 0ctober 19, 2006, from 8 a.m. to 4 p.m. and on October 20, 2006, from 8 a.m. to 12 noon, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the Division of Dockets Management on or before October 5, 2006, as previously stated (see *Addresses*). Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on October 19, 2006. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and contact information of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 5, 2006.

Closed Presentation of Data: On October 20, 2006, from 1 p.m. to 4 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)).

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Cicely Reese at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 2, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–12890 Filed 8–8–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: School Climate Survey for the National Cross-Site Evaluation of Safe School/Healthy Student (SS/HS) Initiative Grants—NEW

The SS/HS Initiative is a collaborative grant program supported by three Federal departments—the U.S. Departments of Health and Human Services, Education, and Justice. The program is authorized under the Elementary and Secondary Education Act of 1965, as amended, and the Higher Education Act of 1965, Title IV, part A, subpart 2 (National Programs), Section 4121 (Federal Activities).

This initiative, instituted by Congress following the murderous assaults at Columbine High School in Colorado, is designed to provide Local Educational Agencies (LEAs), including school districts and multi-district regional consortia, with three years of funding to simultaneously improve school safety, student access to mental health services, the reduction of violence and substance abuse, school relationships with the larger community, and early childhood preparation for learning. Collectively, Congress expects these changes to be reflected in improved school climate.

Local Education Agencies (LEAs) serve as the primary applicants for SS/HS grants, but the LEAs are required to establish formal partnerships with the local mental health system, the local law enforcement agency, and the local juvenile justice agency. Other partners often include public and private social services agencies, businesses, civic organizations, the faith community, and private citizens. As a result of these partnerships, comprehensive plans are developed, implemented, evaluated, and sustained with the goals of promoting the healthy development of children and youth, fostering their resilience in the face of adversity, and preventing violence.

From FY–1999 through FY–2004, grants of $1 million to $3 million annually for three years were awarded

to 190 LEAs, for a total of $916 million. Approximately 40 new SS/HS grants were awarded in FY–2005. These grants are providing support for rural, tribal, suburban, and urban communities that include diverse racial and ethnic groups across the country.

In compliance with the Government Performance and Results Act (GPRA) of 1993, grantees are required to collect and report data that measure the results of the programs implemented with this grant. Specifically, grantees are required to collect and report information on the following GPRA indicators:

1. The percentage of SS/HS grant sites that experience a decrease in the number of violent incidents at schools.

2. The percentage of SS/HS grant sites that experience a decrease in substance abuse.

3. The percentage of SS/HS grant sites that improve school attendance.

4. The percentage of SS/HS grant sites that increase mental health services to students and families.

In addition to GPRA measures, the Federal Evaluation Work Group of the Safe School/Healthy Students (SS/HS) Initiative national evaluation, comprised of Federal officials representing the U.S. Departments of Education, Health and Human Services, and Justice, determined that information on changes in school climate is also required to provide a direct basis of comparison for performance with subsequent cohorts of grantees. Although GPRA measures monitor changes in individual outcomes among students, GPRA measures have been found to provide an incomplete metric of performance in terms of observed changes in overall ''school climate.''

The SS/HS National Evaluation Team proposes to adopt the staff version of the California Healthy Kids Survey for this purpose. This instrument contains 43 multiple choice questions that are used to obtain school staff perceptions of student behavior and attitudes, school programs and policies, and the overall school climate as they relate to student well-being and learning. It deals with such issues as truancy, safety, harassment, substance abuse, school connectedness and learning supports. The instrument, modified slightly to form the SS/HS School Climate Survey, will track changes in school climate in schools targeted for program services under the SS/HS Initiative. In the absence of the School Climate Survey, there would be no common, cross-site measure of performance across SS/HS initiative grantees. In practice, the School Climate Survey will be administered electronically among approximately 67,500 local educational system employees. These employees will be encouraged to log onto a Web site during each year that their school benefits from the grant to answer questions concerning their perception of student behavior and safety at the school.

The burden estimate for the annual survey is as follows:

Number of respondents	Responses per respondent	Burden response (hours)	Total annual burden (hours)
67,500	1 per year	0.5	33,750

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 1, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–12977 Filed 8–8–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Title: Metropolitan Firefighter Demographics Study.

OMB Number: 1660–NW17.

Abstract: Data products and reports exist that contain fragmented or estimated information about firefighter demographics, but there is no single reference source today that aggregates this data to provide an accurate profile of firefighters on a per department basis. The USFA [1] receives many requests for information related to firefighters, including gender, race and ethnicity, as well as the number of firefighters holding chief officer and line officer positions. The USFA is working to identify the demographic makeup of metropolitan fire departments in the United States to provide input for program planning and to inform stakeholders of the demographic composition of firefighters. The database will be used by USFA to guide programmatic decisions and provide the Fire Service and the public with information about firefighter demographics at an aggregate level. Fire departments are able to complete the demographic firefighter questionnaire by filling out a paper form and faxing the completed form, or sending it in a return envelope.

Affected Public: Federal, State, local government, and career fire departments.

Number of Respondents: 115.

Estimated Time per Respondent: 20 minutes (.33 hour).

Estimated Total Annual Burden Hours: 39 hours.

Frequency of Response: Once.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs at OMB, Attention: Desk Officer for the Department of Homeland Security/FEMA, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, or facsimile number (202) 395–7285. Comments must be submitted on or before September 8, 2006.

[1] The USFA is currently being transferred to the newly created Preparedness Directorate of the Department of Homeland Security. During this transition FEMA, also part of the Department of Homeland Security, will continue to support this program as the new Directorate stands up. Ultimately this data collection will be transferred to the Preparedness Directorate.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Chief, Records Management, FEMA, 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov*.

Dated: August 1, 2006.

John Sharetts-Sullivan,

Chief, Records Management & Privacy, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. E6–12910 Filed 8–8–06; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1653–DR]

New Jersey; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Jersey (FEMA–1653–DR), dated July 7, 2006, and related determinations.

DATES: *Effective Date:* July 10, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 10, 2006.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–12911 Filed 8–8–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1656–DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1656–DR), dated August 1, 2006, and related determinations.

DATES: *Effective Date:* August 1, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 1, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Ohio resulting from severe storms, straight line winds, and flooding beginning on July 27, 2006, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Jesse F. Munoz, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster:

Ashtabula, Geauga, and Lake Counties for Individual Assistance.

All counties within the State of Ohio are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–12920 Filed 8–8–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1655–DR]

Virginia; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia (FEMA–1655–DR), dated July 13, 2006, and related determinations.

DATES: *Effective Date:* August 2, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby

amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 13, 2006:

Mecklenburg and Rappahannock Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–12919 Filed 8–8–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent to Request Approval From OMB of One New Public Collection of Information: National Explosives Detection Canine Team Program (NEDCTP), Training Course Feedback Forms

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on a new information collection requirement abstracted below that we will submit to the Office of Management and Budget (OMB) for approval in compliance with the Paperwork Reduction Act.

DATES: Send your comments by October 10, 2006.

ADDRESSES: Comments may be mailed or delivered to Katrina Wawer, Attorney-Advisor, Office of the Chief Counsel, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: Katrina Wawer at the above address, or by telephone (571) 227–1995 or facsimile (571) 227–1381.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Purpose of Data Collection

The National Explosives Detection Canine Team Program (NEDCTP) is a component of TSA's Office of Law Enforcement/Federal Air Marshal Service and is a cooperative partnership with participating airports and mass transit systems. TSA provides and trains the canines, in-depth training for the handlers, and partially reimburses the participating agency for costs associated with the teams, such as salaries, overtime, canine food, and veterinary care. Following training, handlers and supervisors are requested to complete TSA's Training Course Feedback Form, which captures numerical ratings and written comments about the quality of training instruction. The data collected provides valuable feedback to the program director, key staff members, instructional staff, and supervisors on how the material was presented and received. The feedback is collected, analyzed, and implementation of positive program changes occur as a result of the student/handler data collected.

Description of Data Collection

Each student inputs the data into the Canine Web Site electronically prior to their departure from the training environment. Each student that graduates from the course of instruction completes the feedback form, which is part of the course curriculum. The estimated burden is approximately one hour or less per participant to read, answer, and return the questions. TSA estimates approximately 150 course graduates will complete the form on an annual basis, for an annual hour burden of 150 hours.

Use of Results

The TSA Headquarters NEDCTP staff and the Canine Support Branch in San Antonio, Texas, use these results to continuously evaluate the quality of training and improve the course curriculum and course of instruction. Additionally, the collected feedback provides for new ideas, best practices, and insight on the overall canine training program that TSA can evaluate during annual formal review of current course curriculum. TSA disseminates the information to a limited amount of NEDCTP staff on an as needed basis. The program director reviews each of the feedback forms.

Issued in Arlington, Virginia, on August 3, 2006.

Peter Pietra,

Director of Privacy Policy and Compliance.

[FR Doc. E6–12888 Filed 8–8–06; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–53]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Federal Labor Standards Payee Verification and Payment Processing

AGENCY: Office of Departmental Operations and Coordination, Office of Labor Relations, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 21, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within ten (10) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: HUD Desk Officer, Office of Management and Regulatory Affairs, Office of Management and

Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_Deitzer@hud.gov,* telephone (202) 708–2374. This is not a toll-free number. Copies of documentation submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed information collection requirement as described below.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Federal Labor Standards Payee Verification and Payment Processing.

Description of Information Collection: HUD, and State, local, and Tribal agencies administering HUD-assisted programs must enforce Federal labor standards requirements, including the payment of prevailing wage rates to laborers and mechanics employed on HUD-assisted construction and maintenance work that is covered by these requirements. Enforcement activities include securing funds to ensure the payment of wage restitution that has been or may be found due to laborers and mechanics who were employed on HUD-assisted projects, and the payment of liquidated damages that may be assessed for violations of Contract Work Hours and Safety Standards Act (CWHSSA) overtime violations. Ultimately, these funds are deposited to an account in the U.S. Treasury. If the labor standards discrepancies are resolved, HUD refunds associated amounts to the depositor. As underpaid laborers and mechanics are located, HUD sends wage restitution payments to the effected workers. Liquidated damages assessed for CWHSSA overtime violations are retained by HUD.

In order to make refunds and wage restitution payments, HUD must verify the identity of the payee to ensure that the refund is made to the correct depositor or to the correct worker before payment is made. In order to complete these verifications, HUD will request information such as the depositor's or payee's tax identification number (i.e., employer identification number or Social Security Number); the project name or number; and/or the worker's employer's name.

All refunds from labor standards deposit accounts are made, electronically. Depositors entitled to a refund must provide to HUD the name, address, and its account information for the banking institution to which it wants the refund sent. Wage restitution payments may be made by check or electronically, at the payee's choice. HUD must verify the payee's mailing address, so that a check may be sent to them, or request banking information for an electronic payment.

OMB Control Number: 2501 (Pending)

Agency Form Numbers: HUD–4734, Labor Standards Deposit Voucher. This form is completed by HUD staff after depositor or payee verification and the collection of payment processing information, i.e., banking details or mailing address.

Members of Affected Public: Developers and prime contractors engaged on HUD-assisted construction or maintenance work subject to Federal labor standards requirements; construction and maintenance laborers and mechanics employed on HUD-assisted projects subject to Federal labor standards requirements that are entitled to wage restitution.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: The estimated number of respondents is 50 per year. The estimated number of hours needed per respondent is 0.1 hour. The total public burden is estimated to be 5 hours per year. Payees do not need to complete a form; the information may be collected by HUD in person, by telephone, or in writing, at the payee's option.

Status: New Collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 3, 2006.

Lillian Deitzer,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E6–12992 Filed 8–8–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Blackstone River Valley National Heritage Corridor Commission; Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the John H. Chafee Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, September 21, 2006.

The Commission was established pursuant to Public Law 99–647. The purpose of the Commission is to assist Federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene on September 21, 2006 at 7 p.m. at St. Ann Arts & Cultural Center, 82 Cumberland Street, Woonsocket, RI for the following reasons:

1. Approval of Minutes
2. Chairman's Report
3. Executive Director's Report
4. Financial Budget
5. Public Input

It is anticipated that about twenty-five people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Larry Gall, Interim Executive Director, John H. Chafee, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762-0250.

Further information concerning this meeting may be obtained from Larry Gall, Interim Executive Director of the Commission at the aforementioned address.

Larry Gall,

Interim Executive Director, BRVNHCC.

[FR Doc. E6–12950 Filed 8–8–06; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Energy Policy Act of 2005, Section 1813, Draft Report to Congress

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Publication of Draft Report to Congress.

SUMMARY: Section 1813 of the Energy Policy Act of 2005 (Pub. L. 109–58) requires the Department of the Interior and the Department of Energy (Departments) to jointly conduct a study of issues related to energy rights-of-way (ROWs) on tribal lands. The Act further directs the Departments to submit a report to Congress on the findings of the study. The Draft Report to Congress is available for review on the Section 1813 Web site (*http://1813.anl.gov*).

The Departments will hold several meetings to receive comments and suggestions on the Draft Report to Congress. Meeting locations and schedules have not been finalized; details will be provided on the Section 1813 Web site (*http://1813.anl.gov*).

DATES: Comments and suggestions on the Draft Report to Congress will be accepted through September 1, 2006.

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

Mail, personal, or messenger delivery: Attention: Section 1813 ROW Study, Office of Indian Energy and Economic Development, Room 20—South Interior Building, 1951 Constitution Avenue NW., Washington, DC 20245.

E-mail: IEED@bia.edu (please include the phrase ''Section 1813 Comments'' in the subject line).

FOR FURTHER INFORMATION CONTACT: Darryl Francois (DOI Office of Indian Energy and Economic Development) at (202) 219–0740, or Rollie Wilson (DOE Office of Electricity Delivery and Energy Reliability) at (202) 586–3946. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877-8339, to contact the above individuals during business hours. FIRS is available twenty-four hours a day, seven days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Commenting on the Draft Report to Congress

Written comments or suggestions should:

- Be specific and substantive;
- Explain the reasoning behind your comments and suggestions; and
- Where possible, reference the specific section or paragraph you are addressing.

Comments, including names and street addresses of respondents, will be available for public review at the address listed under ''**ADDRESSES**: *Mail, personal, or messenger delivery*'' during regular business hours (9 a.m. to 4 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality, which will be honored to the extent allowable by law. Those wishing to withhold their name or address (except for the city or town) must state this prominently at the beginning of their comment. Submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

II. Background

Section 1813 of the Energy Policy Act of 2005 (Pub. L. 109–58) requires the Department of the Interior and the Department of Energy (Departments) to jointly conduct a study of issues regarding grants, expansions, and renewals of energy rights-of-way (ROWs) on tribal lands. The Act further directs the Departments to submit a report to Congress on the findings of the study, including:

(1) An analysis of historic rates of compensation paid for energy ROWs on tribal land;

(2) Recommendations for appropriate standards and procedures for determining fair and appropriate compensation to Indian tribes for grants, expansions, and renewals of energy ROWs on tribal land;

(3) An assessment of the tribal self-determination and sovereignty interests implicated by applications for the grant, expansion, or renewal of energy ROWs on tribal land; and

(4) An analysis of relevant national energy transportation policies relating to grants, expansions, and renewals of energy ROWs on tribal land.

The Draft Report to Congress is available for review on the Section 1813 Web site (*http://1813.anl.gov*).

III. Description of Planned Meetings

The Departments will hold several public meetings and tribal consultation meetings to receive comments and suggestions on the Draft Report to Congress. The meetings are scheduled as follows:

August 24, 2006: Sheraton Denver West, 360 Union Boulevard, Lakewood, CO.

August 25, 2006: Radisson Salt Lake City Downtown, 215 West South Temple, Salt Lake City, UT.

August 28, 2006: Morongo Casino, Resort and Spa Hotel, 49750 Seminole Drive, Cabazon, CA.

August 30, 2006: Carlisle Hotel and Conference Center, 2500 Carlisle Boulevard NE, Albuquerque, NM.

Meetings will be held from 9 a.m. to 5 p.m. each day. The meeting in Denver/Lakewood, CO will be an all-day public meeting open to all stakeholders. The meetings in Salt Lake City, UT; Cabazon, CA; and Albuquerque, NM will consist of short one-or two-hour public meetings followed by government-to-government meetings. These government-to-government meetings will allow for consultation between tribal representatives and Federal officials, as called for in the Act, and in Executive Order No. 13175, [65 FR 67429 (Nov. 9, 2000)], ''Consultation and Coordination with Indian Tribal Governments.''

Dated: August 3, 2006.

Abraham E. Haspel,

Assistant Deputy Secretary.

[FR Doc. E6–13089 Filed 8–8–06; 8:45 am]

BILLING CODE 4310–96–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–180–06–1010–JK]

Emergency Closure and Segregation of Federal Lands in Amador, Placer, Nevada and Tuolumne Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure and segregation of six abandoned mine land sites in California.

SUMMARY: Notice is hereby given that all BLM-administered public lands at the Pond, Poore, Gold Run, Poison Lake, Davis and Longfellow abandoned mine land (AML) sites located in Amador, Placer, Nevada and Tuolumne Counties, California are closed to all forms of entry by the public, including mineral entry under the 1872 Mining Law. This closure is necessary to protect the public from hazards associated with these sites and to enable the remediation of the sites pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Sampling of water and sediment at these sites indicates substantial amounts of mercury and/or arsenic are present in sluice tunnel floor sediments and in mill tailings. Shafts

and tunnel inlets/outlets are also present at these sites. These conditions represent significant health and physical safety hazards to the public. The closure and segregation of these lands from all forms of land and mineral entry is also needed to prevent the location of any new mining claims on these lands pending completion of necessary removal and remediation actions. This closure will remain in effect until the Folsom Field Manager determines it is no longer needed. This closure does not apply to authorized employees and contractors.

DATES: *Effective Date:* This closure is effective immediately and will be verified upon publication in the **Federal Register**. It will remain in effect until the Manager, Folsom Field Office, determines it is no longer needed.

FOR FURTHER INFORMATION CONTACT: Tim Carroll, Geologist, Bureau of Land Management, 63 Natoma St., Folsom, CA 95630, Telephone (916) 985–4474.

SUPPLEMENTARY INFORMATION: The authority for the closure is 43 CFR 2300.0–3 and 8364.1. Any person who fails to comply with this closure may be subject to the penalties provided in 43 CFR 8360.0–7 and are subject to arrest or fine not to exceed $1,000 or by imprisonment not to exceed 12 months. This order applies to all forms of entry, with two exceptions: (1) Any emergency, law enforcement or other BLM vehicle while being used for emergency or administrative purposes, and (2) any vehicle whose use is expressly authorized by the BLM Field Manager to enter public lands at these sites.

The public lands affected by this closure order are T. 13 N., R. 10 E., sec. 3, lots 14, 17 and 18 (Pond); T. 16 N., R. 9 E., sec. 24, lots 3, 4 and 5, secs. 24 and 25, lot 45 (Poore); T. 15 N., R. 10 E., sec, 9, lots 3–5, 7–9, MS 1483 and SW¼SE¼, sec. 10, lots 1–4, MS 1482 and 1483, sec. 16, NE¼ (Gold Run); T. 5 N., R. 10 E., sec. 32, E½SE¼SE¼ (Poison Lake); T. 17 N., R. 9 E., sec. 32, lots 5, 7–10 (Davis); T. 1 S., R. 16 E., sec. 30, lot 21 (Longfellow); all townships in the Mount Diablo Base and Meridian, California.

The public lands affected by the restriction order constitute approximately 584.11 acres of land. These lands are depicted on maps in the Folsom Field Office where copies of these maps may be obtained.

January 30, 2006.

D.K. Swickard,

Manager, BLM Folsom Field Office.

This document was received at the Office of the Federal Register on August 4, 2006.

[FR Doc. E6–12932 Filed 8–8–06; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–1310–DB]

Notice of Availability of Final Environmental Impact Statement for the Atlantic Rim Natural Gas Development Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of a Final Environmental Impact Statement (FEIS) for the Atlantic Rim Natural Gas Development Project, Rawlins, Wyoming.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Atlantic Rim Natural Gas Development Project FEIS. The FEIS analyzes the environmental consequences of a proposed natural gas development and production operations on the 270,080 acres Atlantic Rim project area. The area is located within the administrative jurisdiction of the BLM Rawlins Field Office, and runs in an arc between Rawlins and Baggs in Townships 12–20 North, Ranges 89–93 West, Sixth Principal Meridian, Carbon County, Wyoming.

DATES: The FEIS will be available for review and comment for 30 calendar days starting on the date the Environmental Protection Agency (EPA) publishes its Notice of Availability in the **Federal Register**. The BLM can best use your comments and resource information submissions within the 30-day review period provided above.

ADDRESSES: A copy of the FEIS has been sent to affected Federal, State, and local government agencies and to interested parties. The document may be available electronically on the following Web site: *http://www.wy.blm.gov/rfo/nepa.htm.* If you are interested in viewing material referenced or posted to the BLM Web site, please contact the Rawlins Field Office as to its availability.

Copies of the FEIS will be available for public inspection at the following locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003
- Bureau of Land Management, Rawlins Field Office, 1300 N. Third Street, Rawlins, Wyoming 82301

FOR FURTHER INFORMATION CONTACT: Mr. David Simons, Project Lead, BLM Rawlins Field Office, 1300 N. Third Street, Rawlins, WY 82301. Requests for information may be sent electronically to: *atlantic_rim_eis_wymail@blm.gov.* Please submit electronic comments with ''Attn: Atlantic Rim Project Manager'' in the subject line and avoid using special characters and any form of encryption. Mr. Simons may also be reached at (307) 328–4328.

SUPPLEMENTARY INFORMATION: Anadarko E & P Company, LP, is the lead proponent for a proposal to explore for and develop natural gas resources in the Atlantic Rim project area. Double Eagle Petroleum and Mining Company and Warren Resources, Inc., are also participating in this proposal. Collectively, the Operators propose to drill up to 2,000 wells; 1,800 completed to coal formations and 200 to other geologic targets for natural gas. Drilling would occur within the Atlantic Rim Project Area over the next 20 years with Life-of-Project expected to be 30 to 50 years. Well density completed in coal formations would be up to 8 wells per 640-acre section of land; wells in other geologic formations would be spaced no tighter than four wells per section.

Prior to the initiation of this project approximately 185 oil and gas wells were drilled or approved for drilling within the Atlantic Rim project area. Consistent with an interim drilling plan, six exploratory plans of development (pods) of up to 24 wells each were completed in areas believed to have potential for commercial quantities of natural gas. The proposed action was developed based on the results of exploratory drilling conducted by the Operators within the project area.

On June 26, 2001, the BLM published its Notice of Intent to prepare an EIS for the Atlantic Rim Natural Gas Development Project in the **Federal Register**. Issues and concerns were identified during scoping and throughout the NEPA process. The Atlantic Rim FEIS focuses on impacts to air quality, biological and physical resources, transportation, socio-economics, and cumulative effects. In compliance with Section 7(c) of the Endangered Species Act, as amended, the FEIS includes a biological assessment for the purpose of identifying endangered or threatened species which may be affected by the Proposed Action.

On December 16, 2005, the BLM published its Notice of Availability of

the Draft EIS for this project in the **Federal Register**. The 60-day public comment period ended on February 16, 2006. Over 60,000 comments were received on the Draft EIS.

The Atlantic Rim FEIS analyzed four alternatives in detail:

1. The Proposed Action Alternative,
2. Alternative A—The No Action Alternative, which means the project as proposed would be rejected by the BLM;
3. Alternative B—See discussion below;
4. Alternative C—Special protection of sensitive resources; and,
5. Alternative D—Natural gas development with disturbance limitations.

The agency's preferred alternative is Alternative D.

Based on comments received to the Draft EIS, the potential for long delays in the allowable development and recovery of oil and gas resources held by the leaseholders and the requirement that the BLM allow reasonable access across Federal lands to private and state lands, Alternative B was eliminated from further study in the FEIS.

The Atlantic Rim FEIS includes the analysis of the impacts of the proposed development of 2,000 natural gas wells, Alternative A and the construction of access roads, pipelines, and other ancillary facilities such as a gas processing plant, compressor stations, and water disposal sites. If selected, Alternative B, the no action alternative BLM would reject the proposed action as submitted. To address concerns regarding the potential impacts of the activities as proposed, Alternative C provides for intense mitigation measures or limitations limited where sensitive resource values exist or overlap with the objective of reducing impacts. Examples of sensitive resources include threatened, endangered, and sensitive wildlife, fish and plant species; fragile soils; and unique cultural features. Respondents commenting on Alternative C indicated that the mitigation measures intended to minimize the level of disturbance and restrictions on number of well pad may render the project as technically and economically unfeasible. Alternative D is similar to Alternative A. The Operators would be limited in by the extent of surface disturbance that may occur at any one time and as quantified by a pre-determined percentage of the total project area.

How To Submit Comments

The BLM welcomes your comments on the Atlantic Rim FEIS. Comments may be submitted as follows:

1. Comments may be electronically mailed to *atlantic_rim_eis_wymail@blm.gov.* Please submit electronic comments with ''Attn: Atlantic Rim Project Manager'' in the subject line and avoid using special characters and any form of encryption. Please do not include any attachments, as the BLM e-mail security system will not accept them.

2. Written comments may be mailed or delivered to the BLM at: Atlantic Rim FEIS, Project Manager, Bureau of Land Management Rawlins Field Office, P.O. Box 2407, Rawlins, WY 82301.

The BLM will only accept comments on the Atlantic Rim FEIS if they are submitted using one of the methods described above. To be given consideration by BLM, all FEIS comment submittals must include the commenter's name and street address.

Our practice is to make comments, including the names and mailing addresses of each respondent, available for public review at the BLM office listed above during business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except for Federal holidays. Your comments may be disclosed as part of the EIS process. Individual respondents may request confidentiality. If you wish to withhold any information from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. We will not consider anonymous comments. All submissions from organizations or businesses will be made available for public inspection in their entirety.

August 3, 2006.

Donald A. Simpson,

Acting State Director.

[FR Doc. E6–12952 Filed 8–8–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–5410–00–B216; CACA 48128]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The Bureau of Land Management has received an application has been filed for the conveyance of the Federally owned mineral interest in the tract of land described below in this notice. Publication of this notice temporarily segregates the mineral interests in the public lands covered by the application from appropriation under the mining and mineral leasing laws while the application is being processed.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, Bureau of Land Management, California State Office, 2800 Cottage Way, Sacramento, California 95825, (916) 978–4677.

ADDRESSES: Your comments are invited. Please submit all comments in writing to Kathy Gary at the address listed above.

SUPPLEMENTARY INFORMATION: The tract of land referred to above in this notice consists of 0.26 acres of land, situated in Nevada County, and is described as follows:

Mount Diablo Meridian, California

T. 16 N., R. 8 E., Sec. 13, Lot 13.

Under certain conditions, Section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)) authorizes the sale and conveyance of the Federally owned mineral interests in land when the non-mineral, or so called ''surface'' interest in the land is not Federally owned, provided either one of the following conditions exist: (1) There are no known mineral values in the land; or (2) where continued Federal ownership of the mineral interests interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than mineral development.

In accordance with section 209(b) of the 1976 Act and 43 CFR part 2720, on May 25, 2006, an application was filed for the sale and conveyance of the Federally owned mineral interest in the above-described tract of land.

Publication of this notice segregates, subject to valid existing rights, the Federally owned mineral interests in the public lands referenced above in this notice from appropriation under the general mining and mineral leasing laws, while the application is being processed to determine if either one of the two specified conditions exists and, if so, to otherwise comply with the procedural requirements of 43 CFR part 2720.

The segregative effect shall terminate: (i) Upon issuance of a patent or other document of conveyance as to such mineral interests; (ii) upon final rejection of the application; or (iii) two years from the date of filing the application, whichever occurs first.

(Authority: 43 CFR 2720.1–1(b))

Dated: June 26, 2006.

J. Anthony Danna,

Deputy State Director, Natural Resources.

[FR Doc. E6–12933 Filed 8–8–06; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–030–1430–ES; WIES 050211]

Notice of Realty Action: Recreation and Public Purposes (R&PP) Act Classification and Conveyance; Vilas County, WI

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification for conveyance under the provisions of the Recreation and Public Purposes Act (R&PP), as amended (43 U.S.C. 869 *et seq.*), 63.67 acres in Vilas County, Wisconsin. The Vilas County Forestry, Recreation and Land Department has filed an application and plans proposing to use the land for recreational purposes.

DATES: Written comments must be received by the BLM not later than September 25, 2006.

ADDRESSES: Please submit your written comments to the Field Manager, BLM–ES, Milwaukee Field Office, 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202. Comments received in electronic form, such as e-mail or facsimile, will not be considered.

FOR FURTHER INFORMATION CONTACT: Marcia Sieckman, Supervisor, BLM–ES Milwaukee Field Office, at 414–297–4402.

SUPPLEMENTARY INFORMATION: The following described land in Vilas County, Wisconsin, has been examined and found suitable for classification for conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act of 1926, as amended (43 U.S.C. 869 *et seq.*), and is hereby classified accordingly:

Fourth Principal Meridian

T. 40 N., R.9 E.,
sec. 4, lots 8 and 9.

The area described contains 63.67 acres in Vilas County, Wisconsin. Prior to 1973, Vilas County Forestry, Recreation and Land Department believed that it owned the land within lots 8 and 9. However, a resurvey of the original meander in 1973 showed the original survey of June 9, 1864, to be in error. Lots 8 and 9 2343 created as a result of that resurvey. Vilas County wishes to acquire title to lots 8 and 9 in order to consolidate the County's ownership on the northeast side of Pickerel Lake. This action classifies the land for conveyance under the R&PP Act to protect natural resource values and to provide public recreation. The subject land was identified in the BLM's Wisconsin Resource Management Plan Amendment (March 2001), as not needed for Federal purposes and as having potential for disposal in order to eliminate scattered tracts difficult to manager and to improve land ownership patterns.

If and when issued, the patent for the subject land will be issued subject to the following terms, conditions, and reservations:

1. Provisions of the R&PP Act of 1926, as amended and all applicable regulations established by the Secretary of the Interior.

2. Valid existing rights, whether or not of record.

3. Easements for township roads, Pickerel Lake Road and Camp 12 Road.

4. All mineral deposits in the subject lands are reserved to the United States, together with the right to prospect for, mine and remove such deposits under regulations established by the Secretary of the Interior and applicable laws.

5. Terms and conditions prompted by the site specific environmental analysis.

6. Any other rights or reservations that the authorized officer deems appropriate to ensure public access and proper management of the Federal ands and interests therein.

On August 9, 2006, the land described above will be segregated from all forms of disposal or appropriation under the public land laws, except for conveyance under the R&PP Act and leasing under the mineral leasing laws.

Detailed information concerning this action is available for review in the BLM–ES, Milwaukee Field Office, at the address listed above.

Classification Comments: Interested persons may submit comments regarding the proposed classification at the address stated above for that purpose. Comments on classification are restricted to four subjects: (1) Whether the land is physically suited for the proposal; (2) whether the use will maximize the future use or uses of the land; (3) whether the use is consistent with local planning and zoning; and (4) whether the use is consistent with State and Federal programs.

Application Comments: Interested persons may submit comments regarding: (1) The specific use to be made of the subject land as proposed in the County's application, plan of development and management plan; (2) whether the BLM followed proper administrative procedure in reaching the decision; or (3) any other factor not directly related to the suitability of the land for recreation.

Comments, including names and street addresses of respondents, will be available for public review at the BLM–ES, Milwaukee Field Office at the address listed above during business hours (7:30 a.m. to 4:30 p.m.); Monday through Friday, except Federal holidays. Individual respondents may request confidentiality with respect to their name, address, and phone number. If you wish to have your name or street address withheld from public review, or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individual identifying themselves as representatives or officials or organizations or businesses, will be made available for pubic inspection in their entirety.

Any adverse comments will be evaluated by the State Director. In the absence of any adverse comments, the classification of the subject land will become effective on October 10, 1006. The land will not be offered for conveyance until after the classification becomes effective.

(Authority: 43 CFR 2471.5)

Dated: July 13, 2006.

Michael D. Nedd,

State Director, Eastern States.

[FR Doc. 06–6782 Filed 8–8–06; 8:45 am]

BILLING CODE 4310–PN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–320–06–5230–PH–1000–241A; 8340]

Arizona: Temporary Off-Highway Vehicle Restriction, Bureau of Land Management, Yuma Field Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary off-highway vehicle restriction.

SUMMARY: This notice is to inform the public that the Bureau of Land Management (BLM) intends to temporarily restrict all forms of motorized travel within 122.02 acres of

public land. The public lands affected by this temporary restriction are located in lots 1, 18, and 19, SE¼SW¼, and Tract 38, section 6, Township 11 South, Range 22 East, San Bernardino Meridian, Imperial County, California. Employees of the BLM and any other local, state, and Federal wildlife management, law enforcement, and fire protection personnel, while operating within the scope of their official duties, are exempt from this restriction. Access by additional parties may be allowed, but must be approved in advance in writing by the BLM Yuma Field Manager.

The BLM has issued this restriction by the authority provided in 43 Code of Federal Regulations 8341.2(a), 8364.1, and 9268.3, promulgated pursuant to the authority of the Federal Land Policy and Management Act of October 21, 1976, as amended (90 Stat. 2763; 43 United States Code 1732). The BLM is implementing this restriction to minimize damage to soil, watershed, vegetation, and cultural resources of the public lands. Violations of this restriction are punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months as authorized by Title 18, United States Code, Sections 3571 and 3581.

DATES: The restriction will be in effect between June 2, 2006 and June 1, 2008.

FOR FURTHER INFORMATION CONTACT: Mark Lowans, Acting Associate Field Manager; BLM Yuma Field Office; 2555 East Gila Ridge Road; Yuma, AZ 85365; *yfoweb_az@blm.gov*; (928) 317–3210.

SUPPLEMENTARY INFORMATION: The temporary restriction involves public lands recently transferred from the U.S. Fish and Wildlife Service to the BLM Yuma Field Office's jurisdiction under Public Law 109–127, An Act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California (109th Congress, 12/07/2005). The temporary restriction will enable the BLM to inventory and assess the existing natural and cultural resources within these newly acquired 122.02 acres. Inventory and assessment data will then be used to determine the appropriate management of off-highway vehicle use in the area, which would be permanently implemented by June 2, 2008 according to BLM Resource Management Planning guidance in 43 Code of Federal Regulations subparts 1610 and 8342.

Dated: June 2, 2006.

Rebecca Heick,

Field Manager, Yuma.

[FR Doc. E6–12931 Filed 8–8–06; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park Advisory Commission; Notice of Meeting

Notice if hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, September 11, 2006.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at Park Headquarters, Bar Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held June 5, 2006.

2. Committee reports:

—Land Conservation

—Park Use

—Science and Education

—Historic

3. Old business.

4. Superintendent's report.

5. Public comments.

6. Proposed agenda for next Commission meeting, February 5, 2007.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: July 19, 2006.

Sheridan Steele,

Superintendent.

[FR Doc. 06–6772 Filed 8–8–06; 8:45 am]

BILLING CODE 4310–2N–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Revision of Voluntary Standard (ANSI/SVIA–1–2001) for Four-Wheel All-Terrain Vehicles

Notice is hereby given that, on June 13, 2006, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the parties involved in a joint venture regarding review and revision of the current voluntary standard (ANSI/SVIA–1–2001) for four-wheel all-terrain vehicles have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties are: American Honda Motor Co., Inc., Torrance CA; American Suzuki Motor Corporation, Brea, CA; Arctic Cat Inc., Thief River Falls, MN; Bombardier Recreational Products, Inc., Valcourt, Quebec, Canada; Deere & Company, Moline, IL; Kawasaki Motors Corp., U.S.A., Irvine, CA; Polaris Industries Inc., Medina, MN; and Yamaha Motor Corporation, U.S.A., Cypress, CA. The general areas of the joint venture's planned activities are conducting research and collecting, exchanging and analyzing research information relating to review and revision of the current voluntary standard for four-wheel ATVs (ANSI/SVIA–1–2001).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 06–6778 Filed 8–8–06; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Institute of Electrical and Electronics Engineers

Notice is hereby given that, on July 6, 2006, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 et seq. (''the Act''), Institute of Electrical

and Electronics Engineers (''IEEE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, two new standards have been initiated and two existing standards are being revised. More detail regarding these changes can be found at *http://standards.ieee.org/standardswire/sba/05–25–06.html.*

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on April 24, 2006. A notice was published in the **Federal Register** pursuant to Section 69b) of the Act on May 22, 2006 (71 FR 29354).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 06–6775 Filed 8–8–06; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1933—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on July 6, 2006, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Digital Spirit, Berlin, Germany; Horizon Wimba, New York, NY; Respondus, Redmon, WA; and Sun Microsystems, inc., Mountain View, CA have been added as parties to this venture. Also, Brownstone Research Group, Rome, GA has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on April 10, 2006. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 10, 2006 (71 FR 27279).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 06–6780 Filed 8–8–06; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Conference of Standards Laboratories

Notice is hereby given that, on July 7, 2006, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Conference of Standards Laboratories (''NCSL'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: National Conference of Standards Laboratories, Boulder, CO. The nature and scope of NCSL's standards development activities are: To develop and maintain standards for the operation and design of calibration laboratories, requirements for the control and use of measuring and test equipment, and requirements or guides for metrological functions associated with calibration laboratories and/or measuring and test equipment. These standards may be new development projects or may be based upon current ISO/IEC standards or guides, other international standards, recommended practices developed by NCSL or other industry good practices.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 06–6776 Filed 8–8–06; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Mobile Alliance

Notice is hereby given that, on July 13, 2006, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Mobile Alliance (''OMA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ammeon, Dublin, Ireland; BDR Customer Management Ltd., Wooburn Green, Buckinghamshire, United Kingdom; Bharti Telesoft Ltd., New Delhi, India; Bridgewater Systems Corporation, Ottawa, Ontario, Canada; Brogent Technologies Inc., Neihu District, Taipei, Taiwan; CommWyse A/S, Lyngby, Denmark; Credant Technologies, Addison, TX; Dai Nippon Printing Co., Ltd., Shinjuku-ku, Tokyo, Japan; Datang Mobile Communications Equipment Co., Ltd., Haidian District, Beijing, People's Republic of China; DISYS Co., Ltd., Buk-Gu, Daegu City, Republic of Korea; Flextronics Electronics Technology Co., Ltd., Haidian District, Beijing, People's Republic of China; Flextronics Software Systems, Gurgaon, India; Freescale Semiconductor Inc., Austin, TX; Geotel Corporation, Gangnam-gu, Seoul, Republic of Korea; iAnywhere Solutions Inc., Corvalis, OR; I'M Technologies Ltd., The Signature, Singapore; Incony AG, Paderborn, Germany; inLive Interactive Ltd., Ra'anana, Israel; International Institute of Telecommunications, Montreal, Quebec, Canada; JRD Communication Inc., Shanghai, People's Republic of China; Majitek Pty Ltd., Melbourne, Australia; Mitsubishi Electric Corporation, Amagaski-city, Hyogo, Japan; MobiComp, Braga, Portugal; Mobitel,

d.d., Ljubljana, Slovenia; Nemerix, Cambridge, United Kingdom; Norbelle, LLC, Rancho Palos Verdes, CA; NTT Advanced Technology Corp., Musashino-shi, Tokyo, Japan; One Media Planet Ltd., Beijing, People's Republic of China; Prodyne Technologies Inc., St. Catharines, Ontario, Canada; Quarknetsoft Co., Ltd., Haidian District, Beijing, People's Republic of China; Radiant Technologies, Inc., Gangham-gu, Seoul, Republic of Korea; SDC AG, Basel, Switzerland; SecureMedia, Natick, MA; Softfront, Minato-ku, Tokyo, Japan; Soundbuzz Pte Ltd., Singapore, Singapore; STROM telecom s.r.o., Dobredovice, Czech Republic; Symantec Corporation, Colorado Springs, CO; Synapse Mobile Networks s.a., Mamer, Luxembourg, Sweden; Techfaith Wireless Communication Technology Ltd., Chao Yang District, Beijing, People's Republic of China; Telecom Italia S.p.A, Torino, Italy; Telstra Corporation Limited, Melbourne, Australia; Trafficland Ltd., Moscow, Russia; and US Cellular, Chicago, IL have been added as parties to this venture.

Also, 3G Club, Taipei, Taiwan; Amplefuture Ltd., London, United Kingdom; Anam Wireless Internet Solutions Limited, Dublin, Ireland; Arasan Chip Systems Inc., San Jose, CA; ATI Technologies Inc., Markham, Ontario, Canada; Atsana Semiconductor, Ottawa, Ontario, Canada; auto TOOLS Group Co., Ltd., Taipei, Taiwan, BorderWare Technologies Inc., Hsinchu, Taiwan; CellVision AS, Lysaker, Norway; China Telecommunications Corporation, Xicheng District, Beijing, People's Republic of China; Computer Associates, Islandia, NY; Contec Innovations Inc., Port Coquitlam, British Columbia, Canada; Coretrust, Inc., Gangnam-gu, Seoul, Republic of Korea; Cryptico A/S, Copenhagen, Denmark; Dascom Technology, Haidian District, Beijing, People's Republic of China; Eigel-Danielson, Monument, CO; Elcoteq Network Corporation, Salo, Finland; Exit Games GmbH, Hamburg, Germany; Extended Systems, Boise, ID; Finnish Communications Regulatory Authority, Helsinki, Finland; Greentube I.E.S. AG, Vienna, Austria; Groove Mobile, Inc., Andover, MA; Hotsip AB, Stockholm, Sweden; Ind-TeleSoft Private Limited, Koramangala, Bangalore, India; InforSpace, Inc., Bellevue, WA; Inka Networks, Seoul, Republic of Korea; Intellipaxx, Saarburcken, Germany; Intellisync, San Jose, CA; InterGrafx, Los Altos, CA; IXI Mobile, Inc., Rewood City, CA; Kayak Interactive, Princeton, NJ; Larsen & Toubro Infotech Ltd., Maharastra, India; LightSurf Technologies, Inc., Santa Cruz, CA; Macromedia, Inc., San Francisco, CA; Macrospace Limited, London, United Kingdom; Maptel Networks, S.A.U., Madrid, Spain; MasterCard International Inc., Purchase, NY; Matchtip Limited, Mayfair, London, United Kingdom; Materna GmbH Information & Communication, Dortmund, Germany; Melco Mobile Communications Europe, Nantere Cedex, France; MessageVine, Inc., San Francisco, CA; Miengine Corp., Daechi-dong, Seoul, Republic of Korea; Mobeon, Sundsvall, Sweden; MobileSoft Technology Co., Ltd., Nanjing, People's Republic of China; MobileTop Co., Ltd., Seoul, Republic of Korea; Mobivillage, Marseille, France; M-Systems Flash Disk Pioneers, Kfar Saba, Israel; Musiwave, Paris, France; Next Com KK, Chiyodaku, Tokyo, Japan; NS Solutions Corporation, Tokyo, Japan; Oksijen Teknoloji, Istanbul, Turkey; Opera Software ASA, Oslo, Norway; ORGA Kartensysteme GmbH, Paderhorn, Germany; PalmSource, Inc., Sunnyvale, CA; Pixel Technologies, Tel Aviv, Israel; Pollex Mobile Software Co., Ltd., Haidian District, Beijing, People's Republic of China; PrismTech, Gateshead, United Kingdom; Proximus, Brussels, Belgium; Purple Labs, Le Bourget du Lac, France; RAS Security, Bedford, MA; Ruksun Software Technologies Pvt. Ltd., Pune, India; SDR Forum, Denver, CO; Setec Oy, Vantaa, Finland; SiRF Technology, Inc., Irvine, CA; SKC&C, Seongnam-si, Gyeonggi-do, Republic of Korea; Sky Co., Ltd., Osaka, Japan; Sofor Oy, Kauhava, Finland; Solid Information Technology, Helsinki, Finland; Sonus Networks, Chelmsford, MA; Spansion, Sunnyvale, CA; Symbol Technologies, Inc., San Jose, CA; Synergenix Interactive AB, Solna, Sweden; Telecom Italia Mobile, Rome, Italy; Thin Multimedia, Inc., Seocho-ku, Seoul, Republic of Korea; T-Online International AG, Darmstadt, Germany; TUV Product Service Ltd., Fareham, Hampshire, United Kingdom; University of Wollongong, Wollongong, Austria; UTStarcom, Inc., Alameda, CA; VTT Information Technology, Espoo, Finland; Waterford Institute of Technology, Wateford, Ireland; XandMail, Paris, France; Xiamen Scan Technology Co., Ltd., Xiamen, People's Republic of China; and Yomi PLC, Rovaniemi, Finland have withdrawn as parties to this venture.

The following members have changed their names: End2End Mobile has changed its name to End2End VAS APS, Aalborg SV, Denmark; MTIS Co., Ltd. has changed its name to Huone Inc., Daegu, Republic of Korea; Melco Mobile has changed its name to Mitsubishi Electric Corporation, Tokyo, Japan; Dittosoft Inc. has changed its name to Mobilus, Inc., Daegu, Republic of Korea; ipNetfusion has changed its name to NetHawk Corporation, Richardson, TX; DMDsecure has changed its name to SafeNet, Inc., Belcamp, MD; and Xiam Limited has changed its name to Xiam Technologies Ltd., Dublin, Ireland.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OMA intends to file additional written notification disclosing all changes in membership.

On March 18, 1998, OMA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72333).

The last notification was field with the Department on January 25, 2006. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 16, 2006 (71 FR 8312).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 06–6781 Filed 8–8–06; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on July 20, 2006, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act'', Portland Cement Association (''PCA'' has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Humboldt Wedag, Inc., Norcross, GA has become an Associate Member.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends

to file additional written notification disclosing all changes to membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on May 4, 2006. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 2006 (71 FR 32127).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 06–6779 Filed 8–8–06; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on June 23, 2006, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Dow-Key Microwave, Ventura, CA; Advantech, Taipei, Taiwan; and Data Design, Gaithersburg, MD have been added as parties to this venture. Also, Bi2S, Courtsboeuf Cedex, France; Advantest, Tokyo, Japan; and Exacq, Indianapolis, IN have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notification disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on March 30, 2006. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 25, 2006 (71 FR 23948).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 06–6777 Filed 8–8–06; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

August 3, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

AGENCY: Mine Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: Fire Protection (Underground Coal Mines).

OMB Number: 1219–0054.

Frequency: On occasion; Quarterly; Weekly; Semi-annually; and Annually.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Business or other for-profit.

Number of Respondents: 886.

Estimated Number of Annual Responses: 324,500.

Average Annual Hours per Respondent: Approximately 58 hours.

Estimated Annual Burden Hours: 51,580.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Under 30 CFR 75.1100–3, chemical fire extinguishers must be examined every 6 months and the date of the examination recorded on a permanent tag attached to the extinguisher. Under section 75.1103–8, a qualified person must examine the automatic fire sensor and warning device systems on a weekly basis, and must conduct a functional test of the complete system at least once a year. Under section 75.1103–11, each fire hydrant and hose must be tested at least once a year, and the records of those tests shall be kept in an appropriate location. Under section 75.1501, mine operators are to train all miners on the requirements and identity of the responsible person designated for emergency evacuation. Under section 75.1502, the program of instruction requires revisions to existing fire-fighting and evacuations plans to address emergencies, and requires training of miners regarding the mine emergency evacuation fire fighting plan for all emergencies created as a result of a fire, an explosion, or a gas or water inundation.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E6–12941 Filed 8–8–06; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317, 50–318, and 72–8; Renewed License Nos. DPR–53 and DPR–69, and Materials License No. SNM–2505]

In the Matter of Calvert Cliffs Nuclear Power Plant, Inc. (Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, and Calvert Cliffs Independent Spent Fuel Storage Installation); Order Approving Application Regarding Proposed Corporate Merger

I.

Calvert Cliffs Nuclear Power Plant, Inc. (CCNPP Inc. or the licensee) is the holder of Renewed Facility Operating Licenses Nos. DPR–53 and DPR–69, which authorize the possession, use, and operation of the Calvert Cliffs Nuclear Power Plant (the facility or CCNPP), and Materials License No. SNM–2505, which authorizes the possession, use, and operation of the Calvert Cliffs Independent Spent Fuel Storage Installation (CCISFSI). CCNPP Inc. is licensed by the U.S. Nuclear Regulatory Commission (NRC or Commission) to operate CCNPP and CCISFSI. The facility is located at the licensee's site in Calvert County, Maryland.

II.

By application dated January 23, 2006, as supplemented by letters dated April 25 and May 25, 2006 (collectively referred to herein as the application), Constellation Generation Group, LLC (CGG LLC), acting on behalf of CCNPP Inc., requested that the NRC, pursuant to 10 CFR 50.80 and 10 CFR 72.50, consent to the proposed indirect transfer of control of the licenses.

According to the application filed by CGG LLC, on behalf of CCNPP Inc., CCNPP and CCISFSI are wholly owned by CCNPP Inc. CCNPP Inc. is wholly owned by Constellation Nuclear Power Plants, Inc.

As stated in the application, in connection with the merger of CGG LLC's parent company, Constellation Energy Group, Inc. (CEG, Inc.), and FPL Group, Inc. (FPL Group), FPL Group will become a wholly owned subsidiary of CEG, Inc. At the closing of the merger, the former shareholders of FPL Group will own approximately 60% of the outstanding stock of CEG, Inc., and the pre-merger shareholders of CEG, Inc., will own the remaining approximately 40%. In addition, the CEG, Inc., board of directors will be composed of fifteen members, nine of whom will be named by FPL Group, and six of whom will be named by the current CEG, Inc. CCNPP Inc. will continue to own and operate the facility and the ISFSI and hold the licenses.

Approval of the indirect transfer of the facility operating licenses and material license was requested by CGG LLC pursuant to 10 CFR 50.80 and 10 CFR 72.50. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on February 22, 2006 (71 FR 9168). Comments and a petition to intervene were received from the Maryland Office of the People's Counsel. However, the petition to intervene was dismissed by the Secretary of the Commission by order dated March 17, 2006.

Under 10 CFR 50.80 and 10 CFR 72.50, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by CGG LLC and other information before the Commission, the NRC staff concludes that the proposed merger and resulting indirect transfer of control of the licenses will not affect the qualifications of CCNPP Inc. as a holder of the CCNPP and CCISFSI licenses, and that the indirect transfer of control of the licenses as held by CCNPP Inc., is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The findings set forth above are supported by a safety evaluation dated August 3, 2006.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80 and 10 CFR 72.50, *it is hereby ordered* that the application regarding the proposed merger and indirect license transfer is approved, subject to the following condition:

> Should the proposed merger not be completed within one year from the date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may in writing be extended.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated January 23, 2006, as supplemented by letters dated April 25 and May 25, 2006, and the safety evaluation dated August 3, 2006, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland this 3rd day of August 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–12924 Filed 8–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–400]

Carolina Power & Light Company; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Carolina Power & Light Company (the licensee) to partially withdraw its August 18, 2005, application for proposed amendment to Facility Operating License No. NPF–63 for Shearon Harris Nuclear Power Plant, Unit No. 1 (HNP), located in Wake and Chatham Counties, North Carolina.

The proposed amendment would have allowed the use of fire-resistive electrical cable at HNP for protection of safe shutdown electrical cables. On May 1, 2006, the NRC staff issued Amendment No. 123 to the HNP Facility Operating License authorizing the use of fire-resistive electrical cable for the specific application of the volume control tank outlet valves, 1CS–165 and 1CS–166, in certain fire areas. In addition, the NRC staff stated that it would continue to review the proposed changes in the final safety analysis report to reflect the use of the fire-resistive electrical cable in other applications. The licensee requested to discontinue the review of the proposed changes to reflect the use of the fire-resistive electrical cable in other applications.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in

the **Federal Register** on November 8, 2005 (70 FR 67745). However, by letter dated June 5, 2006, the licensee partially withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 18, 2005, as supplemented by letter dated February 15, 2006, and the licensee's letter dated June 5, 2006, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically 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.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 31st day of July, 2006.

For the Nuclear Regulatory Commission.

L. Raghavan,

Chief, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–12913 Filed 8–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–220 and 50–410; License Nos. DPR–63 and NPF–69]

In the Matter of Nine Mile Point Nuclear Station, LLC (Nine Mile Point Nuclear Station, Units Nos. 1 and 2); Order Approving Application Regarding Proposed Corporate Merger

I.

Nine Mile Point Nuclear Station, LLC (NMP LLC or the licensee) holds Facility Operating License No. DPR–63 and co-holds Facility Operating License No. NPF–69, which authorize the possession, use, and operation of the Nine Mile Point Nuclear Station (the facility or NMP). NMP LLC is licensed by the U.S. Nuclear Regulatory Commission (NRC or Commission) to operate NMP. The facility is located at the licensee's site in Oswego County, New York.

II.

By application dated January 23, 2006, as supplemented by letters dated April 25 and May 25, 2006 (collectively referred to herein as the application), Constellation Generation Group, LLC (CGG LLC), acting on behalf of NMP LLC, requested that the NRC, pursuant to 10 CFR 50.80, consent to the proposed indirect transfer of control of the licenses to the extent currently held by NMP LLC. Long Island Power Authority holds a 18-percent ownership interest in NMP Unit 2, but is not involved in this action.

According to the application filed by CGG LLC, NMP Unit 1 is wholly owned by NMP LLC, and NMP Unit 2 is 82% owned by NMP LLC. NMP LLC is wholly owned by Constellation Nuclear Power Plants, Inc., which is wholly-owned by CGG LLC.

As stated in the application, in connection with the merger of CGG LLC's parent company, Constellation Energy Group, Inc. (CEG, Inc.), and FPL Group, Inc. (FPL Group), FPL Group will become a wholly owned subsidiary of CEG, Inc. At the closing of the merger, the former shareholders of FPL Group will own approximately 60% of the outstanding stock of CEG, Inc., and the pre-merger shareholders of CEG, Inc., will own the remaining approximately 40%. In addition, the CEG, Inc., board of directors will be composed of fifteen members, nine of whom will be named by FPL Group, and six of whom will be named by the current CEG, Inc. NMP LLC will continue to own its current interests in and operate the facility and hold the licenses.

Approval of the indirect transfer of the facility operating licenses was requested by CGG LLC pursuant to 10 CFR 50.80. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on February 22, 2006 (71 FR 9175). Comments and a petition to intervene were received from the Maryland Office of the People's Counsel. However, the petition to intervene was dismissed by the Secretary of the Commission by order dated March 17, 2006.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by CGG LLC and other information before the Commission, the NRC staff concludes that the proposed merger and resulting indirect transfer of control of the licenses will not affect the qualifications of NMP LLC as holder of the NMP licenses, and that the indirect transfer of control of the licenses as held by NMP LLC, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The findings set forth above are supported by a safety evaluation dated August 3, 2006.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the proposed merger and indirect license transfers is approved, subject to the following condition:

Should the proposed merger not be completed within one year from the date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may in writing be extended.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated January 23, 2006, as supplemented by letter dated April 25 and May 25, 2006, and the safety evaluation dated August 3, 2006, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland this 3rd day of August 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–12923 Filed 8–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–244; Renewed License No. DPR–18]

In the Matter of R.E. Ginna Nuclear Power Plant, LLC (R.E. Ginna Nuclear Power Plant); Order Approving Application Regarding Proposed Corporate Merger

I.

R.E. Ginna Nuclear Power Plant, LLC (Ginna LLC or the licensee) is the holder of Renewed Facility Operating License No. DPR–18, which authorizes the possession, use, and operation of the R.E. Ginna Nuclear Power Plant (the facility or Ginna). Ginna LLC is licensed by the U.S. Nuclear Regulatory Commission (NRC or Commission) to operate Ginna. The facility is located at the licensee's site in Wayne County, New York.

II.

By application dated January 23, 2006, as supplemented by letters dated April 25 and May 25, 2006, (collectively referred to herein as the application), Constellation Generation Group, LLC (CGG LLC), acting on behalf of Ginna LLC, requested that the NRC, pursuant to 10 CFR 50.80, consent to the proposed indirect transfer of control of the license.

According to the application filed by CGG LLC, Ginna is wholly owned by Ginna LLC. Ginna LLC is wholly owned by Constellation Nuclear Power Plants, Inc.

As stated in the application, in connection with the proposed merger of CGG LLC's parent company, Constellation Energy Group, Inc. (CEG, Inc.), and FPL Group, Inc. (FPL Group), FPL Group will become a wholly owned subsidiary of CEG, Inc. At the closing of the merger, the former shareholders of FPL Group will own approximately 60% of the outstanding stock of CEG, Inc., and the pre-merger shareholders of CEG, Inc., will own the remaining approximately 40%. In addition, the CEG, Inc., board of directors will be composed of fifteen members, nine of whom will be named by FPL Group, and six of whom will be named by the current CEG, Inc. Ginna LLC will continue to own and operate the facility and hold the license.

Approval of the indirect transfer of the facility operating license was requested by CGG LLC pursuant to 10 CFR 50.80. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on February 22, 2006 (71 FR 9176). Comments and a petition to intervene were received from the Maryland Office of the People's Counsel. However, the petition to intervene was dismissed by the Secretary of the Commission by order dated March 17, 2006.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by CGG LLC and other information before the Commission, the NRC staff concludes that the proposed merger and resulting indirect transfer of control of the license will not affect the qualifications of Ginna LLC as a holder of the Ginna license, and that the indirect transfer of control of the license as held by Ginna LLC, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The findings set forth above are supported by a safety evaluation dated August 3, 2006.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, it is hereby ordered that the application regarding the proposed merger and indirect license transfer is approved, subject to the following condition:

> Should the proposed merger not be completed within one year from the date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may in writing be extended.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated January 23, 2006, supplemented by letters dated April 25 and May 25, 2006, and the safety evaluation dated August 3, 2006, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by E-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland this 3rd day of August 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–12925 Filed 8–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–312]

Sacramento Municipal Utility District, Rancho Seco Nuclear Generating Station; Notice of Receipt and Availability for Comment of License Termination Plan

The Nuclear Regulatory Commission (NRC) is in receipt of and is making available for public inspection and comment the License Termination Plan (LTP) for the Rancho Seco Nuclear Generating Station (Rancho Seco) located in Sacramento County, California.

Rancho Seco was a 913–MWe pressurized water reactor designed by Babcock and Wilcox Company. The Sacramento Municipal Utility District (SMUD) shut down Rancho Seco permanently on June 7, 1989 after approximately 15 years of operation. On August 29, 1989, SMUD formally notified the NRC that the plant was shut down permanently.

On May 20, 1991, SMUD submitted the Rancho Seco Decommissioning Plan and on March 20, 1995, the NRC issued an Order approving the Decommissioning Plan and authorizing the decommissioning of Rancho Seco. In March 1997, SMUD submitted its Post Shutdown Decommissioning Activities Report (PSDAR), in accordance with 10 CFR 50.82. The PSDAR superseded the original Decommissioning Plan and provided the information required by 10 CFR 50.82(a)(4).

SMUD began actively decommissioning Rancho Seco in February 1997, and completed the transfer of all of the spent nuclear fuel to the 10 CFR part 72 ISFSI on August 21, 2002. Plant dismantlement is substantially complete and most of the systems, structures and components that were safety-related or important-to-safety have been removed from the plant and shipped for disposal.

In accordance with 10 CFR 50.82(a)(9), all power reactor licensees must submit an application for

termination of their license. The application for termination of license must be accompanied or preceded by an LTP to be submitted for NRC approval. If found acceptable by the NRC staff, the LTP is approved by license amendment, subject to such conditions and limitations as the NRC staff deems appropriate and necessary. SMUD submitted the proposed LTP for Rancho Seco by application dated April 12, 2006. In accordance with 10 CFR 20.1405 and 10 CFR 50.82(a)(9)(iii), the NRC is providing notice to individuals in the vicinity of the site that the NRC is in receipt of the Rancho Seco LTP, and will accept comments from affected parties.

The Rancho Seco LTP is available for public viewing at the NRC's Public Document Room (PDR) or electronically through the NRC Agencywide Documents Access and Management System (ADAMS) at accession numbers ML061460052, ML061460053, ML061460093, ML061460095, ML061460097, ML061460098, ML061460100, ML061460101, ML061460103, ML061460105, ML061460107, ML061460109, ML061460110, ML061460113, ML061460116, ML061460129, ML061460152, ML061460154, ML061460157. Documents may be examined, and/or copied for a fee, at the PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by E-mail at *pdr@nrc.gov*.

Comments regarding the Rancho Seco LTP may be submitted in writing and addressed to Mr. John B. Hickman, Mail Stop T–7E18, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–3017 or E-mail *jbh@nrc.gov*.

Dated at Rockville, Maryland, this 20th day of July 2006.

For the Nuclear Regulatory Commission.

Claudia Craig,

Chief, Reactor Decommissioning Section, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–12926 Filed 8–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499; License Nos. NPF–76 and NPF–80]

STP Nuclear Operating Company; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated May 16, 2006, and its supplement dated June 26, 2006, Mr. Glenn Adler (petitioner) has requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to South Texas Project Electric Generating Station. The petitioner requests that NRC take enforcement action in the form of a Demand for Information that would require the STP Nuclear Operating Company (STPNOC), the licensee for the South Texas Project Electric Generating Station (STP), to provide NRC with docketed copies of the following:

- Any assessments of the safety conscious work environment (SCWE) at STP conducted since January 1, 2004;
- Summaries of any associated action plans and the results of any efforts to remedy problems revealed by these surveys, including the following documents mentioned at an August 2005 meeting apparently convened to discuss the plant's SCWE, which contains—

—a [strengths, weaknesses, opportunities, and threats] SWOT analysis to assess the issues and actions required and follow-up on these actions to improve station alignment,

—outsourcing lessons learned, and

—an evaluation of information technology, supply chain, technical training, and Wackenhut to assess the issues and recommended actions;

- Summaries of any associated action plans and the results of efforts to remedy problems revealed by such surveys in 2001 and 2003; and
- All correspondence between NRC, STPNOC, and Wackenhut Corporation concerning the 2001, 2003, and 2005 Comprehensive Cultural Assessments (CCAs).

As a basis for this request, the petitioner states that NRC issued an order in 1998 requiring STP to conduct periodic surveys by an independent survey research firm, after NRC found that the licensee had violated Federal law by subjecting four employees to a ''hostile work environment'' after the employees raised safety concerns. The licensee hired Synergy Consulting Services Corporation to conduct surveys. The Wackenhut Corporation took over security at STP in July 2001, after winning a 3-year contract for security, with an option for an additional 2 years. The petitioner further states that in the 2001 and 2003 CCAs, Wackenhut scored poorly on independent surveys assessing the STPNOC's nuclear safety culture, safety conscious work environment, general culture and work environment, leadership, management, and supervisory skills and practices at STP. The petitioner states that the STPNOC's performance deteriorated below its 2001 performance and that Wackenhut's performance problems continued as indicated in the 2005 CCA. The petitioner also states that STPNOC's action plans apparently were not successful in respect to Wackenhut and other entities and it is important for NRC to scrutinize the steps taken by STPNOC to rectify problems identified in the 2001, 2003, and 2005 cultural surveys. The petitioner concludes that, by obtaining the documents identified, NRC will be better informed about any improvements in STPNOC's SCWE. The petitioner also concludes that NRC will be better able to assess the effectiveness of previous redresses with Wackenhut and other entities, for whom problems persisted, despite STPNOC's apparently repeated efforts to remedy them.

The request is being treated pursuant to Title 10 of the Code of Federal Regulations Section 2.206 (10 CFR 2.206) of the Commission's regulations. As provided by 10 CFR 2.206, the agency will take appropriate action on this petition within a reasonable time. A copy of the petition is available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in

ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 31st day of July 2006.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E6–12912 Filed 8–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste, Meetings of the ACNW Ad Hoc Subcommittee on Waste Management and the ACNW Full Committee; Notice of Meeting

The ACNW Ad Hoc Subcommittee on Waste Management will hold a meeting on August 15–16, 2006, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday and Wednesday, August 15–16, 2006—8:30 a.m. until the conclusion of business.

The Ad Hoc Subcommittee will discuss the following proposed ACNW reports:

(1) Draft Standard Review Plan for Waste Determinations.

(2) Predicting the Performance of Cementitious Barriers.

(3) Draft Rule/Guidance on Preventing Legacy Sites.

(4) Dry Cask Storage PRA.

The Ad Hoc Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee on Thursday, August 17, 2006.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Antonio F. Dias (telephone 301–415–6805) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Thursday, August 17, 2006—8:30 a.m. until the conclusion of business.

The full Committee will discuss and approve the proposed ACNW reports noted above.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 11, 2005 (70 FR 59081). In accordance with these procedures, oral or written statements may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Mr. Antonio F. Dias (telephone 301–415–6805), between 8:15 a.m. and 5 p.m. ET, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Dias as to their particular needs.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: August 3, 2006.

Michael R. Snodderly,

Branch Chief, ACRS/ACNW.

[FR Doc. E6–12915 Filed 8–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on August 23–24, 2006, 11545 Rockville Pike, Rockville, Maryland in Room T–2B3.

The entire meeting will be open to public attendance, with the exception of portions that may be closed to discuss proprietary information of General Electric and other screen vendors pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows: Wednesday, August 23, 2006—8:30 a.m. until the conclusion of business; Thursday, August 24, 2006—8:30 a.m. until the conclusion of business.

The Subcommittee will hear presentations from the Nuclear Energy Institute, the PWR Owners Group and several PWR sump screen vendors concerning their response to GSI–191 issues, including sump screen designs and testing, chemical effects, and downstream effects. The Subcommittee will also hear presentations by and hold discussions with representatives of the NRC staff, their contractors and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Ralph Caruso (Telephone: 301–415–8065) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: August 2, 2006.

Michael R. Snodderly,

Branch Chief, ACRS/ACNW.

[FR Doc. E6–12914 Filed 8–8–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Office of Management and Budget.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The Office of Management and Budget (OMB) has recently submitted to OMB for review the following three proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq*).

OMB Control No.: 0348–0004.

Title: Request for Advance or Reimbursement.

Form No.: SF–270.

Type of Review: Extension of a currently approved collection.

Respondents: States, Local Governments, Universities, Non-Profit Organizations.

Number of Responses: 100,000.

Estimated Time Per Response: 60 minutes.

Needs and Uses: The SF–270 is used to request funds for all nonconstruction grant programs when letters of credit or predetermined advance payment methods are not used. The Federal awarding agencies use information reported on this form for the award and general management of Federal assistance program awards.

OMB Control No.: 0348–0002.

Title: Outlay and Request for Reimbursement for Construction Programs.

Form No.: SF–271.

Type of Review: Extension of a currently approved collection.

Respondents: States, Local Governments, Universities, Non-Profit Organizations.

Number of Responses: 40,000.

Estimated Time Per Response: 60 minutes.

Needs and Uses: The SF–271 is used to request reimbursement for all construction grant programs. The Federal awarding agencies use information reported on this form for the award and general management of Federal assistance program awards.

OMB Control No.: 0348–0046.

Title: Disclosure of Lobbying Activities.

Form No.: SF–LLL.

Type of Review: Extension of a currently approved collection.

Respondents: Contractors, States, Local Governments, Universities, Non-Profit Organizations, For-Profit Organizations, Individuals.

Number of Responses: 600.

Estimated Time Per Response: 10 minutes.

Needs and Uses: The SF–LLL is the standard disclosure form for lobbying paid for with non-Federal funds, as required by the Byrd Amendment and amended by the Lobbying Disclosure Act of 1995. The Federal awarding agencies use information reported on this form for the award and general management of Federal contracts and assistance program awards.

Abstract: On May 24, 2006, the Office of Management and Budget (OMB) published a Notice in the **Federal Register** [71 FR 29991] seeking comments on the renewal without change of three standard forms, the SF–270, Request for Advance or Reimbursement; the SF–271, Outlay Report and Request for Reimbursement for Construction Programs; and the SF-LLL, Disclosure of Lobbying Activities. These forms are required by OMB Circular A–102, ''Grants and Cooperative Agreements with State and Local Governments,'' and by OMB guidance at 2 CFR part 215, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non Profit Organizations.'' One comment was received, requesting a change to the instructions for completion of the SF–LLL, clarifying the reporting requirement. OMB has not received information from the procurement or the grants communities regarding confusion over the requirement to report on non-Federal funds used to engage lobbyists to influence a Federal award, therefore we have not changed the instructions.

Copies of these standard forms can be downloaded from the OMB Grants Management home page (*http://www.whitehouse.gov/omb/grants*).

Comments and questions should be directed to the OMB Desk Officer by September 8, 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.

Office of Management and Budget

Gil Tran,

Acting Chief, Financial Standards and Grants Branch.

[FR Doc. E6–12967 Filed 8–8–06; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Revised Fiscal Year 2006 Tariff-Rate Quota Additional Allocations for Refined and Specialty Sugar; Initial Fiscal Year 2007 Tariff-Rate Quota Allocations for Raw Cane Sugar, Refined Sugar, Specialty Sugar, and Sugar-Containing Products; and Notice of Agreement Between the United States and Mexico on Market Access for Sweeteners

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of additional allocations of the in-quota quantity of the tariff-rate quotas for imported refined sugar and specialty sugar for the period October 1, 2005 through September 30, 2006 (FY 2006). USTR is also providing notice of country-by-country allocations of the FY 2007 in-quota quantity of the tariff-rate quota for imported raw cane sugar, refined sugar, specialty sugar and sugar-containing products. In addition, USTR is providing notice of Agreement between the United States and Mexico on Market Access for Sweeteners.

EFFECTIVE DATE: August 9, 2006.

ADDRESSES: Inquiries may be mailed or delivered to Leslie O'Connor, Director of Agricultural Affairs, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Leslie O'Connor, Office of Agricultural Affairs, telephone: 202–395–6127 or facsimile: 202–395–4579.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains a tariff-rate quota for imports of raw cane sugar and refined sugar.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under Presidential Proclamation 6763 (60 FR 1007).

FY 2006

On July 27, 2006, the Secretary of Agriculture increased the in-quota quantity of the tariff-rate quota for refined sugar for FY 2006 by 90,719 metric tons raw value, none of which is for specialty sugars. USTR is allocating a total of 26,681 metric tons raw value to Mexico. The remaining 64,038 metric tons raw value of the in-quota quantity may be supplied by any country on a first-come, first-served basis, subject to any other provision of law. The certificate of quota eligibility is required for sugar entering under the tariff-rate quota for refined sugar that is the product of a country that has been allocated a share of the tariff-rate quota for refined sugar.

Also on July 27, 2006, the Secretary of Agriculture increased the in-quota quantity of the tariff-rate quota for specialty sugar for FY 2006 by 9,000 metric tons raw value. This quantity may be supplied by any country on a first-come, first-served basis, subject to any other provision of law.

FY 2007

On July 27, 2006, the Secretary of Agriculture announced the sugar

program provisions for fiscal year (FY) 2007 (Oct. 1, 2006, through Sept. 30, 2007). The in-quota quantity of the tariff-rate quota for raw cane sugar for FY 2007 is 1,343,992 metric tons* raw value, which is 226,797 metric tons above the minimal amount to which the United States is committed under the World Trade Organization (WTO) Uruguay Round Agreements. The FY 2007 raw sugar tariff-rate quota will be allowed early entry beginning August 7, 2006 and no shipping patterns will be established. USTR is allocating this quantity. The total quantity of the raw cane sugar allocations of 1,343,992 metric tons raw value is being allocated to the following countries:

Country	FY 2007 raw cane sugar allocations (metric tons raw value)
Argentina	55,112
Australia	106,378
Barbados	8,972
Belize	14,098
Bolivia	10,253
Brazil	185,841
Colombia	30,760
Congo	7,258
Costa Rica	19,225
Cote d'Ivoire	7,258
Dominican Republic	225,573
Ecuador	14,098
El Salvador	33,323
Fiji	11,535
Gabon	7,258
Guatemala	61,520
Guyana	15,380
Haiti	7,258
Honduras	12,817
India	10,253
Jamaica	14,098
Madagascar	7,258
Malawi	12,817
Mauritius	15,380
Mexico	7,258
Mozambique	16,662
Nicaragua	26,915
Panama	37,168
Papua New Guinea	7,258
Paraguay	7,258
Peru	52,548
Philippines	173,025
South Africa	29,478
St. Kitts & Nevis	7,258
Swaziland	20,507
Taiwan	15,380
Thailand	17,943
Trinidad & Tobago	8,972
Uruguay	7,258
Zimbabwe	15,380

These allocations are based on the countries' historical shipments to the United States. The allocations of the raw cane sugar tariff-rate quota to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin.

On July 27, 2006, the Secretary of Agriculture established the FY 2007 refined sugar tariff-rate quota 57,000 metric tons raw value for which the sucrose content, by weight in the dry state, must have a polarimeter reading of 99.5 degrees or more. This amount includes the minimum level to which the United States is committed under the WTO Uruguay Round Agreement (22,000 metric tons raw value of which 1,656 metric tons raw value is specialty sugar) and an additional 35,000 metric tons raw value for specialty sugars. USTR is allocating a total of 10,300 metric tons raw value to Canada, 2,954 metric tons raw value to Mexico, and 7,090 metric tons raw value to be administered on a first-come, first-served basis. This additional amount combined with a specialty sugar allocation of 1,656. The 36,656 metric tons raw value allocation of specialty sugar, which includes the additional 35,000 metric tons raw value of specialty sugar and the specialty sugar allocation of 1,656 metric tons raw value included in the 22,000 metric tons raw value WTO minimum, will be administered on a first-come, first-served basis.

With respect to the tariff-rate quota of 64,709 metric tons for certain sugar-containing products maintained under Additional U.S. Note to Chapter 17 to the Harmonized Tariff Schedule of the United States, 59,250 metric tons is being allocated to Canada. The remainder of the sugar-containing products tariff-rate quota is available for other countries on a first-come, first-served basis.

Mexico

As USDA noted in its press release of July 27, the United States and Mexico have determined jointly, in accordance with Annex 703.2 of North American Free Trade Agreement (NAFTA), that Mexico is projected to be a net surplus producer of sugar for FY 2007, and accordingly that Mexico will be permitted to enter up to 250,000 metric tons raw or refined sugar duty free in FY 2007. Quantities allocated to Mexico under WTO raw cane sugar tariff-rate quota, but not the WTO refined sugar tariff-rate quota, will be counted against this amount. Certificates for quota eligibility are required for entry of tariff-rate quota sugar from Mexico.

As also noted in the USDA press release, the United States and Mexico have reached an agreement on market access for sweeteners. That agreement, set forth in an exchange of letters dated July 27, 2006, provides Mexico duty-free access to the United States for 250,000 metric tons raw value of raw or refined sugar in FY 2007 and at least 175,000 metric tons raw value of raw or refined sugar for the first three months of FY 2008 (Oct. 1 through Dec. 31, 2007). Under the agreement, Mexico will provide reciprocal access for U.S. high fructose corn syrup (HFCS), including 250,000 metric tons in FY 2007 and at least 175,000 metric tons for the first three months of FY 2008 (Oct. 1 through Dec. 31, 2007). Mexico also commits that effective January 1, 2008 it will not impose duties on U.S. HFCS. The United States and Mexico confirm that on July 3, 2006 they submitted a joint letter to the WTO Dispute Settlement Body regarding the elimination of Mexico's soft drink and distribution taxes. Mexico will establish a duty-free quota for U.S. sugar of not less than 7,258 metric tons raw value for each of marketing years 2006, 2007, and 2008. The over-quota tariff on U.S. sugar will be eliminated effective January 1, 2008 as provided for in the NAFTA.

For its part, Mexico announced on July 27 its actions to implement the July 27 agreement with respect to FY 2007 amounts. Mexico and the United States will consult before July 1, 2007 in order to set allocations for the first three months of FY 2008, which per the agreement may range from 175,000 metric tons raw value to 250,000 metric tons raw value.

*Conversion factor: 1 metric ton = 1.10231125 short tons.

Susan C. Schwab,

United States Trade Representative.

[FR Doc. E6–12891 Filed 8–8–06; 8:45 am]

BILLING CODE 3190–W6–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54266; File No. SR–Amex–2006–58]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change Relating to an Amendment to Amex Rule 27

August 2, 2006.

On June 9, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Amex Rule 27 to revise the number and composition of the Allocation Committee (''Allocations

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Committee'' or ''Committee''). The proposed rule change was published for comment in the **Federal Register** on June 30, 2006.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

Currently, the Committee consists of six members. Specifically, the Chief Executive Officer (or his or her designee), a representative of an upstairs member firm and either: (i) Four brokers for equities and other securities admitted to trading on the Exchange except for Exchange Traded Funds and options; (ii) two brokers and two Registered Traders for Exchange Traded Funds; or (iii) two brokers and two Registered Options Traders for options.

The Exchange proposes to change the number and composition of the Allocation Committee from six to eight members. The Exchange proposes to amend Amex Rule 27 to revise the number and composition of the Allocations Committee so that the Committee consists of the Chief Executive Officer of the Exchange (or his or her designee), a representative of an upstairs member firm and either: (i) Six brokers for equities and other securities admitted to trading on the Exchange except for Exchange Traded Funds and options; (ii) three brokers and three Registered Traders for Exchange Traded Funds; or (iii) three brokers and three Registered Options Traders for options. The minimum quorum requirement would remain at four persons.[4] According to the Exchange, because a small number of members now comprise the Allocations Committee, the minimum quorum requirement of four persons to conduct business has become overly burdensome.[5] The Exchange represents that the Allocations Committee often fails to meet the minimum quorum requirement to transact business.

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act,[6] and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that increasing the number of members of the Committee, from six to eight members, will provide greater flexibility and efficiency to the Allocations Committee to better achieve the minimum four person quorum requirement to transact business.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Amex–2006–58) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–12893 Filed 8–8–06; 8:45 am]

BILLING CODE 8010–01–P

[3] *See* Securities Exchange Act Release No. 54039 (June 23, 2006), 71 FR 37627.

[4] The Commission notes that the Allocations Committee is chaired by the Chief Executive Officer (or his or her designee) who does not vote except to make or break a tie. *See* Amex Rule 27(a).

[5] In October 2005, the Commission approved an Exchange proposal to combine three separate Allocation Committees into a single Committee and reduce the composition of the Committee to six members. *See* Securities Exchange Act Release No. 52646 (October 20, 2005), 70 FR 61854 (October 26, 2005).

[6] 15 U.S.C. 78f(b).

[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)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54264; File No. SR–NASDAQ–2006–015]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees Associated With the Use of the National Association of Securities Dealers, Inc.'s Web Central Registration Depository System

August 2, 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 July 17, 2006, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq has designated this proposal as establishing or changing a due, fee, or other charge imposed by Nasdaq pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to implement fees for Nasdaq members that are not members of the National Association of Securities Dealers, Inc. (''NASD''), in connection with such members' use of NASD's Web Central Registration Depository (''CRD'') system. Nasdaq will implement the proposed rule change immediately. The text of the proposed rule change is below. Proposed new language is *italicized.*

* * * * *

7003. Registration and Processing Fees

The following fees will be collected and retained by NASD via the Web CRD registration system for the registration of associated persons of Nasdaq members that are not also NASD members:

(1) $85 for each initial Form U4 filed for the registration of a representative or principal;

(2) $95 for the additional processing of each initial or amended Form U4 or Form U5 that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings;

(3) $30 annually for each of the member's registered representatives and principals for system processing;

(4) $13 for processing and posting to the CRD system each set of fingerprints submitted by the member, plus a pass-through of any other charge imposed by the United States Department of Justice for processing each set of fingerprints;

(5) $13 for processing and posting to the CRD system each set of fingerprint results and identifying information that has been processed through a self-regulatory organization other than NASD; and

(6) a $75 session fee for each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Nasdaq Rule 1120.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt fees associated with the use of NASD's Web CRD system.[5] The proposed fees are similar to those fees charged by other SROs that use NASD's Web CRD.[6] Members will pay the NASD fees associated with Web CRD directly to NASD through Web CRD.

Specifically, members will pay: (a) An NASD CRD Processing Fee of $85 for each initial U4 filed; (b) an NASD Disclosure Processing Fee of $95 for each initial or amended U4 or U5 that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings; (c) an NASD Annual System Processing Fee of $30; (d) a $75 session fee for individuals required to complete the Regulatory Element of the Continuing Education Requirements under Nasdaq Rule 1120; (e) a fingerprinting fee for submission of fingerprints to NASD equal to $13 plus a pass-through of the applicable Department of Justice fee (currently $22 for a first or a third submission); and (f) a $13 fee for processing fingerprint results where the member had prints processed through an SRO other than the NASD. NASD will process the fingerprint cards using Web CRD, in accordance with Nasdaq's Fingerprinting Plan.[7]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act[8] in general, and with Section 6(b)(4) of the Act[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using Nasdaq's facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[10] of the Act and paragraph (f)(2) of Rule 19b–4 thereunder,[11] in that it establishes or changes a due, fee, or other charge applicable to Nasdaq members.

At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2006–015 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2006–015. 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–NASDAQ–2006–015 and should be submitted on or before August 30, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–12892 Filed 8–8–06; 8:45 am]

BILLING CODE 8010–01–P

[5] Use of NASD's Web CRD system by Nasdaq members is required by Nasdaq Rule 1013. Fees for the use of Web CRD by Nasdaq members that are also NASD members are assessed by NASD under Schedule A, Section 4 of the NASD By-Laws. This filing will enable the NASD to collect certain fees from Nasdaq members that are not NASD members. To the extent that such Nasdaq members are already members of another self-regulatory organization (''SRO'') that participates in Web CRD, these fees are already being assessed by NASD under the authority of such other SRO. Accordingly, this filing will not result in the imposition of duplicative fees by NASD.

[6] *See* Securities Exchange Act Release Nos. 53688 (April 20, 2006), 71 FR 24885 (April 27, 2006) (SR–Phlx–2006–24); 51641 (May 2, 2005), 70 FR 24155 (May 6, 2005) (SR–PCX–2005–49); 48066 (June 19, 2003), 68 FR 38409 (June 27, 2003) (SR–AMEX–2003–49); and 45112 (November 28, 2001), 66 FR 63086 (December 4, 2001) (SR–NYSE–2001–47).

[7] Securities Exchange Act Release No. 53908 (May 31, 2006), 71 FR 33007 (June 7, 2006).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before September 8, 2006. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer*, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer*, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Entrepreneurial Development Management Information System (EDMIS) Counseling Information Form & Management Training Report.

No.: 641 and 888.

Frequency: On Occasion.

Description of Respondents: New established and prospective Small Business Owners using the services and programs by the Business Information Center Program.

Responses: 276,489.

Annual Burden: 86,593.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E6–12928 Filed 8–8–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before September 8, 2006. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer*, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC.20416; and *OMB Reviewer*, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: SBA Counseling Evaluation.

No.: 1419.

Frequency: On Occasion.

Description of Respondents: Small Business Clients.

Responses: 15,000.

Annual Burden: 2,550.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E6–12929 Filed 8–8–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10525 and # 10526]

New Jersey Disaster Number NJ–00004

AGENCY: Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of New Jersey (FEMA–1653–DR), dated 07/07/2006.

Incident: Severe Storms and Flooding.

Incident Period: 06/23/2006 and continuing through 07/10/2006.

Effective Date: 07/10/2006.

Physical Loan Application Deadline Date: 09/05/2006.

EIDL Loan Application Deadline Date: 04/09/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of New Jersey, dated 07/07/2006, is hereby amended to establish the incident period for this disaster as beginning 06/23/2006 and continuing through 07/10/2006.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–12918 Filed 8–8–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10557 and #10558]

Ohio Disaster #OH–00007

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1656–DR), dated 08/01/2006.

Incident: Severe Storms, Straight Line Winds, and Flooding.

Incident Period: 07/27/2006 and continuing.

Effective Date: 08/01/2006.

Physical Loan Application Deadline Date: 10/02/2006.

Economic Injury (EIDL) Loan Application Deadline Date: 05/01/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/01/2006, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Ashtabula, Geauga, Lake.
Contiguous Counties (Economic Injury Loans Only):
Ohio: Cuyahoga, Portage, Summit, Trumbull.
Pennsylvania: Crawford, Erie.
The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	6.250
Homeowners without Credit Available Elsewhere	3.125
Businesses with Credit Available Elsewhere	7.934
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	5.000
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10557 B and for economic injury is 10558 0.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–12917 Filed 8–8–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs; Public Meeting

The U.S. Small Business Administration (SBA), pursuant to the Veterans Entrepreneurship and Small Business Development Act of 1999 (Pub. L. 106–50), SBA Advisory Committee on Veterans Business Affairs will host a public meeting on September 12–13, 2006, starting at 9 a.m. until 5p.m. The meeting will take place at the U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, Office of Advocacy's Conference Room, located on the 7th Floor.

The purpose of this meeting is to focus on finalizing the annual report to the President and Congress.

Anyone wishing to attend must contact Cheryl Clark, Program Liaison, in the Office of Veterans Business Development, at (202) 205–6773, or e-mail *Cheryl.Clark@sba.gov.*

Thomas M. Dryer,

Acting Committee Management Officer.

[FR Doc. E6–12930 Filed 8–8–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for Plastics Pallets (Twin Sheet Thermoformed).

SUMMARY: The U.S Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Plastics Pallets (Twin Sheet Thermoformed). If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small business or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted August 24, 2006.

ADDRESSES: You may submit comments and source information to Edith Butler, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Plastics Pallets (Twin Sheet Thermoformed) North American Industry Classification System (NAICS) 326199 product number 4141. The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for this class of NAICS code within 15 days after date of publication in the **Federal Register**.

Dated: August 3, 2006.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. E6–12916 Filed 8–8–06; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 06–03p.; Titles II and XVI: Considering Opinions and Other Evidence From Sources Who Are Not ''Acceptable Medical Sources'' in Disability Claims; Considering Decisions on Disability by Other Governmental and Nongovernmental Agencies

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 06–03p. This Ruling clarifies how we consider opinions from sources who are not ''acceptable medical sources'' and how we consider decisions made by other governmental and nongovernmental agencies on the issue of disability or blindness.

EFFECTIVE DATE: August 9, 2006.

FOR FURTHER INFORMATION CONTACT: Mike O'Connor, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1952.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this Social Security Ruling, we are doing so in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, special veterans benefits, and black lung benefits programs. Social Security Rulings may

be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are binding as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs Nos. 96.001 Social Security-Disability Insurance; 96.004 Social Security-Survivors Insurance; 96.006 Supplemental Security Income.)

Dated: August 2, 2006.

Jo Anne B. Barnhart,

Commissioner of Social Security.

Policy Interpretation Ruling

Titles II and XVI: Considering Opinions and Other Evidence From Sources Who Are Not ''Acceptable Medical Sources'' in Disability Claims; Considering Decisions on Disability by Other Governmental and Nongovernmental Agencies

Purpose: To clarify how we consider opinions from sources who are not ''acceptable medical sources'' and how we consider decisions by other governmental and nongovernmental agencies on the issue of disability or blindness.

Citations: Sections 205(a), 216(i), 221, 223(d), 1614(a)(3), 1631(d), and 1633 of the Social Security Act (the Act), as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1503, 404.1504, 404.1512(b), 404.1513(a), (d), and (e), 404.1520(a), 404.1527, and subpart Q, section 404.1613, and Regulations No. 16, subpart I, sections 416.902, 416.903, 416.904, 416.912(b), 416.913(a), (d), and (e), 416.920(a), 416.927 and subpart J, section 416.1013.

Introduction: We use medical and other evidence to reach conclusions about an individual's impairment(s) to make a disability determination or decision as described in 20 CFR 404.1512, 404.1513, 416.912 and 416.913. In accordance with sections 223(d)(5) and 1614(a)(3)(H) of the Act, when we make a determination or decision of disability, we will consider all of the available evidence in the individual's case record. This includes, but is not limited to, objective medical evidence; other evidence from medical sources, including their opinions; statements by the individual and others about the impairment(s) and how it affects the individual's functioning; information from other ''non-medical sources'' and decisions by other governmental and nongovernmental agencies about whether an individual is disabled or blind. See 20 CFR 404.1512 and 416.912.

Medical Sources

The term ''medical sources'' refers to both ''acceptable medical sources'' and other health care providers who are not ''acceptable medical sources.'' See 20 CFR 404.1502 and 416.902.

Under our current regulations, ''acceptable medical sources'' are:

- Licensed physicians (medical or osteopathic doctors);
- Licensed or certified psychologists. Included are school psychologists, or other licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, for purposes of establishing mental retardation, learning disabilities, and borderline intellectual functioning only;
- Licensed optometrists, for the measurement of visual acuity and visual fields (for claims under title II, we may need a report from a physician to determine other aspects of eye disease);
- Licensed podiatrists, for purposes of establishing impairments of the foot, or foot and ankle only, depending on whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or the foot and ankle; and
- Qualified speech-language pathologists, for purposes of establishing speech or language impairments only.

See 20 CFR 404.1513(a) and 416.913(a).

Medical Source Distinction

The distinction between ''acceptable medical sources'' and other health care providers who are not ''acceptable medical sources'' is necessary for three reasons. First, we need evidence from ''acceptable medical sources'' to establish the existence of a medically determinable impairment. See 20 CFR 404.1513(a) and 416.913(a). Second, only ''acceptable medical sources'' can give us medical opinions. See 20 CFR 404.1527(a)(2) and 416.927(a)(2). Third, only ''acceptable medical sources'' can be considered treating sources, as defined in 20 CFR 404.1502 and 416.902, whose medical opinions may be entitled to controlling weight. See 20 CFR 404.1527(d) and 416.927(d).

Making a distinction between ''acceptable medical sources'' and medical sources who are not ''acceptable medical sources'' facilitates the application of our rules on establishing the existence of an impairment, evaluating medical opinions, and who can be considered a treating source.

''Other Sources''

In addition to evidence from ''acceptable medical sources,'' we may use evidence from ''other sources,'' as defined in 20 CFR 404.1513(d) and 416.913(d), to show the severity of the individual's impairment(s) and how it affects the individual's ability to function. These sources include, but are not limited to:

- Medical sources who are not ''acceptable medical sources,'' such as nurse practitioners, physician assistants, licensed clinical social workers, naturopaths, chiropractors, audiologists, and therapists; and
- ''Non-medical Sources'' including, but not limited to:
- Educational personnel, such as school teachers, counselors, early intervention team members, developmental center workers, and daycare center workers;
- Public and private social welfare agency personnel, rehabilitation counselors; and
- Spouses, parents and other caregivers, siblings, other relatives, friends, neighbors, clergy, and employers.

Information from these ''other sources'' cannot establish the existence of a medically determinable impairment. Instead, there must be evidence from an ''acceptable medical source'' for this purpose. However, information from such ''other sources'' may be based on special knowledge of the individual and may provide insight into the severity of the impairment(s) and how it affects the individual's ability to function.

Evaluating Opinions and Other Evidence

Sections 404.1527 and 416.927 of our regulations provide general guidance for evaluating all relevant evidence in a case record and provide detailed rules for evaluating medical opinions from ''acceptable medical sources.'' [1] Medical

[1] As explained in SSR 96–6p, ''Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence,'' paragraphs (c), (d), and (e) of 20 CFR 404.1527 and 416.927 provide general rules for evaluating the record, with particular attention to medical opinions from ''acceptable medical sources.''

opinions are statements from physicians and psychologists or other ''acceptable medical sources'' that reflect judgments about the nature and severity of an individual's impairment(s), including symptoms, diagnosis and prognosis, what the individual can still do despite the impairment(s), and physical and mental restrictions. See 20 CFR 404.1527(a)(2) and 416.927(a)(2). The regulations set out factors we consider in weighing medical opinions from treating sources, nontreating sources, and nonexamining sources. See 20 CFR 404.1527(d) and 416.927(d). These factors include:

- The examining relationship between the individual and the ''acceptable medical source'';
- The treatment relationship between the individual and a treating source, including its length, nature, and extent as well as frequency of examination;
- The degree to which the ''acceptable medical source'' presents an explanation and relevant evidence to support an opinion, particularly medical signs and laboratory findings;
- How consistent the medical opinion is with the record as a whole;
- Whether the opinion is from an ''acceptable medical source'' who is a specialist and is about medical issues related to his or her area of specialty; and
- Any other factors brought to our attention, or of which we are aware, which tend to support or contradict the opinion. For example, the amount of understanding of our disability programs and their evidentiary requirements that an ''acceptable medical source'' has, regardless of the source of that understanding, and the extent to which an ''acceptable medical source'' is familiar with the other information in the case record, are all relevant factors that we will consider in deciding the weight to give to a medical opinion.

In addition, these regulations provide that the final responsibility for deciding certain issues, such as whether an individual is disabled under the Act, is reserved to the Commissioner.

These regulations provide specific criteria for evaluating medical opinions from ''acceptable medical sources''; however, they do not explicitly address how to consider relevant opinions and other evidence from ''other sources'' listed in 20 CFR 404.1513(d) and 416.913(d). With the growth of managed health care in recent years and the emphasis on containing medical costs, medical sources who are not ''acceptable medical sources,'' such as nurse practitioners, physician assistants, and licensed clinical social workers, have increasingly assumed a greater percentage of the treatment and evaluation functions previously handled primarily by physicians and psychologists. Opinions from these medical sources, who are not technically deemed ''acceptable medical sources'' under our rules, are important and should be evaluated on key issues such as impairment severity and functional effects, along with the other relevant evidence in the file.

''Non-medical sources'' who have had contact with the individual in their professional capacity, such as teachers, school counselors, and social welfare agency personnel who are not health care providers, are also valuable sources of evidence for assessing impairment severity and functioning. Often, these sources have close contact with the individuals and have personal knowledge and expertise to make judgments about their impairment(s), activities, and level of functioning over a period of time. Consistent with 20 CFR 404.1513(d)(4) and 416.913(d)(4), we also consider evidence provided by other ''non-medical sources'' such as spouses, other relatives, friends, employers, and neighbors.

Although 20 CFR 404.1527 and 416.927 do not address explicitly how to evaluate evidence (including opinions) from ''other sources,'' they do require consideration of such evidence when evaluating an ''acceptable medical source's'' opinion. For example, SSA's regulations include a provision that requires adjudicators to consider any other factors brought to our attention, or of which we are aware, which tend to support or contradict a medical opinion. Information, including opinions, from ''other sources''—both medical sources and ''non-medical sources''—can be important in this regard. In addition, and as already noted, the Act requires us to consider all of the available evidence in the individual's case record in every case.

Accordingly, this ruling clarifies how we consider opinions and other evidence from medical sources who are not ''acceptable medical sources'' and from ''non-medical sources,'' such as teachers, school counselors, social workers, and others who have seen the individual in their professional capacity, as well as evidence from employers, spouses, relatives, and friends. This ruling also explains how we consider decisions on disability made by other governmental and nongovernmental agencies.

Policy Interpretation

I. Evidence From ''Other Sources''

As set forth in regulations at 20 CFR 404.1527(b) and 416.927(b), we consider all relevant evidence in the case record when we make a determination or decision about whether the individual is disabled. Evidence includes, but is not limited to, opinion evidence from ''acceptable medical sources,'' medical sources who are not ''acceptable medical sources,'' and ''non-medical sources'' who have seen the individual in their professional capacity. The weight to which such evidence may be entitled will vary according to the particular facts of the case, the source of the opinion, including that source's qualifications, the issue(s) that the opinion is about, and many other factors, as described below.

Factors for Considering Opinion Evidence

Although the factors in 20 CFR 404.1527(d) and 416.927(d) explicitly apply only to the evaluation of medical opinions from ''acceptable medical sources,'' these same factors can be applied to opinion evidence from ''other sources.'' These factors represent basic principles that apply to the consideration of all opinions from medical sources who are not ''acceptable medical sources'' as well as from ''other sources,'' such as teachers and school counselors, who have seen the individual in their professional capacity. These factors include:

- How long the source has known and how frequently the source has seen the individual;
- How consistent the opinion is with other evidence;
- The degree to which the source presents relevant evidence to support an opinion;
- How well the source explains the opinion;
- Whether the source has a specialty or area of expertise related to the individual's impairment(s); and
- Any other factors that tend to support or refute the opinion.

Opinions From Medical Sources Who Are Not ''Acceptable Medical Sources''

Opinions from ''other medical sources'' may reflect the source's judgment about some of the same issues addressed in medical opinions from ''acceptable medical sources,'' including symptoms, diagnosis and prognosis, what the individual can still do despite the impairment(s), and physical and mental restrictions.

Not every factor for weighing opinion evidence will apply in every case. The

evaluation of an opinion from a medical source who is not an ''acceptable medical source'' depends on the particular facts in each case. Each case must be adjudicated on its own merits based on a consideration of the probative value of the opinions and a weighing of all the evidence in that particular case.

The fact that a medical opinion is from an ''acceptable medical source'' is a factor that may justify giving that opinion greater weight than an opinion from a medical source who is not an ''acceptable medical source'' because, as we previously indicated in the preamble to our regulations at 65 FR 34955, dated June 1, 2000, ''acceptable medical sources'' ''are the most qualified health care professionals.'' However, depending on the particular facts in a case, and after applying the factors for weighing opinion evidence, an opinion from a medical source who is not an ''acceptable medical source'' may outweigh the opinion of an ''acceptable medical source,'' including the medical opinion of a treating source. For example, it may be appropriate to give more weight to the opinion of a medical source who is not an ''acceptable medical source'' if he or she has seen the individual more often than the treating source and has provided better supporting evidence and a better explanation for his or her opinion. Giving more weight to the opinion from a medical source who is not an ''acceptable medical source'' than to the opinion from a treating source does not conflict with the treating source rules in 20 CFR 404.1527(d)(2) and 416.927(d)(2) and SSR 96–2p, ''Titles II and XVI: Giving Controlling Weight To Treating Source Medical Opinions.''

Evidence From ''Non-Medical Sources''

Opinions from ''non-medical sources'' who have seen the individual in their professional capacity should be evaluated by using the applicable factors listed above in the section ''Factors for Weighing Opinion Evidence.'' Not every factor for weighing opinion evidence will apply in every case. The evaluation of an opinion from a ''non-medical source'' who has seen the individual in his or her professional capacity depends on the particular facts in each case. Each case must be adjudicated on its own merits based on a consideration of the probative value of the opinions and a weighing of all the evidence in that particular case.

For opinions from sources such as teachers, counselors, and social workers who are not medical sources, and other non-medical professionals, it would be appropriate to consider such factors as the nature and extent of the relationship between the source and the individual, the source's qualifications, the source's area of specialty or expertise, the degree to which the source presents relevant evidence to support his or her opinion, whether the opinion is consistent with other evidence, and any other factors that tend to support or refute the opinion.

An opinion from a ''non-medical source'' who has seen the claimant in his or her professional capacity may, under certain circumstances, properly be determined to outweigh the opinion from a medical source, including a treating source. For example, this could occur if the ''non-medical source'' has seen the individual more often and has greater knowledge of the individual's functioning over time and if the ''non-medical source's'' opinion has better supporting evidence and is more consistent with the evidence as a whole.

In considering evidence from ''non-medical sources'' who have not seen the individual in a professional capacity in connection with their impairments, such as spouses, parents, friends, and neighbors, it would be appropriate to consider such factors as the nature and extent of the relationship, whether the evidence is consistent with other evidence, and any other factors that tend to support or refute the evidence.

Explanation of the Consideration Given to Opinions From ''Other Sources''

Since there is a requirement to consider all relevant evidence in an individual's case record, the case record should reflect the consideration of opinions from medical sources who are not ''acceptable medical sources'' and from ''non-medical sources'' who have seen the claimant in their professional capacity. Although there is a distinction between what an adjudicator must consider and what the adjudicator must explain in the disability determination or decision, the adjudicator generally should explain the weight given to opinions from these ''other sources,'' or otherwise ensure that the discussion of the evidence in the determination or decision allows a claimant or subsequent reviewer to follow the adjudicator's reasoning, when such opinions may have an effect on the outcome of the case. In addition, when an adjudicator determines that an opinion from such a source is entitled to greater weight than a medical opinion from a treating source, the adjudicator must explain the reasons in the notice of decision in hearing cases and in the notice of determination (that is, in the personalized disability notice) at the initial and reconsideration levels, if the determination is less than fully favorable.

II. Decisions on Disability by Other Governmental and Nongovernmental Agencies

The regulations at 20 CFR 404.1504 and 416.904 provide that:

> [a] decision by any nongovernmental agency or any other governmental agency about whether you are disabled or blind is based on its rules and is not our decision about whether you are disabled or blind. We must make a disability or blindness determination based on social security law. Therefore, a determination made by another agency [*e.g.*, Workers' Compensation, the Department of Veterans Affairs, or an insurance company] that you are disabled or blind is not binding on us.

Under sections 221 and 1633 of the Act, only a State agency or the Commissioner can make a determination based on Social Security law that you are blind or disabled. Our regulations at 20 CFR 404.1527(e) and 416.927(e) make clear that the final responsibility for deciding certain issues, such as whether you are disabled, is reserved to the Commissioner (see also SSR 96–5p, ''Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner''). However, we are required to evaluate all the evidence in the case record that may have a bearing on our determination or decision of disability, including decisions by other governmental and nongovernmental agencies (20 CFR 404.1512(b)(5) and 416.912(b)(5)). Therefore, evidence of a disability decision by another governmental or nongovernmental agency cannot be ignored and must be considered.

These decisions, and the evidence used to make these decisions, may provide insight into the individual's mental and physical impairment(s) and show the degree of disability determined by these agencies based on their rules. We will evaluate the opinion evidence from medical sources, as well as ''non-medical sources'' who have had contact with the individual in their professional capacity, used by other agencies, that are in our case record, in accordance with 20 CFR 404.1527, 416.927, Social Security Rulings 96–2p and 96–5p, and the applicable factors listed above in the section ''Factors for Weighing Opinion Evidence.''

Because the ultimate responsibility for determining whether an individual is disabled under Social Security law rests with the Commissioner, we are not bound by disability decisions by other governmental and nongovernmental

agencies. In addition, because other agencies may apply different rules and standards than we do for determining whether an individual is disabled, this may limit the relevance of a determination of disability made by another agency. However, the adjudicator should explain the consideration given to these decisions in the notice of decision for hearing cases and in the case record for initial and reconsideration cases.

Effective Date: This SSR is effective upon publication in the **Federal Register**.

Cross-References: Social Security Rulings 96–2p, ''Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions,'' SSR 96–5p, ''Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner''; Program Operations Manual System sections DI 22505.003, DI 24515.001, DI 24515.002, DI 24515.011, and DI 24515.012.

[FR Doc. E6–12951 Filed 8–8–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5455]

Bureau of Intelligence and Research; Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union; Notice of Committee Renewal

I. Renewal of Advisory Committee

The Department of State has renewed the Charter of the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union. This advisory committee makes recommendations to the Secretary of State on funding for applications submitted for the Research and Training Program on Eastern Europe and the Independent States of the Former Soviet Union (Title VIII). These applications are submitted in response to an annual open competition among U.S. national organizations with interest and expertise administering research and training programs in the Russian, Eurasian, and Central and East European fields. The program seeks to build and sustain U.S. expertise on these regions through support for advanced graduate training, language training, and postdoctoral research.

The committee includes representatives of the Secretaries of Defense and Education, the Librarian of Congress, and the Presidents of the American Association for the Advancement of Slavic Studies and the Association of American Universities. The Assistant Secretary for Intelligence and Research chairs the advisory committee for the Secretary of State. The committee meets at least once annually to recommend grant policies and recipients.

For further information, please call Susie Baker, INR/RES, U.S. Department of State, (202) 647–0243.

Dated: July 31, 2006.

Susan H. Nelson,

Executive Director, Acting Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union, Department of State.

[FR Doc. E6–12981 Filed 8–8–06; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF STATE

[Public Notice 5486]

Determination To Waive the Certification Requirement That the Government of Afghanistan Is Cooperating Fully With U.S.-Funded Poppy Eradication and Interdiction Efforts in Afghanistan

Pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act for Fiscal Year 2006 (Pub. L. 109–102) (''the Act'') under the heading Economic Support Fund, provisos 11 through 13, and the May 8, 2006 Assignment of Function from the President to the Secretary of State, I hereby determine that it is vital to the national security interests of the United States to waive the requirement that the Secretary of State certify to the Committees on Appropriations that the Government of Afghanistan at both the national and local level is cooperating fully with the United States-funded poppy eradication and interdiction efforts in Afghanistan.

This determination shall be reported to the Congress, accompanied by a report in accordance with the Act, and published in the **Federal Register**.

Dated: May 22, 2006.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E6–12980 Filed 8–8–06; 8:45 am]

BILLING CODE 4710–17–P

DEPARTMENT OF STATE

[Public Notice 5487]

Certification Related to Aerial Eradication in Colombia Under the Andean Counterdrug Initiative Section of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Division D, Consolidated Appropriations Act, 2006, (Pub. L. 109–102)

Pursuant to the authority vested in me as Secretary of State, including under the Andean Counterdrug Initiative section of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Division D, Consolidated Appropriations Act, 2006, (Pub. L. 109–102) (the ''FOAA''), I hereby determine and certify that: (1) The herbicide mixture used for fumigation of illicit crops in Colombia is being used in accordance with EPA label requirements for comparable use in the United States and in accordance with Colombian laws; and (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment, including endemic species; (3) that complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims; and (4) that programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation.

This Certification shall be published in the **Federal Register** and copies shall be transmitted to the appropriate committees of Congress.

Dated: July 20, 2006.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E6–12979 Filed 8–8–06; 8:45 am]

BILLING CODE 4710–17–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Senior Executive Service; Financial Management Performance Review Board (PRB)

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the appointment of members to the Financial Management Service (FMS) Performance Review Board (PRB).

DATES: This notice is effective on August 9, 2006.

FOR FURTHER INFORMATION CONTACT: Judith R. Tillman, Deputy Commissioner, Financial Management Service, 401 14th Street, SW., Washington, DC; telephone (202) 874–7000.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this notice is given of the appointment of individuals to serve as members of the FMS PRB. This Board reviews the performance appraisals of career senior executives below the Assistant Commissioner level and makes recommendations regarding ratings, bonuses, and other personnel actions. Four voting members constitute a quorum. The names and titles of the FMS PRB members are as follows:

Primary Members

Judith R. Tillman, Deputy Commissioner
Gary Grippo, Assistant Commissioner, Federal Finance
J. Martin Mills, Assistant Commissioner, Debt Management Services
Wanda Rogers, Assistant Commissioner, Financial Operations
Charles R. Simpson, Assistant Commissioner, Information Resources
D. James Sturgill, Assistant Commissioner, Governmentwide Accounting

Alternate Member

Scott H. Johnson, Assistant Commissioner, Management (Chief Financial Officer)

Dated: August 4, 2006.

Judith R. Tillman,

Deputy Commissioner.

[FR Doc. 06–6798 Filed 8–8–06; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Individuals and Entities Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing updated information on the names of twenty-two individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The updating of this information by the Secretary of the Treasury for the twenty-two individuals identified in this notice pursuant to Executive Order 13224 is effective on July 27, 2006.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202–622–2490.

SUPPLENTARY IMFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: 202–622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who commit, threaten to commit, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Department of Homeland Security and the Attorney General, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Department of Homeland Security and the Attorney General, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On July 27, 2006, the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Department of Homeland Security, the Attorney General, and other relevant agencies, updated the information for twenty-two individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The updated information for the twenty-two individuals is as follows:

1. ABDELHEDI, Mohamed Ben Mohamed (a.k.a. ABDELHEDI, Mohamed Ben Mohamed Ben Khalifa), via Catalani, n. 1, Varese, Italy; DOB 10 Aug 1965; POB Sfax, Tunisia; nationality Tunisia; Italian Fiscal Code BDLMMD65M10Z352S; Passport L965734 issued 6 Feb 1999 expires 5 Feb 2004.

2. AHMAD, Farhad Kanabi (a.k.a. HAMAWANDI, Kawa; a.k.a. OMAR ACHMED, Kaua), Lochhamer Str. 115, Munich 81477, Germany; Kempten Prison, Germany; DOB 1 Jul 1971; POB Arbil, Iraq; nationality Iraq; Travel Document Number A0139243.

3. AL SAADI, Faraj Farj Hassan (a.k.a. AL SA'IDI, Faraj Faraj Hussein; a.k.a. IMAD MOUHAMED ABDELLAH; a.k.a. MOHAMDED ABDULLA IMAD; a.k.a. MUHAMAD ABDULLAH IMAD; a.k.a. ''HAMZA AL LIBI''), Viale Bligny 42, Milan, Italy; DOB 28 Nov 1980; POB Libya; alt. POB Gaza; alt. POB Jordan; alt. POB Palestine; nationality Libya alt.

Palestinian; alt. Jordan; arrested United Kingdom.

4. AL-LIBI, Abd al-Muhsin (a.k.a. ABU BAKR, Ibrahim Ali Muhammad; a.k.a. SABRI, Abdel Ilah; a.k.a. TANTOUCHE, Ibrahim Abubaker; a.k.a. TANTOUSH, Ibrahim Abubaker; a.k.a. TANTOUSH, Ibrahim Ali Abu Bakr; a.k.a. ''ABD AL-MUHSI''; a.k.a. ''' ABD AL-RAHMAN''; a.k.a. ''ABU ANAS''); DOB 1966; alt. DOB 27 Oct 1969; nationality Libya; Passport 203037 (Libya).

5. BEN ATTIA, Nabil Ben Mohamed Ben Ali, Tunis, Tunisia; DOB 11 May 1966; POB Tunis, Tunisia; nationality Tunisia; Passport L289032 issued 22 Aug 2001 expires 21 Aug 2006.

6. BEN HENI, Lased (a.k.a. BEN HANI, Al As'ad); DOB 5 Feb 1969; POB Libya; alt. POB Tripoli.

7. BOUYAHIA, Hamadi Ben Abdul Aziz Ben Ali (a.k.a. GAMEL MOHAMED), Corso XXII Marzo 39, Milan, Italy; DOB 22 May 1966; alt. DOB 29 May 1966; POB Tunisia; nationality Tunisia; Passport L723315 issued 5 May 1998 expires 4 May 2003; arrested 30 Sep 2002.

8. DRISSI, Noureddine Ben Ali Ben Belkassem, Via Plebiscito 3, Cremona, Italy; DOB 30 Apr 1969; alt. DOB 30 Apr 1964; POB Tunisi, Tunisia; nationality Tunisia; Passport L851940 issued 9 Sep 1998 expires 8 Sep 2003; arrested 1 Apr 2003.

9. EL HADI, Mustapha Nasri Ben Abdul Kader Ait; DOB 5 Mar 1962; POB Tunis, Tunisia; nationality Algeria alt. Germany.

10. ESSAADI, Moussa Ben Amor Ben Ali (a.k.a. ''ABDELRAHMMAN''; a.k.a. ''BECHIR''; a.k.a. ''DAH DAH''), Via Milano n.108, Brescia, Italy; DOB 4 Dec 1964; POB Tabarka, Tunisia; nationality Tunisia; Passport L335915 issued 8 Nov 1996 expires 7 Nov 2001.

11. HADDAD, Fethi Ben Assen Ben Salem, Via Fulvio Testi, 184, Cinisello Balsamo, Milan, Italy; Via Porte Giove, 1, Mortara, Pavia, Italy; DOB 28 Mar 1963; alt. DOB 28 Jun 1963; POB Tataouene, Tunisia; nationality Tunisia; Italian Fiscal Code HDDFTH63H28Z352V; Passport L 183017 issued 14 Feb 1996 expires 13 Feb 2001.

12. HAMAMI, Brahim Ben Hedili Ben Mohamed, Via de' Carracci n.l5, Casalecchio di Reno (Bologna), Italy; DOB 20 Nov 1971; POB Goubellat, Tunisia; alt. POB Koubellat, Tunisia; nationality Tunisia; Passport Z106861 issued 18 Feb 2004 expires 17 Feb 2009.

13. HAMRAOUI, Kamel Ben Mouldi Ben Hassan (a.k.a. ''KAMEL''; a.k.a. ''KIMO''), Via Bertesi 27, Cremona, Italy; DOB 21 Oct 1977; POB Beja, Tunisia; nationality Tunisia; Passport P229856 issued 1 Nov 2002 expires 31 Oct 2007; arrested 1 Apr 2003.

14. JAMMALI, Imed Ben Bechir Ben Hamda, via Dubini, n. 3, Gallarate, Varese, Italy; DOB 25 Jan 1968; POB Menzel Temine, Tunisia; nationality Tunisia; Italian Fiscal Code JMMMDI68A25Z352D; Passport K693812 issued 23 Apr 1999 expires 22 Apr 2004; Currently in jail in Tunisia.

15. JELASSI, Riadh Ben Belkassem Ben Mohamed; DOB 15 Dec 1970; POB Al-Mohamedia, Tunisia; nationality Tunisia; Passport L276046 issued 1 Jul 1996 expires 30 Jun 2001.

16. JENDOUBI, Faouzi Ben Mohamed Ben Ahmed (a.k.a. ''SAID''; a.k.a. ''SAMIR''), Via Agucchi n.250, Bologna, Italy; Via di Saliceto n.51/9, Bologna, Italy; DOB 30 Jan 1966; POB Beja, Tunisia; nationality Tunisia; Passport K459698 issued 6 Mar 1999 expires 5 Mar 2004.

17. MAAROUFI, Tarek Ben Habib Ben Al-Toumi; DOB 23 Nov 1965; POB Ghardimaou, Tunisia; alt. POB Ghar el-dimaa, Tunisia; nationality Tunisia; Passport E590976 (Tunisia) issued 19 Jun 1987 expires 18 Jun 1992.

18. MNASRI, Fethi Ben Rebai Ben Absha (a.k.a. FETHI, Alic; a.k.a. ''ABU OMAR''; a.k.a. ''AMOR''), Via Toscana n.46, Bologna, Italy; Via di Saliceto n.51/9, Bologna, Italy; DOB 6 Mar 1969; POB Baja, Tunisia; Passport L497470 issued 3 Jun 1997 expires 2 Jun 2002.

19. RIHANI, Lotfi Ben Abdul Hamid Ben Ali (a.k.a. ''ABDERRAHMANE''), Via Bolgeri 4, Barni (Como), Italy; DOB 1 Jul 1977; POB Tunisi, Tunisia; nationality Tunisia; Passport L 886177 issued 14 Dec 1998 expires 13 Dec 2003.

20. SALEH AL-SAADI, Nassim Ben Mohamed Al-Cherif ben Mohamed (a.k.a. ABOU ANIS), Via Monte Grappa 15, Arluno (Milan), Italy; DOB 30 Nov 1974; POB Haidra Al-Qasreen, Tunisia; nationality Tunisia; Passport M 788331 issued 28 Sep 2001 expires 27 Sep 2006; arrested 30 Sep 2002.

21. TLILI, Al-Azhar Ben Ammar Ben Abadallah, Via Carlo Porta n.97, Legnano, Italy; DOB 26 Mar 1969; POB Tunis, Tunisia; Italian Fiscal Code TLLLHR69C26Z352G.

22. ZARKAOUI, Imed Ben Mekki Ben Al-Akhdar (a.k.a. ''NADRA''; a.k.a. ''ZARGA''), Via Col. Aprosio 588, Vallecrosia (IM), Italy; DOB 15 Jan 1973; POB Tunisi (Tunisia); nationality Tunisia; Passport M174950 issued 27 Apr 1999 expires 26 Apr 2004; arrested 30 Sep 2002.

Dated: July 27, 2006.

J. Robert McBrien,

Acting Director, Office of Foreign Assets Control.

[FR Doc. E6–12963 Filed 8–8–06; 8:45 am]

BILLING CODE 4811–37–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Individuals and Entities Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of one newly-designated individual and two newly-designated entities whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designation by the Secretary of the Treasury of the one individual and two entities identified in this notice pursuant to Executive Order 13224 is effective on July 20, 2006.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: 202–622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who commit, threaten to commit, or support acts of

terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On July 20, 2006, the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, one individual and two entities whose property and interests in property are blocked pursuant to Executive Order 13224.

The list of additional designees follows:

1. AL-MUJIL, Abd Al Hamid Sulaiman (a.k.a. AL MUJAL, Dr. Abd al-Hamid; a.k.a. AL MU'JIL, Abd al-Hamid Sulaiman; a.k.a. AL-MU'AJJAL, Dr. Abd Al-Hamid; a.k.a. AL-MU'JIL, Dr. Abd Abdul-Hamid bin Sulaiman; a.k.a. MUJEL, A.S.; a.k.a. MU'JIL, Abd al-Hamid; a.k.a. ''ABDALLAH, Abu''); DOB 28 Apr 1949; citizen Saudi Arabia; nationality Saudi Arabia; Doctor.

2. INTERNATIONAL ISLAMIC RELIEF ORGANIZATION INDONESIA BRANCH OFFICE (a.k.a. AL IGATHA AL-ISLAMIYA; a.k.a. EGASSA; a.k.a. HAYAT AL-AGHATHA AL-ISLAMIA AL-ALAMIYA; a.k.a. HAYAT AL-IGATHA; a.k.a. HAYAT AL-'IGATHA; a.k.a. IGASA; a.k.a. IGASE; a.k.a. IGASSA; a.k.a. IGATHA; a.k.a. IGHATHA; a.k.a. IIRO; a.k.a. INTERNATIONAL ISLAMIC AID ORGANIZATION; a.k.a. INTERNATIONAL ISLAMIC RELIEF AGENCY; a.k.a. INTERNATIONAL RELIEF ORGANIZATION; a.k.a. ISLAMIC RELIEF ORGANIZATION; a.k.a. ISLAMIC SALVATION COMMITTEE; a.k.a. ISLAMIC WORLD RELIEF; a.k.a. THE HUMAN RELIEF COMMITTEE OF THE MUSLIM WORLD LEAGUE; a.k.a. WORLD ISLAMIC RELIEF ORGANIZATION), Jalan Raya Cipinang Jaya No. 90, East Jakarta, Java 13410, Indonesia; P.O. Box 3654, Jakarta, Java 54021, Indonesia.

3. INTERNATIONAL ISLAMIC RELIEF ORGANIZATION PHILIPPINES BRANCH OFFICE (a.k.a. AL IGATHA AL-ISLAMIYA; a.k.a. EGASSA; a.k.a. HAYAT AL-AGHATHA AL-ISLAMIA AL-ALAMIYA; a.k.a. HAYAT AL-IGATHA; a.k.a. HAYAT AL-'IGATHA; a.k.a. IGASA; a.k.a. IGASE; a.k.a. IGASSA; a.k.a. IGATHA; a.k.a. IGHATHA; a.k.a. IIRO; a.k.a. INTERNATIONAL ISLAMIC AID ORGANIZATION; a.k.a. INTERNATIONAL ISLAMIC RELIEF AGENCY; a.k.a. INTERNATIONAL RELIEF ORGANIZATION; a.k.a. ISLAMIC RELIEF ORGANIZATION; a.k.a. ISLAMIC SALVATION COMMITTEE; a.k.a. ISLAMIC WORLD RELIEF; a.k.a. THE HUMAN RELIEF COMMITTEE OF THE MUSLIM WORLD LEAGUE; a.k.a. WORLD ISLAMIC RELIEF ORGANIZATION), Marawi City, Philippines; Zamboanga City, Philippines; Tawi Tawi, Philippines; Basilan, Philippines; Cotabato City, Philippines; 201 Heart Tower Building, 108 Valero Street, Salcedo Village, Makati City, Metropolitan Manila, Philippines.

Dated: August 3, 2006.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. E6–12968 Filed 8–8–06; 8:45 am]

BILLING CODE 4811–37–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2006–31

AGENCY: Internal Revenue Service (IRS), Treasury.

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 IRS is soliciting comments concerning Revenue Procedure 2006–31, Revocation of Election filed under I.R.C. 83(b).

DATES: Written comments should be received on or before October 10, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Revocation of Election filed under I.R.C. 83(b).

OMB Number: 1545–2018.

Form Number: Rev. Proc. 2006–31.

Abstract: This revenue procedure sets forth the procedures to be followed by individuals who wish to request permission to revoke the election they made under section 83(b).

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request 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 agency, including whether the information shall have practical utility; (b) the accuracy of the agency'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 automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 1, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–12886 Filed 8–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, September 7, 2006 from 11 a.m. ET.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Thursday, September 7, 2006, from 11 a.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: August 2, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–12880 Filed 8–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, September 5, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be held Tuesday, September 5, 2006 from 9 a.m. Pacific Time to 10:30 a.m. Pacific Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: August 2, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–12881 Filed 8–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, September 5, 2006, at 3 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, September 5, 2006, at 3 p.m., Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome

during the meeting. Please contact Barbara Toy at 1–888–912–1227 or (414) 231–2360 for additional information.

The agenda will include the following: Various VITA Issues.

Dated: August 2, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–12882 Filed 8–8–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service, (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 7 Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 29, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Tuesday, August 29, 2006 from 2 p.m. Pacific Time to 3 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: August 1, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–12883 Filed 8–8–06; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Wednesday,
August 9, 2006

Part II

Department of State

Office of Protocol; Gifts to Federal Employees From Foreign Government Sources Reported to Employing Agencies in Calendar Year 2005; Notice

DEPARTMENT OF STATE

[Public Notice 5482]

Office of Protocol; Gifts to Federal Employees From Foreign Government Sources Reported to Employing Agencies in Calendar Year 2005

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 2005 concerning gifts received from foreign government sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statute. Also, included are gifts received in previous years including 1 gift in 2002, 1 gift in 2003, 8 gifts in 2004 and 3 travel expenses in 2004. These latter gifts and expenses are being reported in 2005 as the Office of Protocol, Department of State, did not receive the relevant information to include them in earlier reports.

Publication of this listing in the **Federal Register** is required by Section 7342(f) of Title 5, United States Code, as added by Section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Pub. L. 95–105, August 17, 1977, 91 Stat. 865).

Dated: July 28, 2006.

Henrietta H. Fore,

Under Secretary for Management, Department of State.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Consumables: Dean and Deluca gift basket. Rec'd—January 4, 2005. Est. Value—$500. Disposition—Handled pursuant to Secret Service policy.	His Excellency Shaykh Hamad Bin Jassim Bin Jabor Al Thani, First Deputy Prime Minister of Foreign Affairs of the State of Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household accessories: (2): 5″ x 7″ Mara sterling picture frame; and 14″ silver-plate circular Mara tray with an inlaid wood base. Rec'd—January 27, 2005. Est. Value—$470. Location—Archives Foreign. Household accessory: 4'' blue Faberge crystal etched votive candle holder. Rec'd—January 27, 2005 Est. Value—$50. Location—Archives Foreign. Household accessory: 7″ x 9″ Faberge crystal and gold cherry bowl etched with a floral pattern. Rec'd—January 27, 2005 Est. Value—$700 Location—Archives Foreign. Household accessory: 10″ pewter Arte Italica Etruscan pitcher, Rec'd—January 27, 2005 Est. Value—$250 Location—Archives Foreign. Pet supply: 30″ x 21″ leather dog bed with a yellow and hunter green plaid cushion. Rec'd—January 27, 2005 Est. Value—$280 Location—Archives Foreign. Household accessory: 11½″ brown alligator leather thermos. Rec'd—January 27, 2005 Est. Value—$800 Location—Archives Foreign. Household accessory: 27″ x 20″ x 15″ brown leather-covered trunk. Rec'd—January 27, 2005 Est. Value—$120 Location—Archives Foreign.	His Majesty Sultan Maji Massanal Bolkiah Mu'izzaddin Waddaulah Sultan and Yang Di-Pertuan of Brunei Darussalam.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Desk accessory: 8″ x 5″ sterling desk organizer with 6″ piece of amber and a business card holder etched with an image of the President's residence in Warsaw. Rec'd—February 14, 2005 Est. Value—$750. Location—Archives Foreign.	His Excellency Aleksander Kwasniewski, President of the Republic of Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Tapestry: 77″ x 64″ beige wool contemporary tapestry, woven in the style of a 17th century hunt scene. Central panel with figures and landscape, framed by a wide border of fruits and flowers. Rec'd—February 21, 2005, Est. Value—$900. Location—Archives Foreign.	His Excellency Guy Verhofstadt, Prime Minister of Belgium.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Leatherbound limited edition book: ''Proglas,'' published by Perfekt Publishing House; with accompanying CD. Rec'd—February 28, 2005. Est. Value—$275 Location—Archives Foreign. Photographs: (33): 8″ x 10″ color photographs of President and Mrs. Bush's visit to the Slovak Republic February, 2005; held in a leather photo album embossed with ''President of the Slovak Republic, H.E. Ivan Gasparovic.'' Rec'd—February 28, 2005. Est. Value—$375. Location—Archives Foreign.	His Excellency Ivan Gasparovic, President of the Slovak Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household accessories (6): 6″ crystal glasses etched with the Belgian royal crest. Rec'd—March 4, 2005. Est. Value—$750. Location—Archives Foreign. Household accessory: 10″ cut crystal decanter etched with the Belgian royal crest. Rec'd—March 4, 2005 Est. Value—$198 Location—Archives Foreign.	Their Majesties King Albert II and Queen Paola of Belgium.	Non-acceptance would cause embarrassment to donor and U.S. Government

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Miscellaneous: 96″ brass and wood Slovak musical instrument (Fujara) engraved ''Georgovi W. Bushovi, Prezidentovi, USA, Venuje Ivan Gasparovic, President Slovenskej Republiky.'' Rec'd—March 4, 2005. Est. Value—$600 Location—Archives Foreign. Weapon: 16″ 24kt gold and silver dagger with synthetic rubies inset in the handle; held in a gold-tone presentation case with plaques engraved with ''Sword of a Slovak Duke from the Eighth Century, found in Blatnica, Slovak Republic'' and ''Prezident Slovenskej Republiky Ivan Gasparovic Venuje Prezidentovi Spojenych Statov Americkych Georgeovi W. Bushovi, 24 February, 2005, Bratislava.'' Rec'd—March 4, 2005 Est. Value—$500. Location—Archives Foreign.	His Excellency Ivan Gasparovic, The President of the Slovak Republic and Mrs. Gasparovic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household accessory: 72″ x 54″ orange, gold, and navy blue striped Hermes wool blanket. Rec'd—March 4, 2005 Est. Value—$940 Location—Archives Foreign.	His Excellency Jacques Chirac, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government
President	Clothing; traditional Slovak rafting costume including a 15″ black felt hat with a red leather and white shell band, a 46″ x 6″ light brown leather and brass belt embossed with a geometric pattern, and a brown, black, red, and green leather and shearling vest embroidered with small flowers. Rec'd—March 4, 2005. Est. Value—$600. Location—Archives Foreign. Miscellaneous: 21″ x 9″ green, white, and brown metal and wood railroad sign painted with a white cross on one side and engraved ''Zeleznice Slovenskej Republiky, The Railways of the Slovak Republic'' on the other side; with accomanying whistle. Rec'd—March 4, 2005. Est. Value $42. Location—Archives Foreign.	His Excellency Mikulas Dzurinda, Prime Minister of the Slovak Republic.	Non-acceptance would cause embarrassment to the donor and U.S. Government.
President	Artwork: 6″ x 6″ bronze Auguste Tremont sculpture of a fox. Rec'd—March 4, 2005. Est. Value—$350. Location—Archives Foreign.	His Excellency Jean-Claude Juncker, Prime Minister of the Grand Duchy of Luxemborg.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Collectable: 20″ x 14″ double masted and three jib model ship; hull painted in green and white with natural wood deck fittings; atop a 20″ x 8″ wooden base with a presentation plate engraved with ''Presented to H.E. George W. Bush, President of United States By Traian Basescu, President of Romania, March 09, 2005.″ Rec'd—March 9, 2005. Est. Value—$425. Location—Archives Foreign. Photographs: 14″ x 11″ brown leather photo album containing photographs of soldiers and embossed ''Romania'' on the front with a brass presentation plate inside engraved ''Romanian and American Soldiers Fighting Shoulder to Shoulder Against Terrorism in Iraq and Afghanistan.'' Rec'd—March 9, 2005. Est. Value—$250. Location—Archives Foreign.	His Excellency Traian Basescu, President of Romania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household accessories (3): 9½″ hammered sterling ladles. Rec'd—March 10, 2005. Est. Value—$400. Location—Archives Foreign Softcover book: ''Traditional Korean Kitchen and Utensils.'' Rec'd—March 10, 2005. Est. Value—$27. Location—Archives Foreign.	His Excellency Hong Seok-hyun, Ambassador of the Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Photograph: 15″ x 11″ black and white photograph of former President George H. W. Bush and former Colombian president, Virgilio Barco Vargas in Bogota; matted and held in a dark wood frame. Rec'd—March 10, 2005. Est. Value—$225. Location—Archives Foreign. Miscellaneous: 19″ x 24″ copy of the Cartagena Declaration printed ''The Presidents of Bolivia, Colombia, the United States of America and Peru, met in Cartagena de Indies, Colombia on the fifteenth day of February one thousand nine hundred and ninety and issued the following Declaration of Cartagena* * *''; matted and held in a dark wood frame. Rec'd—March 10, 2005. Est. Value—$190. Location—Archives Foreign.	His Excellency Alvaro Uribe Velez, President of the Republic of Colombia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: 12″ x 5″ wooden bowl made from yellow birch (circa 1624) recovered from Peninsula Lake, Canada; crafted by Don Thur. Rec'd—March 23, 2005. Est. Value—$1500. Location—Archives Foreign.	The Right Honorable Paul Martin, P.C., M.P., Prime Minister of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Artwork: 12″ x 10″ x 4″ linaloe wood hinged box hand-painted with jaguars in the forest in 23kt. gold leaf, dolomite, chia oil, and black pigment. Rec'd—March 29, 2005. Est. Value—$495. Location—Archives Foreign. Hardcover book (in Spanish): ''Lacas Mexicanas (Mexican Lacquerwork).'' Rec'd—March 29, 2005. Est. Value—$25. Location—Archives Foreign.	His Excellency Vicente Fox Quesada, President of the United Mexican States.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household accessory: 17″ x 30″ multi-colored Victoria Gres wool pillow woven with an abstract design. Rec'd—April 4, 2005. Est. Value—$80. Location—Archives Foreign. Consumable: bottle of Massandra Dessert Rose Muscat wine. Rec'd—April 4, 2005. Est. Value—$150. Disposition—Handled pursuant to Secret Service policy.	His Excellency Viktor Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Collectable: 10″ x 7″ clay water pitcher, accompanied by a certificate of antiquity ''Pottery Jug, 8th–6th Century B.C.E., Kingdom of Judah. Mounted on a wooden base, in a plexiglass display case. Rec'd—April 11, 2005. Est. Value—$600. Location—Archives Foreign.	His Excellency Ariel Sharon, Prime Minister of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household accessory: 6″ x 8″ sterling Ravissant urn stamped with an intricate floral design. Rec'd—April 15, 2005. Est. Value—$750. Location—Archives Foreign.	The Honorable Natwar Singh, Minister of External Affairs of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Softcover book: ''The Muslim Jesus: Sayings and Stories in Islamic Literature,'' by Tarif Khalidi; inscribed by donor. Rec'd—April 25, 2005. Est. Value—$23. Location—Archives Foreign. Artwork: 17″ x 15″ vermeil horse statue atop a 17″ x 7″ malachite base with a 6″ gold, mother of pearl, and malachite octagonal clock. Rec'd—April 25, 2005. Est. Value—$8,000. Location—Archives Foreign.	His Royal Highness Abdallah bin Abd al-Aziz Al Saud Crown Prince, First Deputy Prime Minister and Commander of the National Guard of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: 12″ x 17″ multi-colored Amalia Tapia pastel of a street lined with streetlamps and crosses; matted and held in a 22″ x 28″ gold-tone frame. Rec'd—April 28, 2005. Est. Value—$350. Location—Archives Foreign.	Mrs. Vivian Fernandez de Torrijos, Office of the President of the Republic of Panama.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Photograph: 11″ x 13″ image of a a man holding a Statue of Liberty figurine in the air at a rally during the Georgian Rose Revolution; matted, held in a silvertone metal frame and inscribed by donor. Rec'd—May 5, 2005. Est. Value—$40. Location—Archives Foreign. Honoraria: 3¼″ x 2″ 14kt gold and red-tone Order of St. George medallion intersected with two swords, held on a 2″ red and white collar. Rec'd—May 5, 2005. Est. Value—$450. Location—Archives Foreign.	His Excellency Mikheil Saakashvili, President of Georgia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: 10″ x 4″ sterling and gold abstract sculpture, by Kaspars Millers, of a boat with four arched legs; atop a 14″ x 6″ oblong wooden base. Rec'd—May 6, 2005. Est. Value—$500. Location—Archives Foreign.	Her Excellency Vaira Vike-Freiberga, President of the Republic of Latvia and Dr. Imants Freibergs.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Honoraria: vermeil State Award of Latvia, the Three Star Order, including brooch and chain. Rec'd—May 7, 2005. Est. Value—$500. Location—Archives Foreign.	Her Excellency Vaira Vike-Freiberga, President of the Republic of Latvia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Photograph: 8″ x 10″ print of a photograph of former President Roosevelt, Winston Churchill, and Joseph Stalin; held in a gold-tone and wood frame. Rec'd—May 8, 2005. Est. Value—$20. Location—Archives Foreign. Photograph: 8″ x 11″ print of a photograph of former President George H. W. Bush and family on the rocks at Kennebunkport, inscribed by former President Bush. Rec'd—May 8, 2005. Est. Value—$5. Location—Archives Foreign. Collectable: 4″ x 4″ silver horseshoe from donor's stable inlaid with aquamarine stones. Rec'd—May 8, 2005. Est. Value—$250. Location—Archives Foreign.	His Excellency Vladimir Putin, President of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	Coins (5): 3″ silver-tone coin etched with a tank, automobiles, a silhouette of a man on horseback and ''1943'' on the front, and Red Square ''1945–2005'' on the reverse; 3″ silver-tone coin etched with soldiers, a tank and ''1942'' on the front, and Red Square ''1945–2005'' on the reverse; 3'' silver-tone coin etched with two lines of marching soldiers and ''1941'' on the front, and Red Square ''1945–2005'' on the reverse; 3″ silver-tone coin etched with three soldiers in front of American and Soviet flags and ''1944'' on the front, and Red Square ''1945–2005'' on the reverse; and a 3″ silver-tone coin etched with a star and a statue of a man cradling a statue and ''1945'' on the front, and Red Square ''1945–2005'' on the reverse. Rec'd—May 8, 2005. Est. Value—$200. Location—Archives Foreign.		
	Plaque: 14½″ x 18″ wooden plaque with design in relief depicting the 60th anniversary of the conclusion of World War II, made of brass and colored rhinestones. Rec'd—May 8, 2005. Est. Value—$250. Location—Archives Foreign.		
President	Household accessories (40): stainless steel Villeroy and Boch flatware set engraved with the seal of El Salvador. Rec'd—May 12, 2005. Est. Value—$950. Location—Archives Foreign.	His Excellency Elias Antonio Saca Gonzalez, President of the Republic of El Salvador.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Hardcover book: ''Museo del Oro Precolombino de Costa Rica,'' by Patricia Fernandez Esquivel; inscribed by donor. Rec'd—May 12, 2005. Est. Value—$85. Location—Archives Foreign Accessories: ¾″ 14kt gold cufflinks in the shape of an indigenous Costa Rican animal god. Rec'd—May 12, 2005. Est. Value—$250. Location—Archives Foreign.	His Excellency Abel Pacheco de la Espriella, President of the Republic of Costa Rica.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Collectable: 12″ x 12″ silver and dark wood chess set with silver and gold-tone pieces. Rec'd—May 18, 2005. Est. Value—$359. Location—Archives Foreign.	His Excellency Ahmed Nazif, Prime Minister of the Arab Republic of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household item: 119″ x 80″ beige rug printed with a maroon, black and brown diamond print. Rec'd—May 23, 2005. Est. Value—$8,000. Location—Archives Foreign.	His Excellency Hamid Karzai, Chairman of the Interim Authority of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Plaque: 2½″ x 5″ rectangular-shaped 18kt gold commemorative plaque stamped ''Heyder Eliyev, adina, Baki-Tbilisi-Ceyhan, Boru Kemeri, 2005'' on the front with the map of the Baku-Tbilisi-Ceyhan pipeline on the reverse. Rec'd—May 25, 2005. Est. Value—$2,850. Location—Archives Foreign.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Religious item: 4″ x 6½″ book of prayers bound by an ornate silver cover stamped with religious imagery. Rec'd—May 26, 2005. Est. Value—$350. Location—Archives Foreign. Miscellaneous: traditional Palestinian dress and shawl with a metal and beaded necklace held in a 26″ x 26″ stamped leaf print brass shadow-box with a presentation plaque stamped ''This hand-made brass frame is embelmatic of Palestinian traditional costume and antique jewelry with the renowned cross-stitch embroidery.'' Rec'd—May 26, 2005. Est. Value—$325. Location—Archives Foreign.	Mr. Mahmoud Abbas, President of the Palestinian Authority.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Tea set: 5″ white porcelain tea pot with celadon border and image of two small panda bears in center with 2″ matching tea cups and saucers (4). Rec'd—June 7, 2005. Est. Value—$310. Location—Archives Foreign.	His Excellency Sheng Huaren, Vice Chairman of the Standing Committee of the National People's Congress of the People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household accessory: 14″ x 10″ x 3½″ hinged cherry wood document box with an embroidered cloth of a landscape scene of Mount Gonryun on the lid, by Kim Young Ja. Rec'd—June 10, 2005. Est. Value—$600. Location—Archives Foreign.	His Excellency Roh Moo-hyun, President of the Republic of Korea and Mrs. Kwon Yang-suk.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Hardcover book: ''Mozambique: a Terra e as Gentes (Mozambique: The Land and its People),'' by Niza Paiva; inscribed by donor. Rec'd—June 13, 2005. Est. Value—$60. Location—Archives Foreign. Artwork: 19″ wood statue of an elevated African hut with carved human figures on the base and second tier of the piece. Rec'd—June 13, 2005. Est. Value—$325. Location—Archives Foreign.	His Excellency Armando Guebuza, President of the Republic of Mozambique.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Hardcover book: ''Tule: Land of Giants,'' by Roger and Pat de la Harpe. Rec'd—June 13, 2005. Est. Value—$43. Location—Archives Foreign. Miscellaneous: 32″ x 11″ poster printed ''Botswana Arts and Crafts'' with four handcrafted pots; matted and held in a gold-tone frame. Rec'd—June 13, 2005. Est. Value—$375. Location—Archives Foreign.	His Excellency Festus Gontebanye Mogae, President of the Republic of Botswana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Hardcover book: ''Tule: Land of Giants,'' by Roger and Pat de la Harpe. Rec'd—June 13, 2005. Est. Value—$43. Location—Archives Foreign. Miscellaneous: 32″ x 11″ poster printed ''Botswana Arts and Crafts'' with four handcrafted pots; matted and held in a gold-tone frame. Rec'd—June 13, 2005. Est. Value—$375. Location—Archives Foreign.	His Excellency Festus Gontebanye Mogae, President of the Republic of Botswana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Miscellaneous: 21″ x 18″ blue leather frame containing 21 silver-tone 3″; medals. Rec'd—June 13, 2005. Est. Value—$75. Location—Archives Foreign. Accessories (2): 13″ x 12″ black leather handbag with white embroidery on the exterior compartment; and a 6″ x 8″ zippered black fabric bag with multi-colored embroidery. Rec'd—June 13, 2005. Est. Value—$220. Location—Archives Foreign. Jewelry: 3″ silver and quartz pendant held on a black and silver beaded necklace. Rec'd—June 13, 2005. Est. Value—$100. Location—Archives Foreign. Household items (4): 24″ round black and orange leather cushion covers embroidered ''Africa,'' ''Iferouane,'' ''Agadez,'' ''Tahoua,'' and ''Zinder.'' Rec'd—June 13, 2005. Est. Value—$480. Location—Archives Foreign. Household item: 76″ x 96″ black and orange checkered leather rug embroidered with African medals. Rec'd—June 13, 2005. Est. Value—$450. Location—Archives Foreign.	His Excellency Mamadou Tandja, President of the Republic of Niger.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Artwork: limited edition (20/400) 15″ x 9″ bronze sculpture ''Ermesinde, The Woman, The Myth'' depicting the countess against the backdrop of the outline of walls of the City of Luxembourg, by Yvette Gastauer-Claire; signed by artist. Rec'd—June 16, 2005. Est. Value—$450. Location—Archives Foreign.	His Excellency Jean-Claude Juncker, Prime Minister of the Grand Duchy of Luxemborg.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Collectable: 35″ x 14″ olive green ceramic and porcelain crackle glaze incense burner by Tran Do with presentation plaque engraved ''With the Compliments from H.E. Mr. Phan Van Khai Prime Minister of the Socialist Republic of Vietnam''; lid has dragon-shaped handles, and base features dragon and tiger design. Rec'd—June 21, 2005. Est. Value—$1,500. Location—Archives Foreign.	His Excellency Phan Van Khai, Prime Minister of the Socialist Republic of Vietnam.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Hardcover book: ''Frank Rodel: Prinzip Collage,'' by Frank Rodel; inscribed by author. Rec'd—June 27, 2005. Est. Value—$35. Location—Archives Foreign. Artwork: 19″ x 25″ oil and acrylic watercolor collage by Frank Rodel, on Japanese paper, ''Eagle V, 1996,'' depicting a bald eagle with bold structural shapes of black, pale blue and slate on creme canvas, held in a black 23″ x 31″ frame. Rec'd—June 27, 2005. Est. Value—$500. Location—Archives Foreign.	His Excellency Gerhard Schroeder, Chancellor of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: 10″ green and brown glazed ceramic bowl with 18kt gold floral and geometric designs, signed by artist. Rec'd—July 5, 2005. Est. Value—$750. Location—Archives Foreign.	His Majesty Mohammed, VI, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Collectables (2): 2″ stamps (9) from Denmark matted and held in a 13″ x 16″ gold-tone wood frame; and 2″ ''American Series'' stamps (8) held on landscape backgrounds of notable American locations including the Statue of Liberty and the United States Capitol; matted and held in a 13″ x 16″ gold-tone wood frame. Rec'd—July 5, 2005. Est. Value—$800. Location—Archives Foreign.	His Excellency Anders Fogh Rasmussen, Prime Minister of Denmark.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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[Report of tangible gifts]

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President	Photograph: 8″ x 10″ photo of Queen Margrethe II and Prince Henri with the royal seal; signed and held in a burl wood frame. Rec'd—July 6, 2005. Est. Value—$225. Location—Archives Foreign. Hardcover book: "The Stories of Hans Christian Andersen"; inscribed by donor. Rec'd—July 6, 2005. Est. Value—$87. Location—Archives Foreign.	Her Majesty Margrethe, II Queen of Denmark.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Photographs (40): 6″ x 8½″ color photos documenting President and Mrs. Bush's trip to Russia in honor of the 60th anniversary of the end of WWII; held in a 11″ x 12″ navy blue leather album stamped "1945–2005" around a silhouette of Red Square. Re'cd—July 6, 2005. Est. Value—$235. Location—Archives Foreign. Artwork: 6″ x 10″ acrylic on board of a destroyer at sea; matted and held in a gold-rimmed wood frame. Rec'd—July 6, 2005. Est. Value—$150. Location—Archives Foreign.	His Excellency Vladimir Putin, President of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Accessories (6): variety of E. Marinella silk ties, including a burgundy tie with a small blue floral pattern, a red tie with a small blue and yellow floral pattern, and four navy blue ties with a blue, red and yellow geometric pattern. Rec'd—July 7, 2005. Est. Value—$810. Location—Archives Foreign.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Clothing (size L): navy blue waffle-knit cotton polo shirt embroidered "Gleneagles" around the Gleneagles British School of Falconry Crest. Rec'd—July 7, 2005. Est. Value—$65. Location—Archives Foreign. Accessory: 13″ x 63″ light blue Begg Scottish cashmere scarf with fringe. Rec'd—July 7, 2005. Est. Value—$300. Location—Archives Foreign. Athletic equipment: St Andrews Links tartan gift box containing a magnetic divot tool featuring the St Andrews Logo, two ballmarkers, an Old and New Course golf ball, a tee bag pouch and a St Andrews Links navy, green, red and yellow velour tartan golf towel monogrammed "The Old Course St Andrews Links," with logo. Rec'd—July 7, 2005. Est. Value—$60. Location—Archives Foreign.	The Right Honorable Tony Blair, Prime Minister of the United Kingdom of Great Britain and Northern Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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President	Collectable: 7″ x 8″ Lalique engraved crystal stallion paperweight. Rec'd—July 7, 2005. Est. Value—$1,120. Location—Archives Foreign.	His Excellency Jacques Chirac, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Miscellaneous: iSense 19″ x 12″ battery-operated plastic and nylon foot massager with 8″ plastic and nylon hand massagers. Rec'd—July 12, 2005. Est. Value—$360. Location—Archives Foreign. Athletic equipment: 60″ x 43″ silver-tone OSIM Fodabike Supreme collapsible bicyle with green and black rubber accents. Rec'd—July 12, 2005. Est. Value—$690. Location—Archives Foreign.	His Excellency Lee Hsien Loong, Prime Minister of the Republic of Singapore.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Hardcover book: ''Sadequain: The Holy Sinner,'' edited by Abdul Hamid Akhund, Farida Munavarjahan Said and Zohra Yusf. Rec'd—July 14, 2005. Est. Value—$336. Location—Archives Foreign.	His Excellency Pervez Musharraf, President of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household accessory: 9″ x 6″ sterling Ravissant hinged box, engraved with Mughal Byta floral designs a replication of the Diwan-e-Am in the Red Fort at Delhi. Rec'd—July 18, 2005. Est. Value—$500. Location—Archives Foreign.	His Excellency Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Coin: 2″ 18K gold Saudia Arabia commemorative coin stamped with country emblem on one side with Arabic symbols and ''HB, Peace, 1983–2005'' surrounded by an image of a dove on the reverse. Rec'd—September 8, 2005. Est. Value—$1350. Location—Archives Foreign.	His Royal Highness Prince Bandar bin Sultan bin Abdulaziz, Royal Embassy of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Collectables: 8″ x 4″ sterling box with hinged lid and wooden inlaid lacquered teak interior engraved with the official Seal of the Office of Thailand. Rec'd—September 19, 2005. Est. Value—$400. Location—Archives Foreign.	His Excellency Thaksin Shinawatra, Prime Minister of the Kingdom of Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government

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Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Leather-bound book: "Holy Bible (King James Version)" with carved mother of pearl cover accented with the image of a starburst and ornate mosaic design, printed in Great Britain and held in a 9½″ x 7″ red satin lined wood box with hinged lid, covered with a veneer of mother of pearl accented with abolone image of a flower and ornate mosaic design. Rec'd—September 22, 2005. Est. Value—$500. Location—Archives Foreign. Desk accessory: 9″ x 7″ photograph of President Bush and His Majesty King Abdullah II in the Oval Office; signed by donor and held in a sterling picture frame accented with the image of the royal seal of His Majesty King Abdullah II. Rec'd—September 22, 2005 Est. Value—$400. Location—Archives Foreign. Collectable: cream steel dual-wheel-drive, off-road Rokon-AB23 Desert Ranger motorcycle with tow bar and trailer exclusively developed by the King Abdullah Design and Development Bureau. Rec'd—September 22, 2005. Est. Value—$4500. Location—Archives Foreign.	His Majesty King Abdullah II of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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President	Photographs (4): Black and white photographs held in burly walnut frame, non glare glass, double matted with a cut out; 11″ x 8″ ''USS Chicago, April 1894—Grand Harbour, Malta''; with a 14½″ x 16½″ cream double mat and held in a 20″ x 18″ walnut frame; 11″ x 9″ black and white photograph printed from the original glass negative depicting the ''USS Raleigh, March 1899-Grand Harbour, Malta''; with a 16½″ x 14½″ double cream mat and held in an 18″ x 20″ walnut frame; 11″ x 9″ ''USS Sheridan, March 1899-Grand Harbour, Malta''; with a 16½″ x 14½″ double cream mat and held in an 18″ x 20″ walnut frame; 9″ x 10″ ''USS Raleigh, Malta 1899'' vessel at dock and signed by the 1899 crew roster; with a 14½″ x 16½″ double cream mat and held in an 18″ x 19″ walnut frame; and 8″ x 11″ signed official letter from donor dated 3 October 2005, adorned with the official Malta Coat of Arms seal; with a 13½″ x 16½″ cream double mat and held in a 17″ x 20″ burly walnut frame. Rec'd—October 3, 2005. Est. Value—$900. Location—Archives Foreign.	The Honorable Lawrence Gonzi, Prime Minister of the Republic of Malta.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: 33″ long hand carved decorated cattle horn with 30″ long woven white leather rope attached to horn. Rec'd—October 9, 2005. Est. Value—$248. Location—Archives Foreign. Photograph: 8″ x 10″ of the George Washington Monument in Budapest, Hungary held in a 13¾″ x 12¼″ wooden frame. Rec'd—October 9, 2005. Est. Value—$60. Location—Archives Foreign.	His Excellency Ferenc Madl, The President of the Republic of Hungary and Mrs. Madl.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Weapon: 20″ Austrian Flintock Pistol made of steel, wood, silver and inlaid with coral; handcrafted of Austrian parts assembled in Bulgaria and designed for a senior dignitary from the Ottoman empire; age described as turn of the 18th century. Rec'd—October 17, 2005. Est. Value—$650. Location—Archives Foreign. Collectable: 9″ x 5″ copper with gold tone reproduction of a Rhyton cup from the 4th century BC. Rec'd—October 17, 2005. Est. Value—$75. Location—Archives Foreign. Miscellaneous: white and black male, standard Bulgarian Goran Shepherd dog named ''Balkan of Gorannadraganov'' born on 08/21/2005. Rec'd—October 17, 2005. Est. Value—$430. Disposition—Transferred to General Services Administration. Flowers (5): rooted roses. Rec'd—October 17, 2005. Est. Value—$30. Disposition—Handled pursuant to Secret Service policy.. Book (printed in Bulgarian): ''The Leadership Genius of George W. Bush: 10 Commonsense Lessons from the Commander in Chief,'' by Carolyn B. Thompson and James W. Ware. Rec'd—October 17, 2005. Est. Value—$23. Location—Archives Foreign.	His Excellency Georgi Purvanov, The President of the Republic of Bulgaria and Mrs. Purvanov.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Religious item: 15″ x 14¾″ x 2¾″ intricately carved three-dimensional rendering, with mother-of-pearl and abalone shell, of Jerusalem. Rec'd—October 20, 2005. Est. Value—$500. Location—Archives Foreign.	Mr. Mahmoud Abbas, President of the Palestinian Authority.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: 30″ x 22″ intricately hand-stitched needlepoint wool tapestry of a floral arrangement embellished with leafy evergreens, daffodils, violet and bronze chrysanthemums, golden yellow gerbera daisies against an olive background; held in a round brown bowl with chocolate and salmon colored geometric design; mounted on an ornate 42″ x 34″ antique stained wood frame with coral undertones, accented with a molded gold-tone finish, embossed leaf border with corner leaf pattern and gold-tone lip. Rec'd—October 25, 2005. Est. Value—$1,300. Location—Archives Foreign.	The Honorable Masoud Barzani, President of the Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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President	Jewelry: Omega ''De Ville Automatic Chronometer'' men's watch, with an 18kt yellow gold round case and dial, Arabic numeral hour markers, scratch-resistant sapphire crystal face, self-winding chronometer, and a brown alligator band. Rec'd—October 31, 2005. Est. Value—$3,195. Location—Archives Foreign.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Books (4): navy blue leather-bound set of ''The Collected Essays of Sir Winston Churchill Centenary Edition: Churchill at War, Volumes I, II, III, IV,'' by Winston S. Churchill; held in a navy blue leather slipcase embossed in gold on each side with the Prince of Wales Plumes. Rec'd—November 2, 2005. Est. Value—$1,832. Location—Archives Foreign. Collectable: 7″ x 7″ white fine bone china ''Highgrove'' cache pot designed by Jonathan Heale, with a gold-tone ribbed trim and border, accented with oak leaves and acorns, three bumble bees cascading downward on the inside brim, and the image of a black Holstein on one side and oak leaves and ivy encircling the Prince of Wales fleur de lis on the other. Rec'd—November 2, 2005. Est. Value—$83. Location—Archives Foreign.	His Royal Highness Prince Charles, The Prince of Wales, K.G., K.T., G.C.B..	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Miscellaneous: 20″ x 12½″ x 5″ handcrafted cedar, fustic and mahogany hinged box by Mauricio Azeredo, with a multicolor stained contrasting horizontal line detail on the top. Rec'd—November 5, 2005. Est. Value—$400. Location—Archives Foreign.	His Excellency Luis Inacio Lula da Silva, President of the Federative Republic of Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: 34½″ x 46″ oil on canvas portrait of President Bush with an American flag background; signed by artist and held in a 46″ x 58″ ornate gilt wood frame. Rec'd—November 7, 2005. Est. Value—$650. Location—Archives Foreign.	His Excellency Samuel Lewis Navarro, First Vice President and Minister of Foreign Relations of the Republic of Panama.	Non-acceptance would cause embarrassment to donor and U.S. Government
President	Sword: 39½″ elaborately detailed silver scabbard and hilt embellished with a 9½″ chandelier chain sheathing a 33″ steel blade. Rec'd—November 10, 2005. Est. Value—$1,500. Location—Archives Foreign.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government

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[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Collectables: three replica pieces of gold plated pewter and rhodium with colored crystals: belt buckle, hair piece and modesty disc, displayed in a 24″ x 19″ three inch wide wood with gold tone frame. (2) Gold tone plaques affixed to frame; one describing items and the other stating donor's name and date. Rec'd—November 17, 2005. Est. Value—$550. Location—Archives Foreign.	His Excellency Yab Datuk Seri Utama Abdullah bin Haji Ahmad Badawi, Prime Minister of Malaysia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Desk accessory: 7″ silver plated desk clock.Rec'd—November 17, 2005. Est. Value—$36. Location—Archives Foreign. CDs: (4) Tango: Carlos Gardel, Osvaldo Pugliese, Astor Piazzolla, and Anibal Troilo. Rec'd—November 17, 2005. Est. Value—$60. Location—Archives Foreign. Miscellaneous: 24″ x 12″ brown leather duffle travel bag with shoulder strap and brass feet. Rec'd—November 17, 2005. Est. Value—$375. Location—Archives Foreign.	His Excellency Nestor Carlos Kirchner, President of the Argentine Nation.	Non-acceptance would cause embarrassment to donor and U.S. Government
President	Miscellaneous (2): 56″ x 72″ navy blue silk, 18 black buttons; fifteen ¼″, three ½″ held in a 9½″ x 11½″ brown wood hinged box, and 56″ x 72″ cashmere wool, black with white pinstrips held in a 17″ x 9½″ brown hinged box. Rec'd—November 18, 2005. Est. Value—$210. Location—Archives Foreign.	His Excellency Roh Moo-hyun, President of the Republic of Korea and Mrs. Kwon Yang-suk.	Non-acceptance would cause embarrassment to donor and U.S. Government
President	Miscellaneous (6): lengths of matching cream and gold brocade pattern silk with green and pink accents: 22″ x 240″; 41″ x 77″; 41″ x 114″; 32″ x 68″; 32″ x 32″ and 12″ x 68″. Rec'd—November 18, 2005. Est. Value—$442. Location—Archives Foreign.	His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah Sultan and Yang Di-Pertuan of Brunei Darussalam.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Miscellaneous: 5″ x 6″ black Swarovski Optik SLC 7 x 42 waterproof binoculars. Rec'd—December 8, 2005. Est. Value—$1,030. Location—Archives Foreign.	His Excellency Wolfgang Schuessel, Chancellor of the Republic of Austria.	Non-acceptance would cause embarrassment to donor and U.S. Government
President	Game: Shut-the-Box by Front Porch Classics. Rec'd—December 29, 2005. Est. Value—$50. Location—Archives Foreign. Household accessory: 9″ x 4½″ Faberge gold rimmed crystal vase etched with a floral pattern. Rec'd—December 29, 2005. Est. Value—$350. Location—Archives Foreign.	His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah Sultan and Yang Di-Pertuan of Brunei Darussalam.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	Household: 5¼″ x 3″ stainless steel Stella ''Arianna'' expresso coffee pot. Rec'd—December 29, 2005. Est. Value—$60. Location—Archives Foreign. Miscellaneous: 42″ x 30″ natural tone cashmere throw with herringbone stripes. Rec'd—December 29, 2005. Est. Value—$754. Location—Archives Foreign. Household: 7″ x 6½″ sterling ice bucket with hinge lid attached to an 8″ round plate with elaborate edge and ¾″ feet. Rec'd—December 29, 2005. Est. Value—$500. Location—Archives Foreign. Furniture: 38″ x 20″ x 19″ wicker chest with carved wood striped design, a wood back, bronze tone metal latch and black metal handles on sides. Rec'd—December 29, 2005. Est. Value—$200. Location—Archives Foreign. Consumables: assorted gourmet products including peanuts, cookies, coffee, peanut butter, a biscotti sampler, almond nut spread, snack mixes, chocolates, a bottle of red wine. Rec'd—December 29, 2005. Est. Value—$300.Disposition—Handled pursuant to Secret Service Policy.		
First Lady	Artwork: 35″ x 28″ limited edition (7/7) print of a watercolor and pen and ink drawing of a woman with large multi-colored hat, a dog, and a man playing a musical instrument; matted and held in a bronze metal frame. Rec'd—March 4, 2005. Est. Value—$1,200. Location—Archives Foreign.	His Excellency Ivan Gasparovic, President of the Slovak Republic and Mrs. Gasparovicova.	First Lady.
First Lady	Hardcover book (in German): ''Kunstlerin und Naturforscherin (Art and Nature),'' by Maria Sibylla Merian. Rec'd—March 4, 2005. Est. Value—$28. Location—Archives Foreign. Artwork: 13″ x 11″ copy of a copper etching, by Maria Sibylla Merian, of various wildflowers; matted and held in a black and gold-tone frame. Rec'd—March 4, 2005. Est. Value—$600. Location—Archives Foreign. Desk accessory: 18″ x 13″ red leather Bermas briefcase with combination locks. Rec'd—March 4, 2005. Est. Value—$325. Location—Archives Foreign.	The Honorable Kurt Beck, Minister-President of Rhineland-Palatinate.	First Lady.

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[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Hardcover book: ''Caral: The City of Sacred Fire,'' by Ruth Shady Solis. Rec'd—March 9, 2005. Est. Value—$75. Location—Archives Foreign. Softcover book (in Spanish and English): ''Serpiente de Agua: La Vida Indigena en la Amazonia (Water Snake: The Indigenous Life in the Amazon),'' by Gredna Landolt and Alexandre Surrales. Rec'd—March 9, 2005. Est. Value—$35. Location—Archives Foreign. Photographs: 12″ x 9″ brown leather photograph album embossed ''Divina Y Humana: La Mujer en el Peru y Mexico Antiguos (Divine and Human: The Old Woman in Peru and Mexico), Eliane Karp de Toledo, Maria Sahagun de Fox, Lima, Noviembre 2004-Abril 2005, Ciudad de Mexico, Mayo-Octubre 2005'' containing photographs from the Divine and Human Exhibit in Peru and Mexico. Rec'd—March 9, 2005. Est. Value—$228. Location—Archives Foreign. Household accessory: 7″ x 6″ sterling hinged box with a woven cloth inset in glass lid and a presentation plate inside engraved ''For Mrs. Laura Bush, In Appreciation of the Continuous Friendship of Our People, Eliane K. Toledo, First Lady of Peru, Washington, D.C., 25 February, 2005.''Rec'd—March 9, 2005. Est. Value—$400. Location—Archives Foreign.	Mrs. Eliane Karp de Toledo, The First Lady of the Republic of Peru.	First Lady.
First Lady	Clothing: red, green, pink, blue, and gold traditional Afghan dress embroidered with ornate gold patterns and intricate seed beadwork. Rec'd—March 30, 2005. Est. Value—$300. Location—Archives Foreign. Accessory: 35″ x 65″ pink, purple, gold, and green silk shawl with a 2″ gold fringe. Rec'd—March 30, 2005. Est. Value—$35. Location—Archives Foreign. Accessory: green and gold polyester traditional shawl embroidered with an ornate pattern on the sleeves. Rec'd—March 30, 2005. Est. Value—$25. Location—Archives Foreign.	Dr. Zinat Karzai, Office of the President of the Islamic State of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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First Lady	Household accessory: 8″ x 12″ lapis lazuli candelabra. Rec'd—March 30, 2005. Est. Value—$750. Location—Archives Foreign. Household item: 73″ x 46″ hand knotted silk pile rug with 4″ fringe; medallion style design in red, blue, white, orange and green. Rec'd—March 30, 2005. Est. Value—$400. Location—Archives Foreign.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Jewelry: 22″ hexagonal amber bead necklace. Rec'd—April 4, 2005. Est. Value—$175. Location—Archives Foreign. Household accessory: 12″ x 5″ x 4″ dark carved wood jewelry box inlaid with jade and amethyst. Rec'd—April 4, 2005. Est. Value—$250. Location—Archives Foreign.	His Excellency Viktor Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Accessory: 96″ x 18″ purple and brown linen loosely woven shawl embroidered with small loops and a 4″ fringe. Rec'd—May 6, 2005. Est. Value—$305. Location—Archives Foreign.	Her Excellency Vaira Vike-Freiberga, President of the Republic of Latvia and Dr. Imants Freibergs.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Jewelry: 7″ 18kt gold link bracelet with cabochon garnets and quartz and small freshwater pearl accents. Rec'd—May 18, 2005. Est. Value—$750. Location—Archives Foreign. Jewelry: 2¼″ gold-plated silver pectoral cross of Queen Tamara inlaid with freshwater pearls and glass stones. Rec'd—May 18, 2005. Est. Value—$30. Location—Archives Foreign. Paperback book: ''Sandra Elisabeth Roelofs: De first lady van Georgie,'' inscribed by donor. Rec'd—May 18, 2005. Est. Value—$25. Location—Archives Foreign.	Mrs. Sandra Elisabeth Roelofs, Office of the President of Georgia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Accessory: 11″ x 5″ tan rattan and green leather clutch. Rec'd—May 25, 2005. Est. Value—$100. Archives Foreign. Accessories (2): 34″ x 86″ multicolored silk floral print shawl with black fringe. Rec'd—May 25, 2005. Est. Value—$230. Location—Archives Foreign.	Mrs. Kristiani Herawati, c/o The President of the Republic of Indonesia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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First Lady	Hardcover book: ''100 Years of Palestinian History: A 20th Century Chronology,'' published by the Palestinian Academic Society for the Study of International Affairs, Jerusalem. Rec'd—June 3, 2005. Est. Value—$150. Location—Archives Foreign. Accessory: 14″ x 10″ beige velour tote bag with traditional embroidered design on one side. Rec'd—June 3, 2005. Est. Value—$190. Location—Archives Foreign.	Her Excellency Hind Khoury, Minister of State, Palestinian National Authority.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Miscellaneous: 17½″ x 13″ set of wood doors with an intricately carved floral design. Rec'd—June 8, 2005. Est. Value—$425. Location—Archives Foreign.	The Honorable Haroun Ali Suleiman, Minister of Education, Culture, and Sports of the Revolutionary Government of Zanzibar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household accessory: 6″ x 8″ beige and yellow whagagwhado mirror box by Han Chun-seop printed with peacocks standing against floral backdrop; interior is finished in gold brocade cloth. Rec'd—June 10, 2005. Est. Value—$850. Location—Archives Foreign.	His Excellency Roh Moo-hyun, President of the Republic of Korea and Mrs. Kwon Yang-suk.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: 15″ x 13″ hand-molded traditional Zulu ceramic urn embellished with raised and incised designs; signed and dated by Clive Sithole. Rec'd—July 11, 2005. Est. Value—$1,750. Location—Archives Foreign.	Mrs. Zanele Mbeki, Office of the President of the Republic of South Africa.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household accessory: 37″ x 19″ hand-carved wooden chest with hinged lid constructed with intricate floral design and finely detailed brass border with three drawers along bottom. Rec'd—July 14, 2005. Est. Value—$3,500. Location—Archives Foreign.	His Excellency Amani Abeid Karume, The President of the Revolutionary Government of Zanzibar and Mrs. Shadya Karume.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: 27″ x 39″ wooden portrait of Mrs. Bush, held in a 31″ x 42″ carved wood frame. Rec'd—July 14, 2005. Est. Value—$1,750. Location—Archives Foreign. Household accessory: 16″ yellow linen napkins (12) embroidered with a various safari wildlife; woven tan and black napkin rings (12); and a 63″ yellow table cloth embroidered with various safari wildlife. Rec'd—July 14, 2005. Est. Value—$150. Location—Archives Foreign.	His Excellency Paul Kagame, The President of the Republic of Rwanda and Mrs. Kagame.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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First Lady	Household accessory: 7″ sterling Ravissant lidded dish with intricate quilted design. Rec'd—July 18, 2005. Est. Value—$350. Location—Archives Foreign.	His Excellency Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Jewelry: 17½″ gold-tone handmade traditional Kurdish necklace with an oval-shaped pink tourmaline surrounded by seed pearls and turquoise, accented with delicate cascading gold-tone stamped disks and seed pearls; engraved H. Sul Kurdstan on reverse. Rec'd—September 12, 2005. Est. Value—$1,900. Location—Archives Foreign.	Mrs. Hero Ibrahim Ahmed, c/o The President of the Transitional Government of the Republic of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Accessories (2): Hermes style leather handbags; 17″ x 11″ x 6″ tan travel bag and 13″ x 11″ x 4″ red handbag. Rec'd—November 3, 2005. Est. Value—$420. Location—Archives Foreign. Book: coffee table ''Memoria y Presente del Ballet del Teatro Colon 1925–2005''. Rec'd—November 3, 2005. Est. Value—$75. Location—Archives Foreign. Artwork: 15½″ x 11″ Serigraphy (silk screen print) of two unclothed people held in a 4″ pale green mat. Rec'd—November 3, 2005. Est. Value—$50. Location—Archives Foreign. Pin: small silver pin in the shape of a sun ray. Rec'd—November 3, 2005. Est. Value—$10. Location—Archives Foreign.	Mrs. Cristina Kirchner, First Lady of the Argentine Nation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household items (2): 8″ handcrafted chocolate brown glazed porcelain bowls by Rosa Maria Piatti accented with a contrasting black, orange, white and taupe abstract stripe design; signed on the bottom. Rec'd—November 5, 2005. Est. Value—$175. Location—Archives Foreign. Household item: 19½″ x 12″ handcrafted black wooden modern platter mounted on two 13½″ beams by Rosa Maria Piatti, accented with a light brown abstract grid design; signed on the bottom. Rec'd—November 5, 2005. Est. Value—$150. Location—Archives Foreign.	Mrs. Marisa Lula da Silva, c/o of The President of the Federative Republic of Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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First Lady	Jewelry: 3½″ silver and coral drop chandelier earrings; 6½″ silver and coral link bracelet; sized round tiered silver ring with a round coral bead with silver diamond pattern in the center; 6″ x 18″ silver and coral necklace with nine silver drop strands. Rec'd—November 10, 2005. Est. Value—$500. Location—Archives Foreign.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: 21″ x 17″ oil painting of ''Nomin'', a typical Mongolian girl held in a beveled 3'' wide gold tone wooden frame. Rec'd—November 21, 2005. Est. Value—$800. Location—Archives Foreign.	His Excellency Nambaryn Enkhbayar, President of Mongolia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Consumables: large assortment of Godiva chocolates held in an oval-shaped woven basket. Rec'd—November 7, 2005. Est. Value—$1,129. Disposition—Transferred to Department of the Army/Reported to General Services Administration. Flowers: large arrangement of long-stemmed yellow roses held in a square-shaped glass vase. Rec'd—November 7, 2005. Est. Value—$345. Disposition—Transferred to Charity/Reported to General Services Administration.	His Majesty Mohammed, VI, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Photograph: 5″ x 7″ photograph of donors; signed, matted and held in a red leather frame embossed with the royal crest of Norway. Rec'd—March 7, 2005. Est. Value—$61. Location—Archives Foreign. Household accessory: 10″ x 6″ Ulla-Mari Brantenberg blue and charcoal frosted glass abstract vase with polka dots. Rec'd—March 7, 2005. Est. Value—$277. Location—Archives Foreign.	His Majesty King Harald V and Her Majesty Queen Sonja, Their Majesties The King and Queen of Norway.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Household accessory: 23″ black, yellow, red, and green round wooden platter painted with a rooster and a floral pattern. Rec'd—April 4, 2005. Est. Value—$117. Location—Archives Foreign.	His Excellency Viktor Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Crafts (3): 8″ and 6″ dark gray abstract pottery sheep (2); and 7″ x 4″ red ceramic wall plaque with a cut-out of a heart and stamped with a star. Rec'd—April 11, 2005. Est. Value—$179. Location—Archives Foreign.	His Excellency Ariel Sharon, Prime Minister of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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First Family	Household items (2): pair of 6″ footed porcelain candlesticks handpainted with a floral and latice design. Rec'd—May 8, 2005. Est. Value—$1,130. Location—Archives Foreign.	Her Majesty Beatrix, Queen of the Netherlands.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Hardcover book: ''Pasiphae,'' by Algernon Charles Swinburne. Rec'd—May 8, 2005. Est. Value—$175. Location—Archives Foreign. Paperback book: ''Sonnets and Songs, Towards A Work to Be Called 'The House of Life','' by Dante Gabriel Rossetti. Rec'd—May 8, 2005. Est. Value—$111. Location—Archives Foreign. Consumable: 10″ Chateau D'Or cream candle printed with an angel. Rec'd—May 8, 2005. Est. Value—$25. Disposition—Handled pursuant to Secret Service policy. Consumable: bottle of Maestricht merlot. Rec'd—May 8, 2005. Est. Value—$20. Disposition—Handled pursuant to Secret Service policy.	The Honorable Gerd B.M. Leers, Mayor of Maastricht, Netherlands.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Tea set: 5″ x 5″ wooden handled silver tea pot with modern hammered copper design and strainer accompanying a 10″ x 10″ wooden handled tray inlaid with a 4″ x 6″ silver center. Rec'd—October 12, 2005. Est. Value—$500. Location—Archives Foreign.	His Excellency Aleksander Kwasniewski, President of the Republic of Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Consumables: 12 assorted boxes of Yemen coffee, 8 jars of honey. Rec'd—November 10, 2005. Est. Value—$192. Disposition—Transferred to Charity/Reported to General Services Administration. Clothing (2): 46″ x 100″ traditional multi-color pastel hand-woven shawl and a 70″ x 52″ traditional primary multi-color hand-woven shawl. Rec'd—November 10, 2005. Est. Value—$158. Location—Archives Foreign.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Miscellaneous (2): Samsung MP3 Digimax i50 cameras. Rec'd—November 18, 2005. Est. Value—$804. Location—Archives Foreign.	His Excellency Roh Moo-hyun, President of the Republic of Korea and Mrs. Kwon Yang-suk.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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First Family	Consumable: large box of Tunisian dates. Rec'd—December 15, 2005. Est. Value—$60. Disposition—Handled pursuant to Secret Service policy. Consumables (8): liter bottles of Tunisian olive oil. Rec'd—December 15, 2005. Est. Value—$28. Disposition—Handled pursuant to Secret Service policy. Consumables (8): bottles of wine. Rec'd—December 15, 2005. Est. Value—$64. Disposition—Handled pursuant to Secret Service policy. Household: 20 ½″ x 14″ red leather lidded ottoman chest covered with an intricate white geometic pattern, holding two matching red leather serving trays. Rec'd—December 15, 2005. Est. Value—$280. Location—Archives Foreign.	His Excellency Zine El-Abidine Ben Ali, President of the Republic of Tunisia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Elliott Abrams, Deputy Assistant to the President and Deputy National Security Advisor for Global Democracy.	Sword: 27″ silver saber with curved blade and scabard with elaborate detailing and amber stones. Rec'd—November 10, 2005. Est. Value—$1,000. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Judith Ansley, Special Assistant to the President and Senior Director for European Affairs.	Accessories (2): 35″ E. Marinella silk scarves; one design on light blue background with dark blue center and border decorated with assorted drying vegetables in harvest colors of green, red, orange, brown and white; one design on white background with light beige and apricot border, center is bouquet of blue, brown, tan and apricot roses and lavender strands of ''pearls''. Rec'd—November 3, 2005. Est. Value—$320. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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Andrew H. Card Jr., Assistant to the President and Chief of Staff.	Coin: 2⅜″ gold-plated pure silver medal commemorating Summit; obverse, relief of ''Bush–Putin Slovakia Summit 2005'' with flags of the three nations; reverse ''Slovenska Republiks Bratislava 24.2.2005'' and relief of state building. Rec'd—February 24, 2005. Est. Value—$75. Location—Personally Retained by the Staff Member. Stamps: Commemorative portfolio of stamp and postmark issued for ''Slovakia Summit 2005, Bratislava 1 24.2.2005''. Rec'd—February 24, 2005. Est. Value—$2. Location—Personally Retained by the Staff Member. Desk accessory: 15¾″ x 11¾″ x 2″ Romelon black leather, gold silk lined briefcase by G. Peppers; four zipper pouches, leather shoulder strap, dull nickel hardward and combination lock, embossed with ''Bush–Putin Slovakia Summit 2005'' logo. Rec'd—February 24, 2005. Est. Value—$250. Disposition—Transferred to the General Services Administration, Government Property.	Bush–Putin Slovakia Summit, February 23–25, 2005.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Andrew H. Card Jr., Assistant to the President and Chief of Staff.	Accessories (5): variety of E. Marinella silk twill ties with various geometric patterns; one red tie with navy, light blue and pale yellow accent, black tie with light blue and white accent, one maroon tie with blue and gold accent, navy blue tie with light blue accent and navy blue tie with red. Rec'd—November 3, 2005. Est. Value—$825. Disposition—Transferred to the General Services Administration, Government Property. Accessory: E. Marinella silk twill royal blue tie with beige and white geometric pattern. Rec'd—November 3, 2005. Est. Value—$165. Location—Personally Retained by the Staff Member.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Cindy L. Courville, Special Assistant to the President and Senior Director.	Artwork: 39″ x 39″ framed canvas oil painting of two young African boys sitting in a hut on a cinderblock with sunset in background; signed Bomgesa 2004. Rec'd—March 22, 2005. Est. Value—$500. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Antoine Ghonda, Ambassador-at-Large, Office of the President of the Democratic Republic of the Congo.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Cindy L. Courville, Special Assistant to the President and Senior Director.	Artwork: 15¾″ x 5″ x 6½″ stone sculpture of Gabonese woman holding a basket of fruit and vegetables; artwork studded with 5/16″ x 3/16″ gold tone ovals; woman wearing a 7/8″ x 1/8″ goldtone pendant on a black rope weave necklace; 5⅝″ x 5¼″ x 1½″ wood base with 2½″ x 1″ brass plaque engraved ''Pierre De Mbigou Du Gabon Offert Par Son Excellence El Hadj Omar Bongo.'' Rec'd—January 13, 2005. Est. Value—$1,100. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency El Hadj Omar Bongo Ondimba, President of the Gabonese Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Michael Doran, Senior Director for Near East and North African Affairs.	Knife: 21½″ elaborately detailed silver scabbard and hilt sheathing a 5½″ steel blade; scabard had green inset. Rec'd—November 10, 2005. Est. Value—$500. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Daniel Fred, Special Assistant to the President and Senior Director Europe.	Accessories (2): E. Marinella silk twill necktie—alternating light blue and medium blue daisy pattern on red background and alternating light blue squares and diamonds and clubs on a navy blue background. Rec'd—February 14, 2005. Est. Value—$310. Disposition—Transferred to the General Services Administration. Accessory: E. Marinella silk necktie—alternating pattern of light blue, brown and red daisies and white diamonds with blue centers on royal blue background. Rec'd—February 14, 2005. Est. Value—$155. Location—Personally Retained by the Staff Member.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Stephen Hadley, Assistant to the President for National Security Affairs.	Coin: 2⅜″ gold-plated pure silver medal commemorating Summit; obverse, relief of ''Bush Putin Slovakia Summit 2005'' with flags of the three nations; reverse ''Slovenska Republiks Bratislava 24.2.2005'' and relief of state building. Rec'd—February 24, 2005. Est. Value—$75. Disposition—Archives, Staff Gift. Stamps: commemorative navy leather portfolio of stamp and postmark issued for ''Slovakia Summit 2005, Bratislava 1 24.2.2005''. Rec'd—February 24, 2005. Est. Value—$2. Disposition—Archives, Staff Gift. Desk accessory: 15¾″ x 11¾″ x 2″ Romelon black leather, gold silk lined briefcase by G. Peppers; four zipper pouches, leather shoulder strap, dull nickel hardware and combination lock, embossed with ''Bush–Putin Slovakia Summit 2005'' logo. Rec'd—February 24, 2005. Est. Value—$250. Disposition—Archives, Staff Gift.	Bush–Putin Slovakia Summit, February 23–25, 2005.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Desk accessories (2): 8½″ letter opener and 6¼″ magnifying glass; handles of mother of pearl and ornate sterling design. Rec'd—March 23, 2005. Est. Value—$337. Disposition—Archives, Staff Gift.	His Majesty King Abdullah II of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Household accessory: 8¼″ x ¾″ sterling plate engraved with donor's name, title, signature and seal. Rec'd—March 24, 2005. Est. Value—$350. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Petros Molyviatis, Minister of Foreign Affairs of the Hellenic Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Household accessories (2): 4½″ x 1¼″ hammered sterling bowls. Rec'd—April 14, 2005. Est. Value—$600. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Natwar Singh, Minister of External Affairs of The Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Plaque: 11″ pure silver plate, relief design depicting Hoan Kiem Lake by Nguyen Ngoc Khuong; 3¼″ x ⅝″ brass presentation plaque engraved ''With the Compliments from H. E. Mr. Phan Van Khai, Prime Minister of the Socialist Republic of Vietnam.'' Rec'd—July 5, 2005. Est. Value—$400. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Phan Van Khai, Prime Minister of the Socialist Republic of Vietnam.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Stephen Hadley, Assistant to the President for National Security Affairs.	Artwork: 13″ x 15″ x 5″ two piece brass equestrian sculpture; horse and rider carrying spear. Rec'd—July 14, 2005. Est. Value—$2,500. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Ephraim Inoni, Prime Minister of the Republic of Cameroon.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Artwork: 5⅞″ x 8⅞″ colorful painting of nine regal men surrounding an enthroned man in a palatial setting; held in a 15″ x 18″ gold gilt ornate wood framed with double cut ivory mat. Rec'd—July 18, 2005. Est. Value—$400. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Collectable item: 10″ gold lacquer and gold leaf Mainstream Sculpture plate ''The Picture of Eagle's Power,'' by Jinli Shen. Rec'd—August 8, 2005. Est. Value—$350. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Tang Jiaxuan, State Councilor of the State Council of the People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Desk accessories (2): 6″ x 5½″ x 1″ desk note pad holder with a hinged ''Kuhn'' sterling picture frame lid with gold crown and a 5″ sterling and leather ballpoint pen printed in silver with crown and donor's name; frame holds a print of the Monastery at Petra; held in a white satin lined blue velvet latched. Rec'd—September 19, 2005. Est. Value—$345. Disposition—Transferred to the General Services Administration, Government Property.	His Majesty King Abdullah II, of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Household item: 6′8″ x 9′6″ wool Afghani rug; apricot and black guls on a rust field. Rec'd—September 25, 2005. Est. Value—$1,800. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Household item: 5′ x 7′ wool Afghani ''children's'' rug, apricot, black and brown floral design on dark red field. Rec'd—September 25, 2005. Est. Value—$1,200. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Zalmai Rassoul, National Security Advisor of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Stephen Hadley, Assistant to the President for National Security Affairs.	Household item: 4′4″ x 6′ wool Afghani rug, red and blue design on apricot field. Rec'd—September 25, 2005. Est. Value—$800. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Abdul Rahim Wardak, Minister of Defense of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Accessories (6): variety of E. Marinella silk twill ties with various geometric patterns; one navy blue and two maroon ties with blue and white accent, black tie with blue accent, navy blue tie with blue, yellow, red and green accent, light blue tie with green, red and yellow accent. Rec'd—November 3, 2005. Est. Value—$990. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stephen Hadley, Assistant to the President for National Security Affairs.	Sword: 29″ silver saber with curved blade and scabbard with elaborate detailing and amber stones. Rec'd—November 10, 2005. Est. Value—$1,000. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Scott McClellan, Assistant to the President and Press Secretary.	Accessories (5): variety of E. Marinella silk twill ties with various geometric patterns; red tie with blue and gold accent, navy blue tie with brown and light blue accent, navy blue tie with blue, yellow, and pale green accent, black tie with red accent and navy blue tie with beige accent. Rec'd—November 3, 2005. Est. Value—$825. Disposition—Transferred to the General Services Administration, Government Property. Accessory: E. Marinella silk twill red tie with blue and white geometric pattern. Rec'd—November 3, 2005. Est. Value—$165. Location—Personally Retained by the Staff Member.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Nikhil N. Ramchard, Director, Persian Gulf Affairs.	Knfe: 21½″ elaborately detailed silver scabbard and hilt sheathing a 5½″ steel blade. Rec'd—November 10, 2005. Est. Value—$500. Disposition—Transferred to the General Services Administration, Government Property.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: PRESIDENT OF THE U.S. AND THE NATIONAL SECURITY COUNCIL—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Scott N. Sforza, Deputy Assistant to the President and Deputy Director of Communications for Production.	Desk accessories (2): Nino Cerruti designed pen set ''ebonite noir with Iridium point'' 5¼″ black and silver fountain pen and 5¼″ ballpoint pen, held in black leather box with royal crest. Rec'd—March 15, 2005. Est. Value—$408. Disposition—Transferred to the General Services Administration, Government Property.	His Majesty King Abdullah II of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Kurt Volker, Director, European and Eurasian Affairs.	Accessories (2): E. Marinella silk twill neckties—alternating gold and blue squares on maroon background and light blue daisies and gold and brown squares pattern on navy blue background. Rec'd—February 14, 2005. Est. Value—$310. Disposition—Transferred to the General Services Administration. Accessory: E. Marinella silk necktie—small alternating blue, red and yellow circles pattern on navy blue background. Rec'd—February 14, 2005. Est. Value—$155. Location—Personally Retained by the Staff Member.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: VICE PRESIDENT

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President and Mrs. Cheney ...	Fitted wooden box filled with toiletry items, candy, candles, silver-plated vases, handmade paper journals, a silver brooch, and a square Rosenthal china plate. Rec'd—January 5, 2005. Est. Value—$850. Location—Archives Foreign.	His Majesty King Abdullah II bin al Hussein of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: VICE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President and Mrs. Cheney ...	Wool on cotton carpet, measuring 77 inches by 61 inches, rust background with cruciform stylized foliate medallion, three borders with yellow main. Rec'd—January 27, 2005. Est. Value—$1,000. Location—Transferred to General Services Administration. Wool on cotton carpet, measuring 78 inches by 57 inches, yellow background with red, tan and green stylized floral decoration, four borders with rose main. Rec'd—January 27, 2005. Est. Value—$1,000. Location—Transferred to General Services Administration. Embroidered beige cotton tablecloth and 12 napkins. Rec'd—January 27, 2005. Est. Value—$150. Location—Archives Foreign.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Sterling silver and gold Mate set, handcrafted by Argentinean silversmith Pallarols and a hardcover book about Mate in the Americas. Rec'd—February 7, 2005. Est. Value—$708. Location—Archives Foreign.	His Excellency Daniel O. Scioli, Vice President of the Argentine Nation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Celadon vase. Rec'd—March 9, 2005. Est. Value—$350. Location—Archives Foreign.	The Honorable Won-Ki Kim, Speaker of the National Assembly Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Framed seascape by Ukrainian artist. Rec'd—April 5, 2005. Est. Value—$650. Location—Archives Foreign.	His Excellency Viktor Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Cheney	Hand painted Ukrainian egg and hardcover book about Ukraine. Rec'd—April 5, 2005. Est. Value—$90, Location—Archives Foreign. Large embroidered velvet pillow Rec'd—April 5, 2005. Est. Value—$80. Location—Archives Foreign.	His Excellency Viktor Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government
Vice President	Shadow box containing traditional Palestinian clothing and jewelry, in engraved copper frame. Rec'd—June 1, 2005. Est. Value—$325. Location—Archives Foreign.	His Excellency Mahmoud Abbas, President of the Palestinian Authority.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Small contemporary iron sculpture of an Iraqi dignitary. Rec'd—July 7, 2005. Est. Value—$350. Location—Archives Foreign.	His Excellency Dr. Ibrahim Al-Eshaiker Al-Jaafari, Prime Minister of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Sterling silver box with enamel inlay. Rec'd—July 19, 2005. Est. Value—$500. Location—Archives Foreign.	His Excellency Dr. Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government
Mrs. Cheney	Sterling silver picture frame. Rec'd—July 19, 2005.—Est. Value—$275. Location—Archives Foreign.	His Excellency Dr. Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: VICE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President	Six gold coins issued by the Central Bank of Kuwait. Rec'd-July 21, 2005. Est. Value—$1,000. Location—Archives.	His Highness Sabah Al-Ahmad Al-Jaber Al Sabah, Prime Minister of the State of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Scimitar 308 Winchester Presentation Rifle with engraved barrel and Night force, 3.5x15–50, scope, in presentation case. Rec'd—September 22, 2005. Est. Value—$14,120. Location—Archives Foreign. Sterling silver box with Jordanian seal, lined with burled olive wood. Rec'd—September 22, 2005. Est. Value—$550. Location—Archives Foreign.	His Majesty King Abdullah II bin al Hussein of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Large floral display. Rec'd—September 26, 2005. Est. Value—$500. Location—Handled pursuant to Secret Service policy.	His Highness Sheikh Mohamed bin Zayed, Crown Prince of Abu Dhabi, Deputy Superior Commander of The United Arab Emirates Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Large bouquet of flowers. Rec'd—September 26, 2005. Est. Value—$500. Location—Handled pursuant to Secret Service policy.	His Highness Sheikh Mohamed bin Zayed, Crown Prince of Abu Dhabi, Deputy Superior Commander of The United Arab Emirates Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Large floral arrangement. Rec'd—September 26, 2005. Est. Value—$500. Location—Handled pursuant to Secret Service policy.	His Highness Sheikh Hamdan bin Zayed, Deputy Prime Minister and Minister of State for Foreign Affairs of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Sterling silver box with large inlaid amber stone. Rec'd—September 28, 2005. Est. Value—$350. Location—Archives Foreign.	His Excellency Marek Belka, Prime Minister of the Republic of Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Mother of pearl Nativity scene on a wooden base. Rec'd—October 20, 2005. Est. Value—$450. Location—Archives Foreign.	His Excellency Mahmoud Abbas, President of the Palestinian Authority.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Russian atlas and display of Ukrainian coins. Rec'd—November 2, 2005. Est. Value—$340. Location—Archives Foreign.	His Excellency Yuri Yekhanurov, Prime Minister of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Sterling silver scimitar, with inset amber stones. Rec'd—November 10, 2005. Est. Value—$1,500. Location—Archives Foreign.	His Excellency Ali Abdullah Saleh, President Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Cheney	Set of Sterling silver pendants and rings. Rec'd—November 10, 2005. Est. Value—$350. Location—Archives Foreign.	His Excellency Ali Abdullah Saleh, President Republic of Yemen.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Six E. Marinella ties. Rec'd—November 21, 2005. Est. Value—$810. Location—Archives Foreign.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: VICE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President	Hand knotted Afghanistan wool pile rug with red ground with lines of mall gul patterns, with five minor borders and flat weave end panels. Measures 115 inches by 78 inches. Rec'd—December 22, 2005. Est. Value—$620. Location—Archives Foreign.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Cheney	Embroidered tablecloth and twelve matching napkins. Rec'd—December 22, 2005. Est. Value—$175. Location—Archives Foreign Brass and lapis lazuli candelabra. Rec'd—December 22, 2005. Est. Value—$500. Location—Archives Foreign.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President	Sterling silver repose bowl with small turquoise stone adornments. Rec'd—December 22, 2005. Est. Value—$250. Location—Archives Foreign. Hand-stitched and painted wall hanging. Measures 104 inches by 84 inches. Rec'd—December 22, 2005. Est. Value—$200. Location—Archives Foreign.	His Excellency Pervez Musharraf, President of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Cheney	18K yellow gold dangle earrings in a floral design. Rec'd—December 22, 2005. Est. Value—$450. Location—Archives Foreign. Gold pashmina silk and cashmere shawl. Rec'd—December 22, 2005. Est. Value—$55. Location—Archives Foreign.	His Excellency Pervez Musharraf, President of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Condoleezza Rice, Secretary of State.	Inuit carving of a walrus. Received—October 28, 2005. Est. Value—$1,250.00. Disposition—Pending transfer to General Services Administration.	The Honorable Pierre S. Pettigrew, P.C., M.P., Minister of Foreign Affairs of Canada.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Afghan carpet. Received—March 17, 2005. Est. Value—$400.00. Disposition—Pending transfer to General Services Administration.	His Excellency Dr. Abdullah Abdullah, Minister of Foreign Affairs of the Islamic Republic of Afghanistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Carpet, King Zahir Shah pattern. Received—March 17, 2005. Est. Value—$475.00. Disposition—Pending transfer to General Services Administration.	His Excellency Hamid Karzai, President of Afghanistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Condoleezza Rice Secretary of State.	Sterling Silver Box in blue lock box. Received—July 11, 2005. Est. Value—$350.00. Disposition—Pending transfer to General Services Administration.	Dr. Khantathi Suphamongkon Minister of Foreign Affairs of Thailand.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Lalique perfume bottle (glass). Received—February 2005. Est. Value—$347.00. Disposition—Pending transfer to General Services Administration.	His Excellency Michel Barnier, Minister of Foreign Affairs of the French Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Black and gold leopard necklace. Received—June 18, 2005. Est. Value—1,350.00. Disposition—Pending transfer to General Services Administration.	Dr. Hanan Ashrawi Secretary General of MIFTAH Palestine.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Silver and wood vase painted black. Received—August 4, 2005. Est. Value—$350.00. Disposition—Pending transfer to General Services Administration.	His Excellency Alvaro Uribe Velez, President of Colombia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Bloom of Jordan coffee table book and Daum of France crystal decanter. Received—June 19, 2005. Est. Value—$400.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness King Abdallah II, King of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Framed stone mosaic. Received—October 15, 2005. Est. Value—$400.00. Disposition—Pending transfer to General Services Administration.	His Excellency Emomali Rahmonov, President of Tajikistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	White Aurora Pen. Received—October 27, 2005. Est. Value—$350.00. Disposition—Pending transfer to General Services Administration.	His Excellency Giovanni Castellaneta, Italian Ambassador to the U.S.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Sterling silver frame. Received—July 15, 2005. Est. Value—$350.00. Disposition—Pending transfer to General Services Administration.	Dr. Khantathi Suphamongkon Minister of Foreign Affairs Thailand.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Herend porcelain seagull. Received—October 6, 2005. Est. Value—$2,300.00. Disposition—Pending transfer to General Services Administration.	His Excellency Ferenc Gyurcsany, Prime Minister of the Republic of Hungary.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Jade vase with stand. Received—July 15, 2005. Est. Value—$750.00. Disposition—Pending transfer to General Services Administration.	His Excellency Li Zhao Xing, Minister of Foreign Affairs People's Republic of China.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	White/Yellow gold and diamond ring. Received—April 11, 2005. Est. Value—$3,250.00. Disposition—Pending transfer to General Services Administration.	His Excellency Silvio Berlusconi, Prime Minister of Italy.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Gold coins issued by the Central Bank of Kuwait—in red leather box. Received—July 7, 2005. Est. Value—$500.00. Disposition—Pending transfer to General Services Administration.	His Highness Sheikh Sabah Al-Ahmed Al-Jaber Al-Sabah, Prime Minister of the State of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Condoleezza Rice, Secretary of State.	Barnard Richards women's watch w/ brown crocodile strap/gold accents. Received—February 8, 2005. Est. Value—$2,250.00. Disposition—Pending transfer to General Services Administration.	His Excellency Jacques Chirac, President of France.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Cigarette box—black and burgundy with gold design and painting of a man/water and setting sun. Received—February 5, 2005. Est. Value—$500.00. Disposition—Pending transfer to General Services Administration.	His Excellency Sergey Lavrov, Foreign Minister of the Russian Federation.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Gold Necklace. Received—February 8, 2005. Est. Value—$1,750.00. Disposition—Pending transfer to General Services Administration.	His Excellency Gianfranco Fini, Deputy Prime Minister and Minister of Foreign Affairs of the Italian Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Sterling silver box with wood inlay. Received—September 20, 2005. Est. Value—$600.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness King Abdallah II, King of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Lapis and gemstone globe. Received—October 12, 2005. Est. Value—$1,250.00. Disposition—Pending transfer to General Services Administration.	Dr. Zalmay Rassoul, National Security Advisor of Afghanistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Hermes double wood picture frame. Received—July 11, 2005. Est. Value—$460.00. Disposition—Pending transfer to General Services Administration.	His Excellency Philippe Douste-Blazy, Minister of Foreign Affairs of the French Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Silver Plate. Received—November 11, 2005. Est. Value—$575.00. Disposition—Pending transfer to General Services Administration.	Crown Prince Sheikh Salman bin Hamad bin Isa Al Khalifa, Commander in Chief of the Bahrain Defense Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Sterling silver boot spur. Received—December 13, 2005. Est. Value—$375.00. Disposition—Pending transfer to General Services Administration.	His Excellency Oscar Maurtua, Minister of Foreign Relations of the Republic of Peru.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Enamel figurine of elephant, camel and horse. Received—October 17, 2005. Est. Value—$350.00. Disposition—Pending transfer to General Services Administration.	His Excellency Kapil Sibal, Minister of State for Science and Technology India.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Pen set: ballpoint and fountain pen with inkwell on wood base. Received—July 6, 2005. Est. Value—$365.00. Disposition—Pending transfer to General Services Administration.	His Excellency Joschka Fischer Minister of Foreign Affairs of the Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Framed letter of Hector Berlioz in gold frame. Received—February 8, 2005. Est. Value—$500.00. Disposition—Pending transfer to General Services Administration.	Richard DeScoings, President of the Institute of Political Studies; Sciences Po in Paris, France.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Condoleezza Rice, Secretary of State.	Ivory, jeweled, gold and silver dagger. Received—June 21, 2005. Est. Value—$1,000.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness, Abdallah bin Abd al-Aziz Al Saud, Crown Prince, First Deputy Prime Minister and Commander of the National Guard of the Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Gemstone and gold pendant and earrings. Received—March 16, 2005. Est. Value—$450.00. Disposition—Pending transfer to General Services Administration.	Begum Sehba Musharraf, Wife of the President of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Carpet/Rug. Received—October 11, 2005. Est. Value—$500.00. Disposition—Pending transfer to General Services Administration.	His Excellency Dr. Abdullah Abdullah, Minister of Foreign Affairs of the Islamic Republic of Afghanistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government
Condoleezza Rice, Secretary of State.	Silver coffee pot. Received—December 13, 2005. Est. Value—$450.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness Prince Saud Al-Faisal, Minister of Foreign Affairs of the Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Silver necklace, bracelet and earrings with cross stones from Cross River in Chile and a Book about Chile. Received—April 28, 2005. Est. Value—$375.00. Disposition—Pending transfer to General Services Administration.	His Excellency Ignacio Walker Prieto, Minister of Foreign Relations of the Republic of Chile.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Bag containing traditional dress and hat, bracelet and earrings. Received—March 16, 2005. Est. Value—$1,150.00. Disposition—Pending transfer to General Services Administration.	His Excellency Nursultan Nazarbayev, President of the Republic of Kazakhstan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Small enamel box w/grapes on lid. Hammered sterling silver box. Received—November 7, 2005. Est. Value—$420.00. Disposition—Pending transfer to General Services Administration.	His Excellency Lee Tae-sik, Ambassador of Korea to U.S.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Men's wristwatch and jewelry set of emerald and diamond necklace, earrings, ring and bracelet. Received—July 11, 2005. Est. Value—$90,000.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness, Abdallah bin Abd al-Aziz Al Saud, Crown Prince, First Deputy Prime Minister and Commander of the National Guard of the Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	2 white scarves and a silver cup . Received—November 9, 2005. Est. Value—$500.00 Disposition—Pending transfer to General Services Administration.	His Holiness The Dalai Lama	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	A bottle of Remy Martin Cognac, Laphroaig Scotch, and Chateau Leoville wine. Received—December 5, 2005. Est. Value—$358.00. Disposition—Pending transfer to General Services Administration.	His Excellency Sheikh Hamad bin Jassim bin Jabir Al Thani, First Deputy Prime Minister and Minister of Foreign Affairs of the State of Qatar.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Condoleezza Rice, Secretary of State.	Baseball cap, coffee mugs, replica of rickshaw in silver, plaque for Secretary Rice from State Minister of Home Affairs. Received—February 7, 2005. Est. Value—$405.00. disposition—Pending transfer to General Services Administration.	Md. Lutfozzaman Babar, State Minister of Home Affairs of Bangladesh.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Green leather brief case holding traditional Omani Arab Dress & thin Silver Jewelry: belt, necklace, earrings, bracelet and ring. Received—June 20, 2005. Est. Value—$1,650.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness, Abdallah bin Abd al-Aziz Al Saud, Crown Prince, First Deputy Prime Minister and Commander of the National Guard of the Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Desert life scene done in gold and Mother-of-Pearl. Received—June 20, 2005. Est. Value—$8,500.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness, Abdallah bin Abd al-Aziz Al Saud, Crown Prince, First Deputy Prime Minister and Commander of the National Guard of the Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Camel at an Oasis scene in gold on inlaid base. Received—November 12, 2005. Est. Value—$8,500.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness, Abdallah bin Abd al-Aziz Al Saud, Crown Prince, First Deputy Prime Minister and Commander of the National Guard of the Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Ancient coins from Lebanon. Received—August 5, 2005. Est. Value—$1,250.00. Disposition—Pending transfer to General Services Administration.	His Excellency Emile Lahoud, President of the Republic of Lebanon.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Handmade Haddad flatware and cutlery. Received—August 5, 2005. Est. Value—$425.00. Disposition—Pending transfer to General Services Administration.	His Excellency Fouad Siniora, Prime Minister of the Republic of Lebanon.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	5 Gold coins from the Bahrain Monetary Agency. Received—November 12, 2005. Est. Value—$3,000.00. Disposition—Pending transfer to General Services Administration.	His Majesty Hamad Bin Isa Bin Salman Al-Khalifa, King of the Kingdom of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Wood box containing wood pin with diamonds and Mother-of-Pearl, Mother-of-Pearl earrings and candles. Received—June 19, 2005. Est. Value—$5,175.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness King Abdallah II, King of Jordan and Her Highness Queen Rania of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Miriam Gutierrez, Spouse of U.S. Ambassador Lino Gutierrez.	Jean Pierre Joyeros woman's stainless steel watch with leather strap. Received—March 14, 2005. Est. Value—$450.00. Disposition—Pending transfer to General Services Administration.	Jean Pierre Joyeros	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Stephen Mann, Special Negotiator	18k gold bar with inscription and a certificate from the Austrian Mint. Received—July 20, 2005. Est. Value—$3,000.00 gold price. Disposition—Pending transfer to General Services Administration.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Elizabeth Cheney, Principal Deputy Assistant Secretary of State for Near Eastern Affairs and Coordinator for Broader Middle East and North American Initiatives.	Engraved glass plate with a quote from Vice President Cheney. Received—August 18, 2005. Est. Value—$325.00. Disposition—Pending transfer to General Services Administration.	Manda Shahbazi, Founder and President of the Alliance of Iranian Women.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Elizabeth Cheney, Assistant Secretary of State.	Necklace/earrings of mixed aqua gem beads. Received—May 30, 2005. Est. Value—$515.00. Disposition—Pending transfer to General Services Administration.	Mrs. Mubarak, Spouse of the President of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Elizabeth Cheney, Assistant Secretary of State.	Persian carpet. Received—August 18, 2005. Est. Value—$4,000.00. Disposition—Pending transfer to General Services Administration.	Manda Shahbazi, Private Individual.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Elizabeth Cheney, Assistant Secretary of State.	Gold, turquoise, pearl and diamond with good luck charms. Received—May 22, 2005. Est. Value—$500.00. Disposition—Pending transfer to General Services Administration.	Maha Aboulenein, Public Relations Consultant.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Phyllis M. Powers, Director, Narcotics Affairs Section, Embassy Bogota.	Gold, diamond and emerald earrings. Received—March 6, 2005. Est. Value—$600.00.Disposition—Pending transfer to General Services Administration.	General Luis Alberto G. Herida, Director General of Anti-Narcotics Police, Colombia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John Blaney, U.S. Ambassador to Liberia.	Gold cuff links in the shape of a map of the U.S. Received—December 7, 2005. Est. Value—$350.00. Disposition—Pending transfer to General Services Administration.	Gyude Bryant, Chairman of National Transitional Government of Liberia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Elizabeth Cheney, Assistant Secretary of State.	Micro-engraved Koran on Crystal rectangular pendant on silver chain with a magnifying wand by Viviane Debbas of Beruit. Received—September 12, 2005. Est. Value—$2,500.00. Disposition—Pending transfer to General Services Administration.	Ahmed Gheit, Foreign Minister of Egypt UNGA Meeting.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Elizabeth Cheney, Assistant Secretary of State.	Statue: Gold and stone inlay of oasis scene in leather box. Received—July 27, 2005. Est. Value—$4,000.00. Disposition—Pending transfer to General Services Administration.	His Royal Highness Prince Bandar bin Sultan bin Abdulaziz of The Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Elizabeth Cheney, Assistant Secretary of State.	Commemorative coin in a green case. Received—November 1, 2005. Est. Value—$2,500.00. Disposition—Pending transfer to GSA.	Ambassador Prince Badar bin Abdulaziz, Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Paula Dobriansky, Undersecretary of State.	Box inlaid with lapis lazuli and other gemstones. Received—2005. Actual Date N.A. Est. Value—$500.00. Disposition—Pending transfer to General Services Administration.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Karl Hoffman, Wife of U.S. Ambassador to Togo.	Velvet-lined with Wood box Filigree gold bracelet. Received—December 19, 2005. Est. Value—$2,850.00. Disposition—Pending transfer to General Services Administration.	His Excellency Gnassingbe Eyadema, President of the Togolese Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Dr. Jendayi E. Frazer, Assistant Secretary of African Affairs.	Freshwater Pearl necklace, loose faceted pear shape amethyst and silver filigree fish with stand. Received—December 5, 2005. Est. Value—$675.00. Disposition—Pending transfer to General Services Administration.	His Excellency Yahya Jammeh President of the Republic of The Gambia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Steven R. Butler, Desk Officer of Libya.	Canon Power Shot SD400 camera and case. Received—August 18, 2005. Est. Value—$359.95. Disposition—Pending transfer to General Services Administration.	Libyan Liaison Office	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Peter M. Thompson, Deputy Regional Coordinator U.S. Embassy, Iraq.	Rado ''Dia Star Anatom'' Men's watch #R 10366761. Received—February 15, 2005. Est. Value—$3,400.00. Disposition—Pending transfer to General Services Administration.	Kosrat Rasul Ali, Patriotic Union of Kurdistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Ambassador Donald Ensenat, U.S. Chief of Protocol.	Nativity scene done in Mother-of-Pearl. Received—October 24, 2005. Est. Value—$500.00. Disposition—Pending transfer to General Services Administration.	His Excellency Mahmoud Abbas, President of the Palestinian Authority.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James Wilkinson, Senior Advisor ..	Lapis lazuli and gemstone covered box. Received—October 12, 2005. Est. Value—$500.00. Disposition—Pending transfer to General Services Administration.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Tabitha Bullock, Administrative Officer Blair House.	Four-piece jewelry set in silver and coral. Received—November 10, 2005. Est. Value—$450.00. Disposition—Pending transfer to General Services Administration.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Christina B. Rocca, Assistant Secretary for South Asia Affairs.	Rug: ivory, wine and black design. Received—March 16, 2005. Est. Value—$450.00. Disposition—Pending transfer to General Services Administration.	His Excellency Pervez Musharraf, President of the Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Robert Joseph, Undersecretary of State.	Rug: red and blue design. Received—October 26, 2005. Est. Value—$350.00. Disposition—Pending transfer to General Services Administration.	His Excellency Saparmurat Niyazov, President of Turkmenistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Christina B. Rocca, Assistant Secretary for South Asia Affairs.	Rug: burgundy and ivory design in green velvet cover. Received—October 15, 2005. Est. Value—$650.00. Disposition—Pending transfer to General Services Administration.	His Excellency Pervez Musharraf, President of the Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James C. Oberwetter, U.S. Ambassador to Saudi Arabia.	Girard-Perregaux Man's watch and Bulgari emerald/gemstone bead, diamond and gold necklace. Received—June 2, 2005. Est. Value—$8,125.00. Disposition—Pending transfer to General Services Administration.	Mohamed Tobaishi, Chief of Protocol of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Christopher R. Hill, U.S. Ambassador to Korea.	Ship model-glass case broken in shipment Received—September 28, 2005. Est. Value—$500.00. Disposition—Pending transfer to GSA.	His Excellency Yoon Kwang-woong, Minister of Defense of the Republic of Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Randall Bumgardner, Assistant Chief of Protocol and Manager of the Blair House.	Silver/tin composite 12'' ceremonial dagger Received—November 10, 2005. Est. Value—$550. Disposition—Pending transfer to General Services Administration.	His Excellency Ali Abdullah Saleh, President of Yemen.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Hugo Llorens, Deputy Chief of Mission.	Jean-Pierre Joyeros man's watch with leather strap Received—March 14, 2005. Est. Value—$1,300.00. Disposition—Returned to donor by Hugo Llorens on March 22, 2005 with letter of explanation.	Ms. Claudia Stad and Jean Pierre Joyeros.	Non-acceptance would have caused embarrassment to donor and U.S. Government but returned to donor after initial acceptance.
Mrs. Anita Oberwetter, Wife of James C. Oberwetter, U.S. Ambassador to Saudi Arabia.	Saudi Arabia custom silk navy tunic dress with navy tulle overlay with gold and red stitching—Arabic dress Received—July 4, 2005. Est. Value—$320.00. Disposition—Pending transfer to General Services Administration.	Amro Obaid and Soad Al Dabbash, private citizens of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government but returned to donor after initial acceptance.
Mrs. Anita Oberwetter, Wife of James C. Oberwetter, U.S. Ambassador to Saudi Arabia.	Saudi Arabia 21k gold Bedouin jewelry set including ring, necklace bracelet, and earrings Received—July 4, 2005. Est. Value—$1,113.60. Disposition—Pending transfer to General Services Administration.	Dr. Nasser Al-Rashid, private citizens of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government but returned to donor after initial acceptance.
Matthew Tueller, Deputy Chief of Mission, Embassy Kuwait.	Audemars Piguet Man's Watch Received—December 17, 2005. Est. Value—$10,000.00. Disposition—Pending transfer to General Services Administration.	Jaber Al-Ahmed Al-Jaber Al-Sabah, Foreign Official for State of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government but returned to donor after initial acceptance.
Condoleezza Rice, Secretary of State.	Nativity scene box done in Mother-of-Pearl with embroidered black scarf. Received—October 24, 2005. Est. Value—$560.00. Disposition—Pending transfer to General Services Administration.	His Excellency Mahmoud Abbas, President of the Palestinian Authority.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Condoleezza Rice, Secretary of State.	Four-piece jewelry set in silver and coral; earrings, necklace, bracelet and ring. Received—November 10, 2005. Est. Value—$450.00. Disposition—Pending transfer to General Services Administration.	His Excellency Ali Abdullah Saleh, President of the Republic of Yemen.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Christina B. Rocca, Assistant Secretary for South Asia Affairs.	Rug—red with blue design rug made in Nepal Received—Spring 2002, Actual Date N/A Reported—June 20, 2006 for 2005 Report Est. Value—$305.00. Disposition—Pending transfer to General Services Administration.	His Majesty Gyanendra Bir Bikram Shah Dev, King of Nepal.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Christina B. Rocca, Assistant Secretary for South Asia Affairs.	Oil Painting—25'' x 43'', A painted view of a city street in Pakistan in a gold wood frame. Received—November 14, 2005. Est. Value—$310.00. Disposition—Pending transfer to General Services Administration.	Parvez Elahi, Chief Minister Punjab, Government of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mrs. Anita Oberwetter, Wife of James C. Oberwetter, U.S. Ambassador to Saudi Arabia.	Gold ring—small 21k gold ring with rubies and diamonds—previously worn and used Received—July 4, 2005. Est. Value—$320.00. Disposition—Pending transfer to General Services Administration.	Wafa Dakhill, wife of Dr. Tarik Al-Abassi, National Commission for Wildlife Conservation and Development, Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government but returned to donor after initial acceptance.
Ambassador John Ordway, U.S. Ambassador to Kazakhstan.	2 Rugs—1. Rug 100cm x 140cm, jacquard, double-pieced weaving; 2. Rug 105cm x 145cm, Persian style, all natural materials of wool and silk Received—October 3, 2005. Est. Value—$800.00. Disposition—Requested permission to retain for Official Use at the U.S. Embassy Chancery in Kazakhstan.	Almaty Carpet Factory, Kazakhstan.	Non-acceptance would have caused embarrassment to donor and U.S. Government but returned to donor after initial acceptance.
Meghan O'Sullivan, Special Assistant to the President and DNSA for Iraq.	Rug—primarily white and blue oriental carpet Received—November 2005, Actual Date N/A. Est. Value—$1,400.00. Disposition—Pending transfer to the General Services Administration.	Adil Mahdi, Deputy President of Iraq.	Non-acceptance would have caused embarrassment to donor and U.S. Government but returned to donor after initial acceptance.

AGENCY: DEPARTMENT OF THE TREASURY

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
John W. Snow, Secretary of the Treasury.	A gold and a silver commemorative coin. Rec'd—June 17, 2005. Est. Value—$375.00. Location—Treasury retained on June 20, 2005 for Official Use.	Leszek Balcerowicz, President of the National Bank of Poland, Government of Poland.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE TREASURY

[Report of travel]

Name and title of person accepting travel on behalf of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Jerry Crawford and Cecilia Swensen, both Intelligence Analysts.	Hotel Lodging only for both persons. Rec'd.—September 13–15, 2005. Estimated Value—$750.	The Liechtenstein Financial Intelligence Unit in Triesen, Liechtenstein.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Ceramic Egg w/Vodka Decanter/Shot glasses. Rec'd—January 11, 2005. Est. Value—$450.00. Location—Transferred to General Services Administration.	His Excellency Sergey Ivanov, Minister of Defense, Russia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Bronze Bust, Hermes Pear Wood jewelry Tray, Leather Briefcase. Rec'd—February 9, 2005. Est. Value—$240.00, $370.00, and $125.00 respectively—Total $735.00. Location—Transferred to General Services Administration.	Honorable Jacques Peyrat, Mayor, Nice, France.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Afghan Rug 6.5″x5″. Rec'd—April 12, 2005. Est. Value—$450.00. Location: Transferred to GSA.	His Excellency Hamid Karzai, President, Islamic Republic of Afghanistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Framed Tapestry, Small Framed Print, Gold Medallion of Party. Rec'd—April 12, 2005. Est. Value—$365.00, $20.00 and $25.00 respectively—Total $410.00. Location—Transferred to General Services Administration.	His Excellency Massoud Barzani, Leader of Kurdish Democratic Party, Kurdistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Large Ceremonial Sword. Rec'd—April 12, 2005. Est. Value—$385.00. Location—Transferred to General Services Administration.	His Excellency, Ibrahim Al Jaafari, Prime Minister (Designee), Republic of Iraq.	Non-acceptance would have caused embarrassment to donor and U.S, Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Black Powder Rifle. Rec'd—April 12, 2005. Est. Value—$525.00. Location—Transferred to General Services Administration.	His Excellency General Pervez Musharraf, President, Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Brown Silk Pakistan Rug 4″x6′. Rec'd—June 2, 2005. Est. Value—$700.00. Location—Transferred to General Services Administration.	Lieutenant General Ashfaq Parvez Kayani, Director General Inter-Services Intelligence, Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Brown Leather Briefcase, Framed Tribal Ornaments, Black Leather Handbag. Rec'd—June 23, 2005. Est. Value—$185.00, $70.00 and $70.00 respectively—Total $325.00. Location—Transferred to General Services Administration.	His Excellency Mamadou Tandja, President of the Republic of Niger.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Bottle of Tawny Port Wine, Bottle of Colheita Port Wine. Rec'd—July 13, 2005. Est. Value—$220.00 and $190.00, respectively—Total $410.00. Location—Transferred to General Services Administration.	His Excellency Luis Filipe Marques Amado, Minister of National Defense, Portuguese Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Framed Artwork of Country Scene. Rec'd—July 26, 2005. Est. Value—$450.00. Location—Transferred to General Services Administration.	Colonel General Sherali Khayrulloyev, Minister of Defense, Republic of Tajikistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Desk Set—Sterling Silver Photo Top Note Pad and Pen. Rec'd—October 13, 2005. Est. Value—$450.00. Location—Transferred to General Services Administration.	His Majesty Abdullah bin Al Hussein, The King of Jordan, The Hashemite Kingdom of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Model ''Shenzhou'' Spacecraft, Bottle of Moutai Alcohol, Photo Album of Trip (China), and Glass Globe w/Secretary of Defense photo inside. Rec'd—October 21, 2005. Est. Value—$250.00, $65.00 and $125.00, and $1,000.00 respectively—Total $1,440.00. Location—Transferred to General Services Administration.	His Excellency General Cao, Minister of Defense, People's Republic of China.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Framed Embroidery ''Lifelong Peace & Happiness''. Rec'd—October 21, 2005. Est. Value—$450.00. Location—Transferred to General Services Administration.	His Excellency Yoon Kwang Ung, Minister of National Defense, Republic of Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Silver tone Coin, edge stamped, with 5 petal flower, crown and ''P'' each within a chamfered square, inscription ''Peace 1983–2005''. Rec'd—November 30, 2005. Est. Value—$1,200.00. Location—Transferred to General Services Administration.	His Excellency Ambassador Bandar bin Sultan bin Abdulaziz, Royal Embassy of Saudi Arabia, Kingdom of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Yemen Traditional Knife. Rec'd—December 13, 2005. Est. Value—$430.00. Location—Transferred to General Services Administration.	His Excellency Ali Abdullah Saiih, President, Republic of Yemen.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	5 Boxes Assorted Treats, Bottle of Consecrated Holy Water from the River Jordan, Assorted Dead Sea Bath Products, Large Box of Dead Sea Bath Products, 1 Jar of Royal Jelly in a Decorative Box, and 2 Bottles of Extra Virgin Olive Oil packaged in boxes. Rec'd—December 23, 2005. Est. Value—$150.00, $570.00, $90.00, $80.00, $45.00, and $60.00 respectively—Total $495.00. Location—Transferred to General Services Administration.	His Majesty King Abdullah bin Al Hussein and Queen Rania, The Hashemite Kingdom of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Gordon England, Acting Deputy Secretary of Defense.	Leather Briefcase, Perfume, Eau de Toilette, Perfume, Givenchy leather wallet, Falcon Sanctuary Pamphlet, Pen Rec'd—July 13, 2005. Est. Value—$205.00, $65.00, $80.00, $65.00, $90.00, $4.00 and $45.00, respectively—Total $554.00. Location—Transferred to General Services Administration.	Major General Hamid, Chief of Staff Qartari Armed Forces, Qatar.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Gordon England, Acting Deputy Secretary of Defense.	Casa Lopez Leather Briefcase Rec'd—October 26, 2005. Est. Value—$350.00. Location—Transferred to General Services Administration.	His Excellency Jaime Garreta, Vice Minister of Defense, Argentina.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Gift Set in Wooden Box: Candles, Candy in jars, Urns, Notebooks and Pin. Rec'd—January 10, 2005. Est. Value—$380.00. Location—Transferred to General Services Administration.	His Majesty King Abdullah bin Al Hussein, The Hashemite Kingdom of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Assorted Olive Oils Aromatherapy Gift Set. Rec'd—January 26, 2005. Est. Value—$110.00 and $38.00 respectively—Total $490.00. Location—Transferred to General Services Administration.	His Majesty King Abdullah bin Al Hussein, The Hashemite Kingdom of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Egyptian Rug. Rec'd—March 14, 2005. Est. Value—$650.00. Location—Transferred to General Services Administration.	Lieutenant General Hamdy Weheba, Chief of Staff, Egyptian Armed Forces.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Mexican Tea Set (6 each—cups, saucers, and salad plates, 1 serving platter, pitcher, coffee pot, tea pot w/holder, bean pot, sugar jar, cream jar. Rec'd—April 12, 2005. Est. Value—$370.00. Location—Transferred to General Services Administration.	General Gerardo Vega Garcia, Chief of Defense, Mexico.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Antique Pistol. Rec'd—May 19, 2005. Est. Value—$400.00. Location—Transferred to General Services Administration.	Chief of the Netherlands Defense Staff.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Chinese Ceramic Vase ''Radiant with Joy'' Gold w/blue, white and pink flowers. Rec'd—May 24, 2005. Est. Value—$540.00. Location—Transferred to General Services Administration.	General Tien-Yu Lee, Chief of General Staff, Republic of China (Taiwan).	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Lead Crystal Sword. Rec'd—July 8, 2005. Est. Value—$385.00. Location—Transferred to General Services Administration.	Major General Fahad Ahmad Al-Amir, Deputy Chief of Staff, Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Pistola Arcabuz (Pistol on a wooden stand). Rec'd—July 29, 2005. Est. Value—$325.00. Location—Transferred to General Services Administration.	General Carlos Ovalle Ospina, Colombia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Chess Set in wooden case w/inlaid wood design of man and woman. Rec'd—August 18, 2005. Est. Value—$350.00. Location—Transferred to General Services Administration.	His Excellency Jalal Talabani, President of Iraq.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Round Oriental Rug (blue/red/white with floral design and fringe). Rec'd—August 18, 2005. Est. Value—$900.00. Location—Transferred to General Services Administration.	His Excellency Jalal Talabani, President of Iraq.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Jewelry Set—necklace and earrings. Rec'd—September 13, 2005. Est. Value—$580.00. Location—Transferred to General Services Administration.	General Gerardo Vega Garcia, Chief of Defense, Mexico.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Honorable Donald H. Rumsfeld, Secretary of Defense.	Gold Necklace and Bracelet Set. Rec'd—September 14, 2005. Est. Value—$1,340.00. Location—Transferred to General Services Administration.	Chief of the Netherlands Defense Staff.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Richard B. Myers, Chairman, Joint Chiefs of Staff.	Afghan wool pile rug. Rec'd—October 13, 2005. Est. Value—$450.00. Location—Transferred to General Services Administration.	His Excellency Hamid Karzai, President, Afghanistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Stephen A. Cambone, Undersecretary of Defense, Intelligence.	Framed Artwork: City/River View on Canvas. Rec'd—August 10, 2005. Est. Value—$365.00. Location—Transferred to General Services Administration.	General (Army) Valentine V. Korabelnikov, Chief, Main Intelligence Directorate of the General Staff, Moscow.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard J. Millies, Deputy Director, Defense Security Cooperation Agency.	Gold Saudi Commemorative Coin Bracelet. Rec'd—March 1, 2005. Est. Value—$670.00. Location—Transferred to General Services Administration.	General Metieb bin Abdullah bin Abdulaziz, Assistant Deputy of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mira R. Ricardel, Assistant Secretary of Defense, International Security Program.	Twelve Types of Jubilee Coins in a wood display case. Coins were mined in Uzbekistan. Uzbekistan National Dress including a square shaped headgear sown with gold threads and a Royal Blue full-length Gold Trimmed Robe. Rec'd—May 9, 2005. Est. Value—$270.00, $185.00 and $35.00 respectively—Total $490.00. Location—Transferred to General Services Administration.	His Excellency Islam A. Karimov, President of the Republic of Uzbekistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard P. Lawless, Deputy Assistant Undersecretary of Defense for Asian and Pacific Affairs.	Large Gold Oriental Vase. Rec'd—May 27, 2005. Est. Value—$540.00. Location—Transferred to General Services Administration.	General Lee Tien-Y, Chief of General Staff, Taiwan.	Non-acceptance would have caused embarrassment So donor and U.S. Government.
Assistant Secretary of Defense for International Security, Peter Rodman and Mrs. Veronique Rodman.	Plaque, Gold Necklace and Silver Pitcher. Rec'd—January 21, 2005. Est. Value—$35.00, $260.00, and $225.00 respectively—Total $520.00. Location—Transferred to General Services Administration.	Lieutenant General Hamdy Weheba, Chief of Staff, Egyptian Armed Forces.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Assistant Secretary of Defense for International Security Affairs Peter Rodman and Mrs. Veronique Rodman.	Oriental Beige Carpet, 95″ x 76″. Rec'd—May 16, 2005 Est. Value—$900.00. Location—Transferred to General Services Administration.	His Excellency Hedi M'Henni, Minister of Defense, Republic of Tunisia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Assistant Secretary of Defense for International Security Affairs, Peter Rodman and Mrs. Veronique Rodman.	Portrait—five Arabians on Horses. Rec'd—May 18, 2005. Est. Value—$650.00. Location—Transferred to General Services Administration.	His Excellency Abderrahmane Sbai, Minister of Defense, Morocco.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Assistant Secretary of Defense, ISA, Peter Rodman and Mrs. Veronique Rodman.	Large gold Chinese vase w/butterfly and flower design. Rec'd—May 24, 2005. Est. Value—$560.00. Location—Transferred to General Services Administration.	Chief of General Staff, Su Tseng-Chang, Taiwan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Commander Peter McVety	Leandri Men's Wristwatch. Rec'd—August 5, 2005. Est. Value—$390.00. Location—Transferred to General Services Administration.	Major Abdullah Al-Khalifa, Defense Attaché, Bahrain Embassy.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF AGRICULTURE

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
A. Ellen Terpstra, Foreign Agricultural Service Administrator.	22″ long by 20″ wide fabric of woven silk with six stripes in vivid colors and patterns in white, pink, yellow, blue and black. Rec'd—April 19, 2005. Est. Value—$350.00. Location—Returned to the USDA/FAS Foreign Visitor and Protocol Office. Pending transfer to General Services Administration.	Ambassador Abdulaziz Komilov, Uzbekistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF COMMERCE

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Carlos M. Gutierrez, Secretary of Commerce.	Vase: Maroon and black lacquered metal vase with extensive mother of pearl inlay work depicting a dragon, a four footed animal figure and floral arrangements. The vase is 72″ high and rests on a separate base carved of wood. Rec'd—August 24, 2005. Est. Value—$5,500.00. Location—Secretary's office for Official Use.	Nguyen Xuan Hien, President and Chief Executive Officer, Vietnam Airlines, Gia Lam Airport, Hanoi Vietnam.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Carlos M. Gutierrez, Secretary of Commerce.	Lomonosov Porcelain Tea Set Including: Pot, 2 cups with saucers, desert plates, and tea holder. Rec'd—June 8, 2005. Est. Value—$500.00. Location—Secretary's office for Official Use.	German Oskarovich Gref, Minister of Economic Development and Trade, Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identify of foreign donor and government	Circumstances justifying acceptance
Tommy Thompson, Secretary of the Department of Health and Human Services.	Sterling Silver tea pot with floral appliqué in a green velvet presentation box and plaque with donor name. Rec'd—2004, Actual Date N/A. Reported—June 1, 2006 for 2005 Report. Estimated Value—$450. Disposition—Pending transfer to General Services Administration.	Dr. Hamad Abdullah Al-Manea, Minister of Health, Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Dr. Anthony S. Fauci, Director of National Institute of Allergy and Infectious Diseases.	Double framed jade circular disc with dragon in the center. Rec'd—May 20, 2004. Reported—June 1, 2006 for 2005 Report. Estimated Value—$310. Disposition—Pending transfer to General Services Administration.	Dr. Yiming Shao, Chief expert of the National Center for AIDS/STED Control and Prevention and Director of the Department of Research on Virology and Immunology, Chinese Center for Disease Control and Prevention.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF ENERGY

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Samuel W. Bodman, Secretary of Energy.	Gold Plaque, 2⅜″ H x 4⅞″ W, Depicting Pipeline From Ceyhan, Turkey To Tbilisi, Gurcustan, To Baki, Azerbaycan; Accompanied By Certificate No. 14 Stating Gold 750/1000 (Indicating 18k). Rec'd—2005, Actual Date N/A. Estimated Value—$2,250. Location—Department of Energy for Official Use.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Hinged Lidded Wood Box With Magnifying Glass Tied Inside Lid Beside Casting Of Horse-Drawn Cart, Wood Standing With Tied Bamboo Slats Laser Cut With "The Art Of War" Text In English, Pair Of White Fabric Gloves, Map Printed On Leather. Rec'd—2005, Actual Date N/A. Estimated Value—$360. Location—Department of Energy for Official Use.	Chinese National Development And Reform Commission, Vice Chairman, Zhang Guobao.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Footed Gilt Cup—5½″ High Footed Cup of An Unidentified Metal, Gilt Color. Decorated W/A Banding of Cloisonne, And Set With Pentagonal Forms. Rec'd—2005, Actual Date N/A. Estimated Value—$350. Location—Department of Energy for Official Use.	Amen Movsisyan Minister of Energy Republic of Armenia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Model Ship—Silver Covered Unidentified Metal Designed In The Form Of A Sail Ship With Two Masts. Sitting On An Onyx Base 11″ × 3″. Rec'd—November 12, 2005. Estimated Value—$325. Location—Department of Energy for Official Use.	Mohammed Bin Dha'en Al-Hamili, Minister of Energy, United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Box Frame Of Symbols—14½″ × 16″ Glazed Box Frame With Nine Miniature Silver Symbols (Including A "Gahwa" Coffee Pot, A Flag, An Oil Rig, And A Sail Boat) Relating To Kuwait. Rec'd—November 13, 2005. Estimated Value—$675. Location: Department of Energy for Official Use.	Minister Al-Sabah, Energy Minister of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Traveling Work Boat—Native Style Row Boat With 21 Men On Each Side Manning Two Oars. Made Of Silver The 16″ Long Boat (6½″ Wide With Oars) Is Fitted In A Covered Leather Case. Rec'd—November 12, 2005. Estimated Value—$450. Location—Department of Energy for Official Use.	Sheikh Khalifa Bin Zayed Al-Nahyan, President United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF ENERGY—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Samuel W. Bodman, Secretary of Energy.	Chess Board—Onyx 20″ x 20″ Chess Board, 7/8″ Thick. Of The Brazil Origin, It Is Black And White. Rec'd—March 14, 2005. Estimated Value—$350. Location—Department of Energy for Official Use.	Dilma Rouseff, Minister of Mines and Energy Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Sword—Silver (Purity Unknown) Reproduction Of A Middle Eastern Style Sword And Saber With A Presentation Plaque. Steel Blade Is 34″ Long. Overall Sword Is 39″ Long. Unit Is Enclosed In A Bottom Lined Presentation Box With A Patterned Textile. Rec'd—November 17, 2005. Estimated Value—$750. Location—Department of Energy for Official Use.	His Excellency Ali Al-Naimi, Minster of Petroleum and Mineral Resources, Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Six Books Concerning The Culture Of Kuwait. * Ceramics For Islamic Land—$60.00, * Treasury Of The World—$50.00, * Art In Exile—$40.00, * Glass From Islam Sands—$60.00, * Instant Art In The Kuwait Museum—$40.00. Rec'd—November 13, 2005. Estimated Value—$325. Location—Department of Energy for Official Use.	Mrs. Hessa Al-Sabah, Wife of the Minister of Energy of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Jewelry—Middle East Style Piece Of Reproduction Ornamental Jewelry Of Silver. A Solid Decorative Neck Collar w/Twelve 9″ Long Strands W/Two Silver Beads, And Eleven Shorter Strands. The Jewelry Is Encased In A Glazed Frame. Rec'd—November 17, 2005. Estimated Value—$375. Location—Department of Energy for Official Use.	Mrs. Al-Naimi, First Lady of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Set of 3 boxes from Mstra, Russia lacquered Paper-Mache, red interiors, black exteriors, hinged lids with hand painted scenes, all with emblem on bottom of standing archer with circle. Rec'd—Approximate Date 2005—Actual Date N/A. Reported in 2006 for 2005 Report. Est. Value—$500. Location—Department of Energy for Official Use.	Alexei Miller, Chief Executive Officer, GAZPROM.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samuel W. Bodman, Secretary of Energy.	Card assembly, reportedly first prototype: Blue Gene/L link-card assembly by IBM, 8½″ x 16½″ mounted on black Plexiglas with accompanying label. Rec'd—Approximate Date 2005—Actual Date N/A. Reported in 2006 for 2005 Report. Est. Value—$900. Location—Department of Energy for Official Use.	IBM Corporation	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Michael V. Hayden, Principal Deputy, Director of National Intelligence.	Silk Rug: 58 V2 inches × 36 inches, silk on silk, dark blue field with ivory and polychrome doubly terminated medallion, eight borders with ivory main, 20th/21st century. Handbag: ivory leather, 21st century. Rec'd—October 3, 2005. Est. Value—$1,600.00. Location—Approved for Official Display.	The National Security Act of 1947, 50 U.S.C. 403–(1)(i) *as amended*.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John D. Negroponte Director of National Intelligence.	Cigarette box: sterling silver and niello work, lined, 20th/21st century, 17 oz T. Rec'd—July 12, 2005. Est. Value—$400.00. Location—Approved for Official Display.	50 U.S.C. 403–(1)(i)	Non-acceptance would cause embarrassment to donor and U.S. Government.
John D. Negroponte, Director of National Intelligence.	Table Clock: 11 IA inches high, tan and black jasper with polished brass mounts, 20th/21st century. Rec'd—June 15, 2005. Est. Value—$450. Location—Approved for Official Display.	50 U.S.C. 403–(1)(i)	Non-acceptance would cause embarrassment to donor and U.S. Government.
John D. Negroponte, Director of National Intelligence.	Medallions: sterling silver proofs, various motifs, in fitted box, (1 @ 5 oz T, 16 @ 2 oz T—437 oz T total). Compact Disc Book. Rec'd—June 21, 2005. Est. Value—$650.00. Location—Approved for Official Display.	50 U.S.C. 403–(1)(i)	Non-acceptance would cause embarrassment to donor and U.S. Government.
John D. Negroponte, Director of National Intelligence.	Rug: 60 inches × 37% inches, silk on silk, teal ground with dark blue and polychrome doubly terminated medallion, ivory astragals, six borders with dark blue main, 20th/21st century. Attaché Case: black leather, small note pad, wallet, glass case and key case. Handbag: brown leather bag with wallet and jewelry case. Wall Hanging: 40 inches × 68inches, embroidered cotton with small applied round mirror pieces, 20th/21st century. Rec'd—May 27, 2005. Est. Value—$2,155.00. Location—Approved for Official Display.	50 U.S.C. 403–(1)(i)	Non-acceptance would cause embarrassment to donor and U.S. Government.
John D. Negroponte, Director of National Intelligence.	Dagger: (jambiya), 12 inches long, typical curved steel blade and conforming silver hilt and scabbard, reproduction, 20th/21st century, sterling silver w/fretwork in blue velvet presentation case. Cloth: multicolored with fringe. Rec'd—November 10, 2005. Est. Value—$500.00. Location—Approved for Official Display.	50 U.S.C. 403–(1)(i)	Non-acceptance would cause embarrassment to donor and U.S. Government.
An ODNI Employee 50 U.S.C. 403–(1)(i).	Man's Watch: Tag Heuer, stainless steel ''Formula One'' Compact Disc Photograph on aluminum paper 10x8 street scene, 20th/21st century, framed Book. Rec'd—October 26, 2005. Est. Value—$789.00. Location—Pending transfer to General Services Administration.	50 U.S.C. 403–(1)(i)	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Russell Feingold, U.S. Senator	Framed Algerian Tiles. Rec'd—January 11, 2005. Estimated Value—$150. Location—Official Use, Displayed in SH–506.	His Excellency Ahmed Ouyahia, Prime Minister of the People's Democratic Republic of Algeria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John Kerry, U.S. Senator	Gold and Silver Braided Bracelet. Rec'd—January 12, 2005. Estimated Value—Over $100. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	Hussein Tantawy, Field Marshall of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Russell Feingold, U.S. Senator	Rug. Rec'd—February 21, 2005. Estimated Value—$200. Location—Official Use, Displayed in SH–506.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mitch McConnell, U.S. Senator	Woven Area Rug. Rec'd—January 13, 2005. Estimated Value—$100. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Crystal Napkin Rings and Tray. Rec'd—March 17, 2005. Estimated Value—$150. Location—Official Use, Displayed in SR–464A.	His Excellency Bertie Ahern TD, Prime Minister of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Leather Briefcase. Rec'd—February 2005. Estimated Value—$300. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Pervez Musharraf, President of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Silver and Gold Picture Frame. Rec'd—February 2005. Estimated Value—$300. Location—Official Use, Displayed in SR–464A.	K. Natwar Singh, Minister of External Affairs, Government of Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Silver Plaque with Plexiglas base. Rec'd—February 2005. Estimated Value—$200. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	Sharad Pawar, Minister of Agriculture and Consumer Affairs, Government of Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Afghan Rug. Rec'd—February 2005. Estimated Value—Unknown. Location—Official Use, Displayed in SR–464A.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Susan M. Collins, U.S. Senator	Carpet. Rec'd—February 22, 2005. Estimated Value—$1,800. Location—Official Use, Displayed in SD–469.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Russell Feingold, U.S. Senator	Book-Image in Stone/Tunisia in Mosaic. Rec'd—February 22, 2005. Estimated Value—$75. Location—Official Use, Displayed in SH–506.	Government of Tunisia	Non-acceptance would cause embarrassment to donor and U.S. Government.
Russell Feingold, U.S. Senator	Silver Serving Bowl. Rec'd—February 20, 2005. Estimated Value—$100. Location—Official Use, Displayed in SH–506.	His Excellency Pervez Musharraf, President of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Norm Coleman, U.S. Senator	Rug: black, burgundy & cream. Rec'd—January 12, 2005. Estimated Value—$1,800. Location—Official Use, Displayed in Minnesota State Office 2550 University Avenue West, Suite 100N, St. Paul, Minnesota.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
John McCain, U.S. Senator	Afghan Rug. Rec'd—February 18, 2005. Estimated Value—$1,800. Location—Official Use, Displayed in SR–241.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Ted Stevens, U.S. Senator	Watch. Rec'd—March 2004. Estimated Value—$328. Reported—2006 for 2005 Report. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Jacques Chirac, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Ted Stevens, U.S. Senator	Gold Tea Serving Set in presentation box. Rec'd—August 2004. Reported—2006 for 2005 Report. Estimated Value—$150 Location—Deposited with the Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Ted Stevens, U.S. Senator	Handmade medium sized rug. Rec'd—August 2004. Reported—2006 for 2005 Report. Estimated Value—$800. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Carved Wooden Bookends from Tahiti. Rec'd—April 28, 2005. Estimated Value—Unknown. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	President Oscar Manutahi Temarli, French Polynesia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lindsey Graham, U.S. Senator	3x5 Rug. Rec'd—April 5, 2005. Estimated Value—$1,800.00. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Display Replica of a Kuwaiti Sailboat—A Sambuq—Gold Plating. Rec'd—June 29, 2005. Estimated Value—Unknown. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	Masoma Mubarak, Kuwaiti Minister of Planning; Nadia Al-Mutawaa, Arab Olen University; Aroob Al-Refaee, Kuwaiti National Council for Culture; Niba Bourisly, Kuwait University.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Ted Stevens, U.S. Senator	925 Sterling Silver, Handmade Picture Frame. Rec'd—July 25, 2005. Estimated Value—$125.00. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Bill Frist, U.S. Senator	Benvine karakul Sheep Wool Tapestry. Rec'd—July 11, 2005. Estimated Value—$300. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Hifikepunye Pohamba, President of the Republic of Namibia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Bill Frist, U.S. Senator	2 Handmade Silver Dishes by Ravaissant. Rec'd—July 19, 2005. Estimated Value—$150. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Richard Lugar, U.S. Senator	Embellished Silver Case/Cigarette Box. Rec'd—July 12, 2005. Estimated Value—Over $100. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	Dr. Kantathi Suphamongkhon, Minister of Foreign Affairs of Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Bill Frist, U.S. Senator	Small Box with Inlaid Marble Design. Rec'd—June 24, 2005 (approx). Estimated Value—$400. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Harry Reid, U.S. Senator	Wall Hanging "Entwurf"—Diana Herman. Rec'd—July 11, 2005. Estimated Value: $357.03. Location—Official Use, Displayed in SH–528.	His Excellency Hifikepunye Pohamba, President of the Republic of Namibia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Perfume Oils in Taj Mahal Presentation Case. Rec'd—September 16, 2005. Estimated Value—$400.00. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	Amar Singh, Member of Parliament, New Delhi, India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Joseph R. Biden, Jr., U.S. Senator	3 x 5′ Rug. Rec'd—September 14, 2005. Estimated Value—$250.00. Location—Official Use, Displayed in SR–203.	Hashem al-Hassani, Speaker of the Iraq Parliament.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mark Dayton, U.S. Senator	Crystal clock w/ the city of Tianjin in plated gold and silk scroll wall hanging. Rec'd—August 5, 2005. Estimated Value—$100 combined. Location—Deposited with the Secretary of the Senate, pending transfer to the General Services Administration.	Dai Xianglong, Mayor of Tianjin, China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mark Dayton, U.S. Senator	500-million year old scorpion fossil. Rec'd—August 8, 2005. Estimated Value—$125. Location—Deposited with the Secretary of the Senate, pending transfer to the General Services Administration.	Li Mingman & Fan Chenghai, Laiwu Steel Group.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Pat Roberts, U.S. Senator	Oil on canvas painting in frame. Rec'd—September 29, 2005. Estimated Value—over $100. Location—Deposited with the Secretary of the Senate, pending transfer to the General Services Administration.	General Director Mohamed Yassine Mansouri of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Richard Lugar, U.S. Senator	Rug, 47″ wide. Rec'd—August 31, 2005. Estimated Value—over $100. Location—Deposited with the Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE—Continued

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert Bennett, U.S. Senator	Miniature engraving of the Sun Tsu's Art of War on bamboo slips. Rec'd—September 24, 2005. Estimated Value—$200. Location—Deposited with the Secretary of the Senate, pending transfer to the General Services Administration.	A delegation of Mayors and Senior Officials from various cities in China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Barack Obama, U.S. Senator	Rug, 47″ wide. Rec'd—August 31, 2005. Estimated Value—over $100. Location—Deposited with the Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Hillary Rodham Clinton, U.S. Senator.	Leather Desk Set. Rec'd—November 13, 2005. Estimated Value—$800. Location—Official Use, Displayed in SR–464.	His Majesty King Abdullah II of the Hashemite Kingdom of Jordan and Her Highness Queen Rania of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Bill Frist, U.S. Senator	Russian Platter and Tea Set. Rec'd—April 13, 2005. Estimated Value—over $100. location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	Sergey Mikhail Margelov, Russian Senator.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Bill Frist, U.S. Senator	Set of (8) Silver Medals, 1 oz. each. Rec'd—October 6, 2005. Estimated Value—$300. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Excellency Ferenc Gyurcsany, Prime Minister of the Republic of Hungary.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Bill Frist, U.S. Senator	William & Son sterling silver decorative plate. Rec'd—September 30, 2004. Reported: January 18, 2006 for 2005 Report. Estimated Value—over $100. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	His Highness Sheikh Hamad Bin Khalifa Al-Thani, Amir of the State of Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Bill Frist, U.S. Senator	Hand-carved stone sculpture. Rec'd—April 24, 2004. Reported—January 18, 2006 for 2005 Report. Estimated Value—over $108. Location—Deposited with Secretary of the Senate, pending transfer to the General Services Administration.	The Right Honorable Paul Martin, P.C., M.P., Prime Minister of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
George Allen, U.S. Senator	Silver Box. Rec'd—November 20, 2005. Estimated Value—over $101. Location—Official Use, Displayed in SR–204.	His Excellency Shaukat Aziz, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
George Allen, U.S. Senator	Silver Bowl. Rec'd—November 20, 2005. Estimated Value—$101. Location—Official Use, Displayed in SR–204.	Senate Chairman Soomro, Government of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mike DeWine, U.S. Senator	Red and tan afghan rug with diamond design. Rec'd—January 12, 2005. Estimated Value—$300. Location—Official Use, Displayed in SR–140.	His Excellency Hamid Karzai, President of the Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Norm Coleman, U.S. Senator	Small teapot with lid made of Xc and wood pedestal. Rec'd—December 12, 2005. Estimated Value—$360. Location—Official Use, Displayed in SH–320.	Li Ka Shing, Chairman of Hutchison Whampoa.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE

[Report of Travel]

Name and title of person accepting travel on behalf of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the Interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Jessica Fugate, Professional Staff Member; Senate Foreign Relations Committee.	Ground transportation within Romania and Dinner. Rec'd—January 8–January 9, 2005. Est. Value—$75.	Government of Romania; Government of Romania.	In-country expenses-fact-finding In-country expenses-fact-finding.
Jessica Fugate, Professional Staff Member; Senate Foreign Relations Committee.	Ground transportation in Georgia. Rec'd—January 14, 15 and 16, 2005. Est. Value—$25 Lunch and dinner in Georgia Rec'd—January 14–January 15, 2005. Est. Value—$200.	Government of Georgia; Government of Georgia.	In-country expenses-fact-finding In-country expenses-fact-finding.
Frederic Baron, Senior Policy Advisor; Office of Senator Barbara Mikulski.	Local transportation within Romania. Rec'd—January 7–16, 2005. Est. Value—$25. Meals within in Romania. Rec'd—January 7–16, 2005. Est. Value—$50. Local transportation within Georgia Rec'd—January 7–16, 2005. Est. Value—$25. Meals within Georgia Rec'd—January 7–16, 2005. Est. Value—$200.	Government of Romania; Government of Georgia.	Acceptance of limited hospitality appropriate and refusal would have caused offense Acceptance of limited hospitality appropriate and refusal would have caused offense.
Harry Reid, U.S. Senator	Transportation within Israel via helicopter to view barrier fence along West Bank. Rec'd—March 20, 2005.	Government of Israel;	Official travel to view barrier fence and have briefing-no commercial transportation available to this site.
Richard Durbin, U.S. Senator	Transportation within Israel; via helicopter to view barrier fence along West Bank. Rec'd—March 20, 2005.	Government of Israel;	Official travel to view barrier fence and have briefing-no commercial transportation available to this site.
Barbara Boxer, U.S. Senator	Transportation within Israel via helicopter to view barrier fence alone West Bank. Rec'd—March 20, 2005.	Government of Israel	Official travel to view barrier fence and have briefing-no commercial transportation available to this site.
Robert Bennett, U.S. Senator	Transportation within Israel via helicopter to view barrier fence along West Bank. Rec'd—March 20, 2005.	Government of Israel	Official travel to view barrier fence and have briefing-no commercial transportation available to this site.
Lamar Alexander, U.S. Senator	Transportation within Israel via helicopter to view barrier fence along West Bank. Rec'd—March 20, 2005.	Government of Israel	Official travel to view barrier fence and have briefing-no commercial transportation available to this site.
Ken Salazar, U.S. Senator	Transportation within Israel via helicopter to view barrier fence along West Bank. Rec'd—March 20, 2005.	Government of Israel	Official travel to view barrier fence and have briefing-no commercial transportation available to this site.
Dr. John Eisold, Attending Physician United States Senate.	Transportation within Israel via helicopter to view barrier fence along West Bank. Rec'd—March 20, 2005.	Government of Israel	Official travel to view barrier fence and have briefing-no commercial transportation available to this site.
Rich Verma, Foreign Policy Advisor to the Democratic Leader.	Transportation within Israel via helicopter to view barrier fence along West Bank. Rec'd—March 20, 2005.	Government of Israel	Official travel to view barrier fence and have briefing-no commercial transportation available to this site.
Bill Frist, U.S. Senator and Mrs. Karyn Frist.	Transportation within Israel via helicopter to view barrier fence along the West Bank. Rec'd—May 2, 2005.	Government of Israel	Official travel to view barrier fence and have briefing-no commercial transportation available to this site. Non-acceptance of transportation would have been an affront to host country.
Bill Frist, U. S. Senator and Mrs. Karyn Frist.	Transportation within Jordan via helicopter to Petra. Rec'd—May 4, 2005.	Government of Jordan	No commercial transportation available to this site. Non-acceptance of transportation would have been an affront to host country.

AGENCY: UNITED STATES SENATE—Continued

[Report of Travel]

Name and title of person accepting travel on behalf of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the Interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Mark Esper, National Security Advisor to the Majority Leader.	Transportation within Israel via helicopter to view barrier fence along the West Bank. Rec'd—May 2, 2005. Transportation within Jordan via helicopter to Petra. Rec'd—May 4, 2005.	Government of Israel; Government of Jordan.	Official travel to view barrier fence and have briefing-no commercial transportation available to this site. Non-acceptance of transportation would have been an affront to host country.
Nick Smith, Press Secretary for the Majority Leader.	Transportation within Israel via helicopter to view barrier fence along the West Bank. Rec'd—May 2, 2005. Transportation within Jordan via helicopter to Petra. Rec'd—May 4, 2005.	Government of Israel; Government of Jordan.	Official travel to view barrier fence and have briefing-no commercial transportation available to this site. Non-acceptance of transportation would have been an affront to host country.
Sally Walsh, Director, Office of Interparliamentary Services, Sec of Senate.	Transportation within Israel via helicopter to view barrier fence along the West Bank. Rec'd—May 2, 2005. Transportation within Jordan via helicopter to Petra. Rec'd—May 4, 2005.	Government of Israel; Government of Jordan.	Official travel to view barrier fence and have briefing-no commercial transportation available to this site. Non-acceptance of transportation would have been an affront to host country.
Lincoln Chafee, U.S. Senator	Hotel and meals. Rec'd—December 3–4, 2004. Reported—2006 for 2005 Report.	Government of Bahrain and the International Institute for Strategic Studies.	Official travel to participate in the Gulf Dialogue.
Deborah Brayton, Legislative Director Office of Senator Lincoln Chafee.	Hotel and meals. Rec'd—December 3–4, 2004. Reported—2006 for 2005 Report..	Government of Bahrain and the International Institute for Strategic Studies.	Official travel to participate in the Gulf Dialogue.
Eric P. Loewen, Congressional Fellow Office of Senator Chuck Hagel.	Two nights hotel stay and 1 meal Rec'd—June 1–4, 2005.	European Union	Official travel to attend and speak at Green Week Conference.
Rich Verma, Senior Foreign Policy Advisor Office of Senator Harry Reid.	Travel within Niger via U.N. World Food Programme plane to feeding centers, including lunch. Rec'd—August 30, 2005.	United Nations World Food Programme.	Official travel to view feeding centers and attend briefing. No commercial transportation was available to these sites.
Hillary Rodham Clinton, U.S. Senator.	Transportation from Israel to Jordan and return via helicopter. Rec'd—November 13, 2005.	Government of Jordan	Official travel to visit victims of terrorist attacks.
Huma Abedin, Senior Advisor, Office of Senator Hillary Rodham Clinton.	Transportation from Israel to Jordan and return via helicopter. Rec'd—November 13, 2005.	Government of Jordan	Official travel to visit victims of terrorist attacks.

AGENCY: U.S. HOUSE OF REPRESENTATIVES

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Dennis J. Hastert, Member of Congress.	Crystal Fox. Rec'd—September 15, 2005. Estimated Value—$325. Location—Official Use, On display in the Speaker's Office, Room H 232 of The U.S. Capitol.	Lucien Weiler, Chamber of Deputies President, Government of Luxembourg.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES HOUSE OF REPRESENTATIVES

[Report of travel]

Name and title of person accepting travel on behalf of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the Interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Michael M. Honda, Member of Congress.	Transportation including charter flight to Lalibella, Axum, Mekelle and Zalambessa; lodging in Addis Ababa and Mekelle. Rec'd—May 31–June 6, 2005. Lunch Rec'd—June 1 and June 4, 2005.	Ministry of Foreign Affairs, Ethiopia.	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Steve King, Member of Congress	Transportation, entertainment, lodging and meals, for Member and spouse, in Australia. Rec'd—February 19–27, 2005.	Australia	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Mark Steven, Kirk Member of Congress.	Helicopter travel between Morelia, Michoacan, Mexico—Toluca, Mexico—Tonatico, Mexico. Rec'd—February 25, 2005.	State of Mexico	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Tom Lantos, Member of Congress	Travel by charter roundtrip flight from Libya to Algeria. Rec'd—March 27–28, 2005.	Libya	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Diane Watson, Member of Congress.	Hotel and meals, in Qatar. Rec'd—March 28–30, 2005.	University of Qatar	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Jerry Weller, Member of Congress	Flight in country (Round-trip) on Government of Panama aircraft. Rec'd—2005.	Republic of Panama	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Jim B. Clarke, Chief of Staff of Congresswoman Diane E. Watson.	Hotel and meals in Qatar. Rec'd—March 28–30, 2005.	University of Qatar	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Joan O. Condon, Staff, International Relations Committee.	Travel by charter roundtrip flight from Libya to Algeria. Rec'd—March 27–28, 2005.	Libya	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Eric Dell, Chief of Staff of Congressman Joe Wilson.	Transportation, lodging and meals in Ukraine. Rec'd—February 20–27, 2005.	Supreme Rada of Ukraine	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Monica DeLong Legislative Assistant of Congressman Roscoe Bartlett.	Use of van to escort around Kiev, Ukraine. Rec'd—February 20–27, 2005.	Supreme Rada of Ukraine	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Jennifer Van der Heide Escobar, Chief of Staff of Congressman Michael M. Honda.	Transportation including charter flight to Lalibella, Axum, Mekelle and Zalambessa; lodgings in Addis Ababa and Mekelle. Rec'd—May 31–June 6, 2005. Lunch Rec'd—June 1 and June 4, 2005.	Ministry of Foreign Affairs, Ethiopia.	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Geraldine R. Gennet, General Counsel U.S. House of Representatives.	2 nights at Hotel Nazionale, Rome. Rec'd—Nov 30–December 1, 2005. Lunch Rec'd—Nov. 30–December 3, 2005. Dinner. Rec'd—December 1, 2005.	Italy	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Liesl Hickey, Chief of Staff of Congressman Mark S. Kirk.	Helicopter travel between Morelia, Michoacan, Mexico—Toluca, Mexico—Tonatico, Mexico. Rec'd—February 25, 2005.	State of Mexico	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Xenia Horczakiwskyi, Legislative Director of Congressman Curt Weldon.	Transportation, lodging and meals in Ukraine. Rec'd—February 20–26, 2005.	Ukraine	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Kay King, Staff, House International Relations Committee.	Travel by charter aircraft from Libya, to Algeria. Rec'd—March 28–29, 2005.	Libya	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Robert King, Staff, House International Relations Committee.	Travel by charter aircraft from Libya, to Algeria. Rec'd—March 28–29, 2005.	Libya	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Alan Makowsky, Staff, House Committee on International Relations.	Travel by charter aircraft from Libya to Algeria. Recd—March 28–29, 2005.	Libya	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Gerasimos C. Vans, Deputy Clerk Office of the Clerk.	Transportation, lodging and meals in Ukraine. Rec'd—February 20–27, 2005.	Ukraine	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).

AGENCY: UNITED STATES HOUSE OF REPRESENTATIVES—Continued

[Report of travel]

Name and title of person accepting travel on behalf of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the Interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Gerasimos C. Vans, Deputy Clerk Office of the Clerk.	Lodging in Australia. Rec'd—November 18–28, 2005.	Parliament of Australia	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).
Alan B. Mollohan, Member of Congress and Mrs. Mollohan.	Lodging at the Sheraton Bilboa Hotel in Bilboa, Spain for 4 nights. Rec'd.—June 27–July 1, 2004. Reported—May 4, 2006 for 2005 Report. Est. Value—$687.37.	Jose Antonio Campos, Minister of Innovation and Economic Promotion of Biscay Province Government.	Authorized by 5 U.S.C. § 7342(c)(l)(B)(ii).

AGENCY: DEPARTMENT OF THE NAVY

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Michael C. Campbell, Japan P–3 Case Manager.	Japanese Samaria Shogun: Replication in glass case with music box. Rec'd—September 22, 2005. Est. Value—$500 (by Bids 2185 Suite 1250 Patuxent River, MD Location—Official Use, gift on display in general office.	CDR Rvoji Matsunaga, Japan Maritime Self Defense Force (JMSDF). Japan Technical Liaison Officer (TTLO).	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE AIR FORCE

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Daniel S. Butler, Executive Director, Office of Special Investigations.	Watch: Men's limited edition de la Cour watch (Swiss made), Serial Number S.3517.1. Rec'd—June 10, 2005. Est. Value—$2,100.00. Location—Air Force Office of Special Investigations/CX, Andrews Air Force Base, Maryland in a safe awaiting approval for Official Use.	Mohamed Al-Nassr Sr., Quatari Security Attaché to the United States.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Pamela L. Frazier, Air Force/Company Commander Political Advisor.	Watch: Raymond Weil Geneve Women's Wrist Watch Silver, with white face and with blue 1st & 2nd hands Model: 5373, Serial Z370515. Rec'd—April 12, 2005. Est. Value—$795.00. Location—Transferred to General Services Administration—July 13, 2005.	General and Prince Abdul Rachman, Saudi Arabia Air Chief.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John L. Pray, Jr., Colonel Wing Commander, 89 Air Wing Company Commander.	Watch: Rolens stainless steel Men's watch with a gold seal of the Korean Blue House with engraved signature of the President of Korea. Rec'd—February 16, 2005. Est. Value—$350.00. Location—89 Air Wing Company Commander, Andrews Air Force Base, Maryland. Pending transfer to General Services Administration.	Colonel Kim, Korean Air Attaché Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: CENTRAL INTELLIGENCE AGENCY

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Porter J. Goss, Director Central Intelligence Agency.	Goum silk rug, modern, ivory ground with palmette and trellising vine field centering a pulled star medallion on red to beige ground, blue-rust spandrels, palmette and trellising vine guard border on wine red ground. 5 feet by 3 feet. Rec'd—February 3, 2005. Est. value: $500.00. Location: To be retained for official display.	5 U.S.C. § 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
Porter J. Goss, Director Central Intelligence Agency.	Cased Elizabeth II gilt silver four-piece coffee set, maker's marks GGM, London 2000, also with 925 marks. H. on coffee pot: 12–14 inches; Weight: 40 oz. H. of pedestal bowl: 9 V* inches; Weight: 32 oz. H. of sprinkler bottle: 9 inches; Weight: 10 oz. D. of tray: 11 × 4 inches; Weight 24 oz. Rec'd—February 6, 2005. Est. value—$1,950.00. Location—To be retained for official display.	5 U.S.C. § 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
An Agency Employee	Gentleman's Piaget 18 karat yellow gold and diamond wristwatch, modern, having a black matte dial with gold hands within a diamond set bezel and a flat mesh band. Rec'd—January 15, 2004. Reported—2006 for 2005 Report. Est. Value—$750.00. Location—To be retained for official display.	5 U.S.C. § 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
An Agency Employee	Contemporary 14-karat yellow gold ruby, sapphire and diamond three-piece ensemble, consisting of: a flexible bracelet, a pair of pierced earrings and a pendant with chain. L. of bracelet: 7 inches. Rec'd—March 20, 2003. Reported—2006 for 2005 Report. Est. Value—$500.00. Location—To be retained for official display.	5 U.S.C. § 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
An Agency Employee	Nain silk rug, 4 feet 10 inches by 3 feet, modern, windowpane field enclosing stylized rows and flowering branches, rosette guard border on rose ground. Rec'd—October 22, 2005. Est. Value—$500.00. Location—To be retained for official display.	5 U.S.C. § 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: FEDERAL RESERVE BOARD

[Report of tangible gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Alan Greenspan, Chairman of the Federal Reserve Board.	Framed Basel engraving by Johann Christian Haffher (1730). Rec'd—November 7, 2005. Est. Value—$607. Location—Approved for official use.	Arnout Wellink, Chairman of the Board, Bank for International Settlements.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Alan Greenspan, Chairman of the Federal Reserve Board.	Framed map of Europe by Emanuel Bowen (1745). Rec'd—November 7, 2005. Est. Value—$1,900. Location—Approved for official use.	Jean-Claude Trichet, Chairman of the G–10 Governors, on behalf of the Bank for International Settlements.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Alan Greenspan, Chairman of the Federal Reserve Board.	''Drum Dancer'' carving by Silas Kayakjuak. Rec'd—November 30, 2005. Est. Value—$343. Location—Approved for official use.	David Dodge, Governor, Gordon Thiessen, and John Crow, former Governors, Bank of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

[Report of travel]

Name and title of person accepting travel on behalf of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the Interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Michael Hauf, Aerospace Engineer (Aerospace Systems).	Four days lodging at a hotel in Larnaca, Cyprus. The origination point of an 8/14/05 Helios Airline accident flight. The National Transportation Safety Board participated in the investigation on behalf of the United States. Rec'd—2005, Actual Date NA. Reported—2006 for 2005 Report. Estimated Value—$518.00.	Donor—The Air Accident and Aviation Safety Investigation Board (AAASIB) of Greece was the donor. The AAASIB is an agency of the government of Greece.	The National Transportation Safety Board, pursuant to the Annex 13 to the Convention on International Civil Aviation, serves as U.S. representative in international civil aviation accident investigations and, as such provides technical assistance to the nation responsible for the investigation. The investigation of this 8/14/05 crash of a Helios: Airline Boeing 737, in Athens, Greece required investigative activities at the origination point of the flight. The AAASIB voluntarily provided for the lodging, which was accepted pursuant to National Transportation Safety Board authority found in 49 U.S.C. § 1113.

AGENCY: OFFICE OF PERSONNEL MANAGEMENT

[Report of travel]

Name and title of person accepting travel on behalf of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the Interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Dan G. Blair, Deputy Director	Expended for airfare, hotel and meals. Rec'd.—May 24, 2005. Estimated Value—$4,400.	Organization for Economic Cooperation and Development in Paris, France.	Conference Participant.

AGENCY: UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

[Report of travel]

Name and title of person accepting travel on behalf of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the Interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Andrew S. Natsios, former U.S. Agency for International Development Administrator.	Lodging expenses while attending the G–14 Donors Conference. Date—February 3, 2005. Estimated Value—$457.71.	Government of Columbia	All chiefs of the delegation at the international conference were provided lodging.

[FR Doc. 06–6688 Filed 8–8–06; 8:45 am]

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Federal Register

Wednesday,
August 9, 2006

Part III

Department of Education

34 CFR Parts 600, 668, 673, et al.
Federal Student Aid Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 600, 668, 673, 674, 675, 676, 682 and 685

RIN 1840–AC87

Federal Student Aid Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Interim final regulations; request for comments.

SUMMARY: The Secretary is amending the Federal Student Aid Program regulations to implement the changes to the Higher Education Act of 1965, as amended (HEA), resulting from the Higher Education Reconciliation Act of 2005 (HERA), Public Law No. 109–171, and other recently enacted legislation. These interim final regulations reflect the provisions of the HERA that affect students, borrowers and program participants in the Federal student aid programs authorized under Title IV of the HEA.

Interim final regulations for the two new Title IV grant programs created by the HERA, the Academic Competitiveness Grant Program and the National Science and Mathematics Access to Retain Talent (SMART) Grant Program, are being published in a separate notice in the **Federal Register**.

DATES: *Effective date:* These interim final regulations are effective September 8, 2006.

Comment date: The Department must receive any comments on or before September 8, 2006.

Information collection compliance date: Affected parties do not have to comply with the information collection requirements in Sections 600.7, 600.10, 668.3, 668.8, 668.10, 668.22, 668.173, 673.5, 674.34, 682.102, 682.200, 682.207, 682.209, 682.210, 682.211, 682.215, 682.305, 682.401, 682.402, 682.404, 682.405, 682.406, 682.410, 682.415, 682.601, 682.604, 685.102, 685.204, 685.208, 685.215, 685.217 and 685.220 until the Department publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

ADDRESSES: Address all comments about these interim final regulations to: Gail McLarnon, U.S. Department of Education, P.O. Box 33185, Washington, DC 20033–3185.

If you prefer to deliver your comments by hand or by using a courier service or commercial carrier, address your comments to: Gail McLarnon, 1990 K Street, NW., room 8026, Washington, DC 20006–8542.

If you prefer to send your comments through the Internet, you may address them to us at: *HERAComments@ed.gov.* Or you may send them to us at the U.S. Government Web site: *http://www.regulations.gov.* You must include the term ''HERA Interim Final Comments'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Ms. Gail McLarnon, U.S. Department of Education, 1990 K Street, NW., 8th Floor, Washington, DC 20006. Telephone: (202) 219–7048 or via the Internet at: *Gail.McLarnon@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: These interim final regulations reflect most of the changes made to the HEA by the HERA, enacted as part of the Deficit Reduction Act of 2005 (Pub. L. 109–171), as well as some changes made by other recently enacted legislation. The changes made by the HERA include:

- An increase in certain FFEL and Direct Loan Program loan limits,
- A reduction of origination fees in the FFEL and Direct Loan Programs,
- The creation of a deferment for FFEL, Direct Loan and Perkins Loan Program borrowers who serve on active duty military service during times of war or national emergency, and a reduction of subsidies paid to lenders,
- Changes to the definition of an academic year for programs measured in clock hours,
- Changes and additions to provisions related to distance education and direct assessment academic programs,
- Modifications to the regulations on the eligibility for Title IV, HEA program assistance for students with convictions for drug-related offenses, specifying that a student or parent who has not repaid fraudulently obtained Title IV, HEA program funds is ineligible for additional Title IV, program assistance,
- Changes to the requirements for the treatment of Title IV, HEA program funds when a student withdraws, and
- The re-institution of the previously expired FFEL and Direct Loan disbursement flexibilities provided to institutions with low cohort default rates. Effective February 8, 2006, institutions with official cohort default rates of less than 10 percent for each of the three most recent years do not need to comply with the ''30-day disbursement delay'' requirement for first time, first year students nor with the multiple disbursement requirements if the loan period is one term or four months or less.

The HERA also modified several Title IV, HEA provisions that are not addressed in these interim final regulations. The HERA made changes to the rules governing Cost of Attendance calculations, the determination of an applicant's dependency status, and the calculation of an applicant's expected family contribution. In accordance with section 478(a) of the HEA, the Secretary does not issue regulations in this area.

The HERA also modified and made permanent the provisions of the Taxpayer-Teacher Protection Act of 2004 (Pub. L. 108–409) which (1) changed the calculation of special allowance payments for certain FFEL Program loans made with proceeds of tax-exempt obligations and (2) increased teacher loan forgiveness amounts for FFEL and Direct Loan borrowers teaching in certain areas.

In addition to the changes mandated by the HERA, these interim final regulations also incorporate the provisions of Pub. L. 107–139, which changed the formula for calculating special allowance payments in the FFEL Program for loans made on or after July 1, 2000 and set interest rates for FFEL and Direct Loans first disbursed on or after July 1, 2006 at fixed interest rates.

These interim final regulations also incorporate the statutory changes made to the HEA by the Pell Grant Hurricane and Disaster Relief Act (Pub. L. 109–66) and the Student Grant Hurricane and Disaster Relief Act (Pub. L. 109–67). These laws authorize the Secretary to waive the requirement that a student repay a Title IV, HEA grant if the student withdrew from an institution because of a major disaster. The Secretary initially exercised this waiver authority through publication of Dear Colleague Letter GEN–05–17 on November 9, 2005.

These interim final regulations also incorporate the statutory changes made to the HEA by The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Pub. L. 109–234). The Emergency Supplemental Appropriations Act amended section 428C(b)(1)(A) of the HEA by repealing the single holder rule with respect to

any FFEL Consolidation loan for which an application is received by an eligible lender on or after June 15, 2006. This law also repealed section 8009(a)(2) of the HERA and reinstated the current statutory provisions under which a borrower may consolidate outstanding FFEL Program loans into the Federal Direct Consolidation Loan Program.

Significant Regulations

We discuss substantive issues under the sections of the regulations to which they pertain. Generally, we do not address regulatory changes that are technical or otherwise minor in effect.

Distance Education (§§ 600.2, 600.7, 600.51, 668.8 and 668.38)

Statute: Section 8020 of the HERA modified the institutional eligibility requirements in section 102(a)(3) of the HEA that generally make institutions offering more than 50 percent of their courses by correspondence, or a combination of correspondence and telecommunications, or enrolling 50 percent or more of their students in correspondence courses, ineligible for Title IV, HEA program assistance. The HERA also modified the student eligibility requirements of section 484(l)(1) of the HEA, by removing telecommunications courses from being considered as correspondence courses. Under the amended HEA, courses offered by telecommunications that meet certain conditions are no longer considered correspondence courses, and students enrolled in telecommunications courses are no longer considered to be correspondence students.

The HERA also modified section 481(b) of the HEA to reflect certain restrictions on the eligibility of programs that are offered by telecommunications. Consistent with prior law, the institution, including its distance education programs, must hold current accreditation from an accrediting agency recognized by the Secretary that has the evaluation of distance education in its scope of recognition. However, under the HERA, programs offered by foreign institutions that include instruction delivered by telecommunication are not eligible.

Current Regulations: The current regulations reflect the previous statutory limitations on institutional and student eligibility based on the percentage of correspondence courses offered by the institution and the percentage of students enrolled in correspondence courses, and the relation of telecommunications courses to correspondence courses.

New Regulations: We have amended the regulations in § 600.2 by removing from the definition of *correspondence course* the paragraph that describes the conditions under which a telecommunications course is considered a correspondence course and by revising the definition of *telecommunications course.* The definition of *telecommunications course* now specifies that a telecommunications course is one that uses one or a combination of technologies to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between these students and the instructor, either synchronously or asynchronously. We have amended the regulations relating to institutional ineligibility in § 600.7 to delete the references to telecommunications courses from the provisions relating to calculation of the percentage of correspondence courses offered by an institution. We also amended student eligibility regulations in § 668.38 to provide that students who are enrolled in certificate programs offered through telecommunications are no longer considered to be correspondence students. This change applies to institutions regardless of the percentage of degree programs offered by the institution.

We have amended the eligible program regulations in § 668.8 to include programs that are offered in whole or in part through telecommunications by domestic institutions and that are accredited by an accrediting agency recognized by the Secretary for accreditation of distance education. As in the past, the accrediting agency's scope of recognition must include the accreditation of distance education. Interpreting the HEA as amended by the HERA, we have also amended § 668.8 and the regulations related to the eligibility of foreign schools in § 600.51 to specify that programs offered by foreign schools through telecommunications or correspondence are not eligible programs. Recognizing, however, that telecommunications technologies are frequently used in conjunction with classroom instruction, we have included a provision acknowledging that participating foreign schools are free to use telecommunications technologies to supplement and support instruction offered in the foreign classroom.

Reasons: The interim final regulations in § 600.7 will now reflect the statutory changes modifying the current institutional eligibility requirements which provide that institutions offering more than 50 percent of their courses via correspondence, or a combination of correspondence and telecommunications, or enrolling 50 percent or more of their students in correspondence courses are ineligible to participate in Title IV, HEA programs. Under the HERA, courses offered by telecommunications are no longer considered correspondence courses, and students enrolled in telecommunications courses are no longer considered to be correspondence students. As a result, otherwise eligible institutions that offer over 50 percent of their courses by telecommunications, or have 50 percent or more of their regular students enrolled in telecommunications courses, are now eligible to participate in the Title IV, HEA programs. The 50 percent limitations continue to apply to correspondence courses and students.

Because of the different statutory treatment of telecommunications and correspondence, we are changing the definition of *telecommunications course.* We believe that it is critical to differentiate between the two delivery modes. A definition of telecommunications course that focused exclusively on technologies could be erroneously interpreted to allow an institution to qualify for full participation in Title IV, HEA programs upon introduction of minor e-mail contact between students and a grader or instructional assistant (who may or may not have subject matter expertise) into what is essentially a correspondence course. Similarly, a course outline or course notes posted to an Internet Web site might also meet the current definition of a *telecommunications course.* Quality standards for electronically-delivered education emphasize the importance of interaction between the instructor and student. The amended definition of a *telecommunications course* acknowledges the importance of interactivity in electronically-delivered instruction and clearly distinguishes telecommunications from correspondence.

The interim final regulations in § 668.8 also reflect the statutory changes to the requirements for an eligible program to include programs offered in whole or in part through telecommunications by domestic institutions with appropriate accreditation. Because the HEA provides that telecommunications programs offered by foreign schools are not eligible programs, and the HEA provides that foreign schools are schools ''outside the United States,'' and since Congress has not lifted the limitations

on the eligibility of foreign institutions that offer correspondence study, we believe that Congress did not intend for correspondence programs offered by foreign schools to be eligible programs. The purpose of eligibility for foreign schools, which is to permit students from the United States to experience life and education in foreign countries, is not served through correspondence study.

Direct Assessment Programs (§§ 600.2, 600.10, 600.21, 600.51, 668.8, and 668.10)

Statute: Section 8020 of the HERA adds a new type of eligible program to section 481(b) of the HEA—an instructional program that uses direct assessment of student learning, or recognizes the direct assessment of student learning by others, in lieu of measuring student learning in credit hours or clock hours. The assessment must be consistent with the institution's or program's accreditation. The HERA also provides that the Secretary will determine initially whether each program for which an institution proposes to use direct assessment is an eligible program.

Current Regulations: There are no current regulations that reflect the use of direct assessment instead of credit hours or clock hours as a measure of student learning.

New Regulations: We have amended the regulations in § 600.2 to include in the definition of *educational program* the statutory language describing direct assessment programs.

In addition, we have amended the definition to provide that merely giving credit for direct assessments does not constitute instruction. We have also amended § 668.8 to indicate that a direct assessment program approved by the Secretary is considered an eligible program as defined in § 668.8.

These interim final regulations also include a new § 668.10, that provides a definition of the term *direct assessment programs* and discusses how key Title IV, HEA program requirements apply to direct assessment programs. The section also includes the information that an institution must submit for the Secretary to make an eligibility determination of a direct assessment program.

We have amended the regulations related to the eligibility of foreign schools in § 600.51 to specify that direct assessment programs offered by foreign schools are not eligible programs. In addition, we have amended §§ 600.10(c)(2) and 600.21(a)(4) to require that an institution must apply to the Secretary for approval whenever it adds a direct assessment program.

Reasons: In amending the HEA to provide for the Title IV eligibility of programs using direct assessment, Congress specifically used the term ''instructional program'' to clarify what types of programs would be eligible. Thus, the statute requires that the program include ''instruction,'' as well as ''assessment.'' To meet this requirement, programs that measure student learning by direct assessment must provide some means for students to supplement their existing knowledge to pass the assessments. An institution that is merely conducting direct assessments of a student's knowledge and skills, without providing any resources to fill those gaps, is not providing instruction.

In new § 668.10, we have adopted a definition of *direct assessment program* that reflects common usage by assessment experts and the accreditation community. In developing this definition, we recognized that many of the key requirements of the Title IV, HEA programs rely on both credit and clock hour measurements. By definition, direct assessment programs do not use credit or clock hours as a measure of student learning, but nothing in the HEA, as amended by the HERA, exempts direct assessment programs from the other credit and clock hour requirements. To apply the Title IV requirements to direct assessment programs, it is necessary to determine the equivalent number of credit or clock hours to the amount of student learning being directly assessed.

Because many of the statutory requirements for Title IV, HEA program eligibility are stated in terms of time and/or credit or clock hours, we determined that the time-based requirements can and must be applied to direct assessment programs to ensure that students receive comparable amounts of Title IV, HEA program assistance for comparable work. This approach ensures that while one student in a direct assessment program may acquire the knowledge and skills necessary to pass assessments more quickly than does another student, and, as a result, may progress more quickly through the program, both students would receive the same amount of Title IV, HEA program assistance for the same payment period. However, the student who remained in attendance for more payment periods to complete the program because he or she entered the program with less knowledge or learned at a slower rate, might receive more Title IV, HEA program assistance based on the additional payment periods he or she attended. Likewise, students in direct assessment programs should receive no more Title IV, HEA program assistance in an academic year than would students in credit and clock hour programs that are comparable in terms of student learning. We applied this approach throughout these interim final regulations.

The statute requires an institution to apply to the Secretary to have a direct assessment program determined to be an eligible program. Section 668.10(b) specifies the information an institution must provide in its application. We recognize that there is no single model for direct assessment programs and therefore have provided that institutions must provide detailed information about the approach they are using. In addition, institutions must indicate equivalencies to credit or clock hours in terms of instructional time, and to provide a factual basis for the claim of equivalence. These equivalencies are essential because, as mentioned previously, many applicable Title IV, HEA program requirements use time and/or credit or clock hours.

We also considered that some students would have acquired skills and knowledge prior to their enrollment in the direct assessment program. Title IV, HEA program funds are provided to help cover the student's cost of obtaining an education. Accordingly, Title IV, HEA program funds should be used only for learning that occurs after a student has enrolled in an educational program. Therefore, we have amended the regulations to require institutions to provide information in the application for approval of a direct assessment program about how they assess a student's knowledge upon entering the program.

We recognized that institutions offering direct assessment programs might use courses or learning materials developed by other entities, such as training and professional development organizations and other educational institutions, to assist students in preparing for the assessments. We considered whether the use of outside resources could be considered contracting out a portion of an educational program and determined that it could be. Therefore, we included in the direct assessment regulations a provision that exempts direct assessment programs from the limitations of contracting for part of an educational program.

We considered whether remedial courses using direct assessment of student learning in lieu of credit or clock hours could be supported with Title IV, HEA program funds.

We determined that remedial courses taken in preparation for enrollment in a

direct assessment program could be paid for with Title IV, HEA program funds only if they were offered in credit or clock hours. Our conclusion is based on the fact that the HERA modified the definition of eligible program to include direct assessment programs, but did not change the fact that remedial coursework is not itself a program or part of a program. We applied similar reasoning to instruction needed for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school.

The HERA specifies that the assessment an institution uses in its direct assessment program must be consistent with the accreditation of the institution or program. Foreign schools are not accredited by nationally recognized accrediting agencies recognized by the Department and accordingly cannot meet this program eligibility requirement. In the future, the Secretary may consider developing eligibility criteria that are comparable to the accreditation requirement to permit direct assessment programs offered by foreign schools to qualify for Title IV, HEA program eligibility.

The discussion of regulatory alternatives considered in the Regulatory Impact Analysis provides additional details on the factors the Secretary considered in developing the direct assessment regulations.

Academic Year (§ 668.3)

Statute: Section 8020 of the HERA amended the definition of *academic year* in section 481(a) of the HEA. The revised definition requires a minimum of 30 weeks of instructional time for a program that measures its program length in credit hours or a minimum of 26 weeks of instructional time for a program that measures its program length in clock hours, rather than a minimum length of 30 weeks of instructional time for both credit hour and clock-hour programs.

Current Regulations: The current regulations reflect the previous statutory definition of an academic year requiring a minimum of 30 weeks of instructional time for all programs regardless of the way in which the program was measured.

New Regulations: Section 668.3(a) of the regulations has been amended to reflect the change in the statutory definition of an academic year. In addition, we have modified the definition so that *academic year* is no longer defined as a period beginning on the first day and ending on the last day of classes.

Reasons: The regulations are modified to reflect the change made by the HERA to the definition of an academic year. Because all programs must define an academic year that conforms to the minimum requirements even if the program itself is shorter than those minimum requirements, we modified the definition so that an academic year is no longer defined as a period of time that begins on the first day of classes and ends on the last day of classes or examinations.

Treatment of Title IV Funds When a Student Withdraws (§§ 668.22, 668.35, and 668.173)

Program Applicability

Statute: Section 8022 of the HERA amended section 484B(a)(3)(C)(i) of the HEA to change the applicability of section 484B of the HEA (commonly referred to as the Return of Title IV Funds requirements). Under prior law, the Return of Title IV Funds rules applied to all Title IV, HEA grant and loan assistance other than Federal Work Study (FWS) funds. Under the HERA, the rules will now apply only to funds from the Pell Grant, Federal Supplemental Educational Opportunity Grant (FSEOG), FFEL, Direct Loan, and Perkins Loan programs, and to the new Academic Competitiveness Grant (ACG) and National Science and Mathematics Access to Retain Talent (SMART) Grant programs.

Current Regulations: Section 668.22(a)(1) provides that the Return of Title IV Funds requirements apply to all Title IV, HEA grant and loan assistance disbursed or that could have been disbursed to a withdrawn student, not including FWS or the non-Federal share of FSEOG awards if an institution meets its FSEOG matching share by the individual recipient method or the aggregate method.

New Regulations: We have revised § 668.22(a)(2) to reflect the more limited applicability of the Return of Title IV Funds rules as provided in the HERA. Under the revised regulations, an institution must perform a Return of Title IV Funds calculation when a student who withdraws was disbursed, or could have been disbursed, funds from the following programs: Pell Grant, FSEOG, FFEL, Direct Loan, Perkins Loan, ACG, or SMART Grant. The Return of Title IV Funds requirements do not apply to funds from the Gaining Early Awareness and Readiness for Undergraduate Program (GEAR UP), Student Support Services (SSS) or Leveraging Educational Assistance Partnerships (LEAP) Programs. In addition, the interim final regulations retain the exemption from the Return of Title IV Funds rules for the non-Federal share of FSEOG awards if an institution meets its FSEOG matching share by the individual recipient method or the aggregate method.

Reasons: These changes are made to implement the provisions of the HERA. The current regulatory exemption from the Return of Title IV Funds requirements of the non-Federal share of FSEOG awards is retained as these funds are not considered Federal funds and, therefore, are not subject to the Federal Return of Title IV Funds requirements.

Post-Withdrawal Disbursement Counseling

Statute: Section 8022 of the HERA amended section 484B(a)(4) of the HEA to require an institution to contact a borrower before making a late disbursement or post-withdrawal disbursement of Title IV loan funds. During this contact, the institution must confirm with the borrower that the loan funds are still required by the student, or parent in the case of a parent PLUS loan, and explain to the borrower his or her obligation to repay the funds if disbursed. An institution must document in the student's file the result of the contact and the final determination made concerning the disbursement.

Current Regulations: Current § 668.22(a)(4)(i)(B) requires an institution to provide a student, or parent in the case of a parent PLUS loan, an opportunity to cancel some or all of a loan disbursement credited to the student's account by providing notice to the student or parent when the institution credits the account with Direct Loan, FFEL, or Federal Perkins Loan program funds. In addition, § 668.22(a)(4)(ii) provides that an institution must offer any amount of a post-withdrawal disbursement (loan and grant) that is not credited to the student's account to the student, or parent in the case of a parent PLUS loan, as a direct disbursement.

Current regulations do not require institutions to explain to students, or parents for a parent PLUS loan, the obligation to repay disbursed loan funds, nor do they specify the documentation an institution must keep.

New Regulations: The existing regulations, as redesignated in § 668.22(a)(5), have been modified as a result of the changes made by the HERA.

While current regulations already require an institution to obtain confirmation from a student, or parent

for a parent PLUS loan, before making a direct disbursement of loan or grant funds from a post-withdrawal disbursement, the regulations have been revised to make clear that an institution must now obtain this confirmation before crediting a student's account with loan funds. As in the past, an institution may credit a student's account with any post-withdrawal disbursement of grant funds without confirmation from the student.

Thus, the interim final regulations require an institution to include in the written notification it must provide to a student, or parent for a parent PLUS loan, notice of any post-withdrawal disbursement of loan funds that it wishes to credit to the student's account. As currently required for direct disbursements of a post-withdrawal disbursement, the notice must identify the type and amount of the loan funds the institution wishes to credit to the student's account, and explain that a student, or parent for a parent PLUS loan, may accept or decline all or a portion of the funds. The notice must also make clear that a student, or parent for a parent PLUS loan, may not receive as a direct disbursement loan funds that the institution wishes to credit to the student's account unless the institution agrees to do so. If the student, or parent for a parent PLUS loan, does not wish to accept some or all of the loan funds that the institution wishes to credit to the student's account, the institution must not disburse those funds. As required by the HERA, institutions are now required to explain to the student, or parent for a parent PLUS loan, the obligation to repay any loan funds accepted as a post-withdrawal disbursement.

The 14-day deadline (from the date the institution sent the notification) for a student, or parent for a parent PLUS loan, to accept some or all of a direct disbursement of a post-withdrawal disbursement, now applies to confirmation of loan disbursements that an institution wishes to credit to a student's account. The interim final regulations permit an institution to establish a later deadline, provided the later deadline applies to both confirmation of loan disbursements to the student's account and to direct disbursements of a post-withdrawal disbursement. In accordance with current regulations, the institution's notice to the student, or parent for a parent PLUS loan, must advise the student or parent of this deadline, making clear that a late response to the notice is honored only at the institution's discretion. Under the interim final regulations, an institution that chooses to honor a late response must disburse all the funds accepted by the student, or parent for a parent PLUS loan; for example, it cannot credit loan funds to the student's account in accordance with the student's request, but decline to disburse directly post-withdrawal funds accepted by the student. As currently required when an institution declines to honor a late response for direct disbursements of a post-withdrawal disbursement, the interim final regulations require an institution that declines to honor a late response accepting loan funds to be credited to the student's account to inform the student, or parent for a parent PLUS loan, in writing that it will not be honoring the late response.

As with current regulatory requirements for making a direct disbursement of a post-withdrawal disbursement, an institution must make a disbursement by crediting a student's account with a post-withdrawal disbursement of loan funds within 120 days of the date of the institution's determination that the student withdrew, as that term is defined in § 668.22(l)(3).

Finally, new paragraph § 668.22(a)(5)(iv) has been added to codify the HERA requirement that an institution document in the student's file the result of the contact and the final determination made concerning a post-withdrawal disbursement of loan funds.

Reasons: These changes are made to implement the provisions of the HERA. We have modified the current regulations that require confirmation of any post-withdrawal disbursements made as a direct disbursement to reflect the new statutory requirements.

A new regulatory provision requires the institution to make clear in the written notice that a student, or parent for a parent PLUS loan, may not receive as a direct disbursement loan funds that the institution wishes to credit to the student's account, unless the institution concurs. This reflects current requirements that permit an institution to credit Title IV funds to a student's account before disbursing any remaining amount to the student, or parent for a parent PLUS loan.

The Secretary has made other changes to the regulations with the goal of easing implementation of the new requirements. The Secretary believes it should not be the institution's decision to determine that it is acceptable for a student to incur debt and/or use up Title IV, HEA program eligibility to cover a debt to the institution, but not to cover non-institutional educational expenses. That decision must be left to the student, or parent for a parent PLUS loan. Thus, institutions are required to use the same deadline for responses for both types of confirmations and, if the institution acts on a late response, it must honor all the confirmations in the response.

In addition, the Secretary now permits an institution to establish a deadline for confirmation responses beyond the 14-day minimum in current regulations to ease institutional administrative burden. Some institutions may desire to give all students and parents more time to respond now that confirmation of disbursement is needed for crediting the student's account with loan funds. Also, a later deadline may be beneficial as a late confirmation response can now result in a student owing a debt to the institution for unpaid charges on his or her account.

Withdrawals From Clock Hour Programs

Statute: The HERA changed section 484B(d)(2) of the HEA, to provide that only scheduled hours, not completed hours, will be used to determine the percentage of the payment period or period of enrollment completed by a student withdrawing from a clock hour program. Prior to this change, the law provided that scheduled hours, rather than completed hours, were used only if the hours completed by the student were equal to a percentage, determined by the Secretary in regulations, of the hours scheduled to be completed when the student withdrew.

The HERA made a conforming change to section 484B(a)(3)(B)(ii) to make clear that a student withdrawing from a clock hour program earns 100 percent of his or her aid if the student's withdrawal date occurs after the point when he or she was scheduled to complete 60 percent of the scheduled hours in the payment period or period of enrollment.

Current Regulations: The current regulations in § 668.22(f)(1)(ii) use actual hours to determine the percentage of the period completed by a student withdrawing from a clock hour program, unless the student's actual hours of attendance were at least 70 percent of the hours the student was scheduled to have completed at the time they withdrew. If so, scheduled hours are used.

Section 668.22(e)(2)(ii)(B) of the current regulations provides that a student earns 100 percent of his or her aid only if he or she actually completed 60 percent or more of the hours in the payment period or period of enrollment scheduled to be completed when he or she withdrew.

New Regulations: Section 668.22(f)(1)(ii) has been amended to reflect the statutory change to section 484B(d)(2) requiring the use of scheduled clock hours in all calculations of earned Title IV, HEA program funds for students who withdraw from clock-hour programs. That is, for a student withdrawing from a clock-hour program, the ''percentage of the payment period or period of enrollment completed'' is determined by dividing the total number of clock hours comprising the period into the number of clock hours scheduled to be completed as of the student's withdrawal date. In addition, the regulations have been amended to require that the scheduled clock hours used for a student must be those established by the institution prior to the student's beginning class date for the payment period or period of enrollment, and must have been established in accordance with any requirements of the State or the institution's accrediting agency. These hours must be consistent with the published materials describing the institution's programs. However, if an institution modified the scheduled hours in a student's program prior to his or her withdrawal, and in accordance with any State or accrediting agency requirements, the new scheduled hours must be used.

New § 668.22(e)(2)(ii)(B) implements the statutory change in section 484B(a)(3)(B)(ii) by clarifying that a student withdrawing from a clock-hour program earns 100 percent of his or her aid if the student's withdrawal date is after the point when he or she was scheduled to complete 60 percent of the scheduled hours in the payment period or period of enrollment.

Reasons: These changes are made to implement the provisions of the HERA. To limit the possibility of abuse of this rule, the regulations provide that the scheduled hours used must be those that are part of a schedule that was established prior to a student's withdrawal, and must meet any applicable State or accrediting agency standards.

Grant Overpayment Requirements

Statute: Section 8022 of the HERA amended section 484B(b)(2)(C) of the HEA to change the amount of a grant overpayment that must be repaid by a student who withdraws from school. The amount of a grant overpayment due from a student is limited to the amount by which the original overpayment amount exceeds 50 percent of the total grant funds received by the student for the payment period or period of enrollment. In addition, the HERA amended the HEA to specify that a student does not have to repay a grant overpayment of $50 or less for grant overpayments resulting from the student's withdrawal.

Current Regulations: The current regulations in § 668.22(h)(3)(ii) provide that a student is not required to repay 50 percent of the withdrawn student's original grant overpayment amount.

Under § 668.35(e)(3), an otherwise eligible student maintains eligibility and does not have to repay a Perkins Loan, FSEOG, or Pell Grant overpayment of less than $25—resulting from withdrawal or otherwise provided that the overpayment amount is not a remaining balance nor a result of applying the overaward threshold for the campus-based programs.

New Regulations: Revised § 668.22(h)(3) reflects the new statutory limitation on the amount of a grant overpayment that a student is required to return. To illustrate the effect of the new law, we provide the following example: A student who received $2,000 in Title IV, HEA grant funds for a payment period withdraws from school. The institution uses the Return of Title IV Funds calculation and determines that the student has an original grant overpayment of $1,200. Under current regulations, the student would owe $600 (50 percent of the original overpayment amount of $1,200). Under the interim final regulations, the student owes $200 (the amount by which the original overpayment amount ($1,200) exceeds half of the total grant funds received, ($1,000) or $1,200–$1,000. In this same scenario, if the student's grant overpayment was originally $800, under current regulations the student owes $400 (50 percent of $800). Under the interim final regulations, the student owes nothing because the overpayment amount ($800) is less than half of the total grant funds received ($1,000).

Section 668.22(h)(3) also reflects the statutory provision that a student is not obligated to return a grant overpayment of $50 or less. As a result, a grant overpayment of $50 or less will not make the student ineligible to receive Title IV, HEA program assistance should the student return to school. An institution is not required to attempt recovery of that overpayment, report it to the Department's National Student Loan Data System (NSLDS), or refer it to the Secretary. Consistent with § 668.35(e)(3), this new standard does not apply to remaining grant overpayment balances; that is, a student must repay a grant overpayment that has been reduced to $50 or less because of payments made.

A conforming change is also being made to § 668.35(e) to make it clear that the overpayment threshold and eligibility requirements of § 668.35(e) do not apply to an overpayment resulting from the application of the Return of Title IV Funds requirements. The less-than-$25 threshold and eligibility requirements specified in § 668.35(e)(3) continue to apply to all other overpayments.

Reasons: These changes are made to implement the provisions of the HERA.

Waiver of Grant Overpayment for Students Affected by a Disaster

Statute: The Pell Grant Hurricane and Disaster Relief Act (Pub. L. 109–66) and the Student Grant Hurricane and Disaster Relief Act (Pub. L. 109–67) amended section 484B(b)(2) of the HEA to permit the Secretary to waive a student's Title IV grant repayment if the student withdrew from an institution because of a major disaster.

Current Regulations: Current regulations do not address this issue.

New Regulations: New § 668.22(h)(5) incorporates the statutory changes. The interim final regulations provide that the Secretary may waive grant overpayment amounts for individuals whose withdrawal ended within the award year during which the designation of a major disaster area occurred, or the subsequent award year. On November 9, 2005, the Secretary exercised this waiver authority through publication of Dear Colleague Letter GEN–05–17. It is important to note that this waiver authority applies to a grant overpayment due from a student and not to the required return of unearned funds to a grant program by an institution.

Reasons: These changes are made to implement the provisions of the Pell Grant Hurricane and Disaster Relief Act and the Student Grant Hurricane and Disaster Relief Act. The interim final regulations apply the waivers on an award year basis to reflect the fact that Pell and FSEOG Grants are awarded on an award year basis.

Order of Return of Grant Funds

Statute: Section 484B(b)(3)(B) of the HEA requires that unearned Title IV, HEA grant funds be returned to awards under subpart 1 of part A of the HEA (for the Pell Grant Program) before they are returned to awards under subpart 3 of part A of the HEA (for the FSEOG Program). Under prior law, the Pell Grant program was the only program in subpart 1 of part A of the HEA. The HERA has added the ACG and the

National SMART Grant programs to subpart 1 of part A of the HEA. As a result, unearned funds must be returned to the Pell Grant, ACG and National SMART Grant programs before they are returned to the FSEOG program. The statute does not require that unearned funds be returned to one subpart 1 program before another.

Also, as noted previously, the HERA limited the application of the Return of Title IV funds requirements to funds from the Pell Grant, FSEOG, FFEL, Direct Loan, and Perkins Loan programs, as well as the new ACG and National SMART Grant programs.

Current Regulations: Section 668.22(i)(2) currently requires an institution or student to return unearned funds to the grant programs in the following order: (1) The Federal Pell Grant Program; (2) the FSEOG Program; (3) other Title IV, HEA grant or loan assistance programs.

New Regulations: New § 668.22(i)(2) reflects the addition of the new ACG and National SMART Grant programs and requires that unearned funds be returned to those programs before unearned funds are returned to the FSEOG program. The interim final regulations also specify an order of return for the three grant programs in subpart 1 of part A of the HEA, requiring an institution or student to return unearned funds to the subpart 1 grant programs in the following order: (1) The Pell Grant Program; (2) the ACG Program, and (3) the National SMART Grant Program. The interim final regulations no longer require an institution to return funds to ''other Title IV, HEA grant or loan assistance programs.''

Reasons: These changes are made to implement the provisions of the HERA. The interim final regulations specify that an institution or student return unearned funds to the Pell Grant Program before they are returned to the ACG or National SMART Grant programs because this approach is the most beneficial for students. Returning funds to the Pell Grant Program ensures that the student's eligibility for a Pell Grant is maintained, which is beneficial should the student return to school within the same award year and again seek an ACG or National SMART Grant.

Return of Funds Within 45 Days

Statute: Section 8022 of the HERA amended section 484B(b)(1) of the HEA to add the requirement that an institution return unearned funds for which it is responsible no later than 45 days from the determination of a student's withdrawal.

Current Regulations: Section 668.22(j) of the current regulations requires an institution to return the unearned funds for which it is responsible as soon as possible, but no later than 30 days after the date of the institution's determination that the student withdrew.

Section 668.173(b) establishes the specific criteria an institution must meet to be in compliance with the 30-day deadline in § 668.22(j).

New Regulations: The interim final regulations in § 668.22(j) incorporate the HERA provision by changing the maximum amount of time an institution has to return the unearned funds for which it is responsible from 30 days to 45 days. The interim final regulations continue to specify that an institution must return those funds as soon as possible.

We are also making conforming changes to § 668.173(b) to extend the deadlines specified in that regulation by 15 days. An institution will be considered to have returned funds timely if the institution does one of the following no later than 45 days (rather than the current 30 days) after the date it determines that the student withdrew: (1) Deposits or transfers the funds into the bank account it is required to maintain; (2) initiates an electronic funds transfer (EFT); (3) initiates an electronic transaction that informs the FFEL lender to adjust the borrower's loan account for the amount returned; or (4) issues a check. The institution is considered to have issued a check timely if the institution's records show that the check was issued no more than 45 days after the date the institution determined that the student withdrew, or the date on the cancelled check shows that the bank endorsed that check no more than 60 days (instead of the current 45 days) after the date the institution determined that the student withdrew.

Reasons: These changes are made to implement the provisions of the HERA. The interim final regulations retain the requirement that an institution return funds for which it is responsible as soon as possible. The return of funds by an institution may result in a decrease in the amount of a Title IV loan that the student must repay and reduces that interest that accrues on the loan. In addition, the sooner funds are returned, the sooner an otherwise eligible student may regain eligibility for those funds should the student return to school within the same academic period.

Student Eligibility—General and Student Debts Under the HEA and to the U.S. (§§ 668.32, 668.35, 674.39, 682.405, and 685.211)

Statute: Section 8021(a) of the HERA amended section 484(a) of the HEA by adding a new student eligibility requirement. The new requirement provides that students who have been convicted of, or have pled nolo contendere or guilty to a crime involving fraud in obtaining Title IV, HEA program assistance are not eligible for additional Title IV assistance unless they have repaid the fraudulently obtained Title IV, HEA program assistance funds to the Secretary or to the holder of a loan made under the Title IV, HEA programs.

Current Regulations: Current regulations do not address the Title IV eligibility of students who have obtained Title IV, HEA Program assistance through fraud.

New Regulations: Sections 668.32 and 668.35 have been amended by adding new paragraphs (m) and (i), respectively, to provide that a student who has been convicted of or has pled nolo contendere or guilty to a crime involving fraud in obtaining Title IV, HEA program assistance is ineligible for additional assistance unless he or she has repaid the fraudulently obtained Title IV, HEA program assistance funds to the Secretary or to the holder of a loan made under the Title IV, HEA programs. In addition, § 682.401(b)(4) has been amended to cross-reference the new § 668.35(i).

Sections 674.39(a), 682.405(a)(1), and 685.211(f) have been amended to specify that a Perkins, FFEL, or Direct Loan Program loan that was fraudulently obtained, and for which the borrower has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraudulently obtained Title IV, HEA program assistance, is not eligible for rehabilitation.

Reasons: These regulations have been amended to reflect the changes made by the HERA.

Conviction for Possession or Sale of Illegal Drugs (§ 668.40)

Statute: Section 8021(c) of the HERA amended section 484(r) of the HEA to modify the requirements regarding the suspension of eligibility for students convicted of drug-related offenses. As amended, the HEA now provides that a student becomes ineligible for Title IV, HEA program assistance only if the conviction for a Federal or State offense involving the possession or sale of a controlled substance is for conduct that occurred during a period of enrollment

for which the student was receiving Title IV, HEA program assistance. The period of ineligibility and provisions for regaining eligibility were not changed by the HERA.

Current Regulations: The current regulations reflect the previous statutory requirements that provided that a student became ineligible to receive Title IV, HEA program assistance if the student was convicted of an offense involving the possession or sale of illegal drugs without regard to when the offense occurred.

New Regulations: Section 668.40(a)(1) has been revised to reflect the statutory change to section 484(r) of the HEA that limits the loss of student eligibility to students convicted of drug-related offenses to offenses that occurred during a period of enrollment for which the student was receiving Title IV, HEA program assistance.

The revised student eligibility criterion applies to the 2006–2007 award year for the Pell Grant, ACG, National SMART Grant, and campus-based programs and for periods of enrollment beginning on or after July 1, 2006 for the FFEL and Direct Loan Programs.

The period of ineligibility remains unchanged and is triggered by the date of the conviction. The provisions for regaining eligibility also remain unchanged.

Reasons: These regulations have been changed to reflect the changes to the HEA made by the HERA.

Estimated Financial Assistance (§§ 673.5, 673.6, 674.16, 675.26, 682.200 and 685.102)

Statute: Section 8019 of the HERA added two new grant programs by creating a new HEA section 401A and modified the definition of *Other Financial Assistance* in HEA section 480(j). The two new grant programs are considered other financial assistance under section 480(j) of the HEA. In changing the definition of *Other Financial Assistance*, the HERA added a new section to the definition that states, ''Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.''

The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375) amended Title 10 of the United States Code to add a new veterans' education benefit in chapter 1607. Veterans' education benefits are considered other financial assistance under section 480(j) of the HEA. These chapter 1607 benefits, which are known as the Reserve Educational Assistance Program, benefit military reservists called to active duty after September 11, 2001 and are designated to pay for postsecondary education expenses.

Current Regulations: The current regulations do not include the two new grant programs, the change in the definition of *Other Financial Assistance*, or the added veterans' educational benefit in the regulatory definitions of *resources* and *estimated financial assistance.*

New Regulations: We have amended §§ 673.5, 682.200 and 685.102 to reflect the creation of the two new grant programs and the new veterans' education benefit, as well as the modification of the statutory definition of *Other Financial Assistance.* In addition, we have made technical changes to clarify the existing regulatory language, to standardize the definitions of *resources* and *estimated financial assistance* used in §§ 673.5(c), 673.6(a), 674.16(c), 675.26(a), 682.200(b) and 685.102(b), to adopt a single regulatory term to describe other financial assistance, and to make conforming changes.

Historically, the campus-based General Provisions have used the term *resources* rather than *estimated financial assistance* in reference to the same components. However, the statute repeatedly uses the term *estimated financial assistance*, and we believe it is necessary to use this term in the interim final regulations. Accordingly, the interim final regulations in §§ 673.6(a)(1), 674.16(c), 675.26(a)(4) and 676.16(b) have been amended to change the defined term *resources* to the defined term *estimated financial assistance.*

We have also made some technical changes to the regulations. We have modified the regulations to provide for the consistent use of names for the different loan types for each of the loan programs. We also clarified that the loans that can be used to replace the expected family contribution (EFC) include non-federal, non-need-based loans that come from private, state, or institutional sources. We have revised the definition of *estimated financial assistance* in §§ 682.200 and 685.102 of the FFEL and Direct Loan programs, respectively, to reflect our longstanding policy that estimated financial assistance includes ''Any educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary education expenses'' and by adding the same language to § 673.5(c) for the campus-based programs.

We added non-need-based employment as an exclusion to the definition of estimated financial assistance in §§ 682.200 and 685.102 of the FFEL and Direct Loan program regulations, respectively.

In § 673.5 of the campus-based General Provisions, we made a technical correction to clarify that fellowships and assistantships must be counted as estimated financial assistance, except those portions that are non-need-based employment. The current regulation states that non-need-based employment is not considered estimated financial assistance, but fellowships and assistantships may include portions that are non-need-based employment, but are not labeled separately as such. We made a technical change to § 673.5 to clarify the rules for the consideration of these fellowships and assistantships.

We added to the definition of *estimated financial assistance* in §§ 682.200(b) and 685.102(b) two items that are in the same definition under § 673.5(c). Those two items are insurance programs for the student's education and fellowships and assistantships, except non-need-based employment portions of such awards. This inclusion ensures the three sections have similar language.

Another technical change made for consistency was made in §§ 682.200(b) and 685.102(b) in which the word ''AmeriCorps'' was added parenthetically following each instance of national service education awards or post-service benefits paid under title I of the National and Community Service Act of 1990 because that is the term used in § 673.5(c).

Reasons: The regulations need to be changed to reflect the new grant programs and the new veterans' educational benefits under 10 U.S.C. Chapter 1607. As a technical change, we have parenthetically inserted the names of each of the chapters of eligible veterans' education benefits listed to make it easier for the public to identify these benefits. We also deleted the entries for programs that are obsolete and updated the names of programs that have been changed. We have also made technical changes to clarify the existing language and standardize the definitions among the regulatory sections referencing the definition of estimated financial assistance.

Military Deferment (§§ 674.34, 682.210, and 685.204)

Statute: Section 8007 of the HERA amended sections 428, 455, 464 and 481 of the HEA to create a new deferment for borrowers who are serving on active duty in the U.S. Armed Forces, or who are performing qualifying National Guard duty, during a war or other military operation or national emergency. The deferment is effective July 1, 2006, for loans for which the first disbursement is made on or after July 1, 2001.

Current Regulations: The current deferment regulations do not reflect this new deferment for military service. This new deferment is different from the military service deferment available to Perkins Loan, FFEL and Direct Loan Program borrowers who took out loans prior to July 1, 1993.

New Regulations: Section 674.34 of the Perkins regulations, § 682.210 of the FFEL regulations, and § 685.204 of the Direct Loan regulations have been amended to reflect the new military service deferment created by the HERA. The interim final regulations specify the types of active duty service and National Guard service that qualifies a borrower for the deferment, and define *active duty, military operation,* and *national emergency* for purposes of a military deferment. The types of qualifying service and the definitions are provided in the HERA.

A borrower may qualify for the military deferment if the first disbursement of the borrower's Perkins, FFEL, or Direct Loan was made on or after July 1, 2001. If the borrower has some loans disbursed before July 1, 2001 and some loans disbursed on or after July 1, 2001, the borrower may receive a military deferment for the loans disbursed on or after July 1, 2001, but may not receive a military deferment on the loans disbursed before July 1, 2001. The period of eligible military service must have occurred after the borrower received the loan. A borrower consolidating loans first disbursed on or after July 1, 2001, is eligible for the new deferment on the entire Consolidation Loan only if all of the borrower's Title IV loans included in the Consolidation Loan were first disbursed on or after July 1, 2001. The HERA does not authorize a loan holder to refund payments made during a period covered by a retroactive deferment.

Reasons: The regulations are amended to reflect changes made by the HERA.

FFEL and Direct Loan Program Changes

Graduate and Professional Student Eligibility for PLUS Loans (§§ 668.2, 682.102, 682.201, 685.102, 685.200, and 685.201)

Statute: Section 8005 of the HERA amended section 428B of the HEA, to provide that graduate and professional students are eligible for PLUS Loans. In addition, section 8014 of the HERA added a new eligibility requirement for PLUS Loan borrowers. Under this requirement, a PLUS Loan borrower who has been convicted of, or pled nolo contendere or guilty to, a crime involving fraud in obtaining Title IV, HEA program funds must complete repayment of the fraudulently obtained funds to be eligible to receive a PLUS loan.

Current Regulations: Under the current regulations, only parents of eligible students are eligible for PLUS Loans.

New Regulations: The terms *Federal Direct PLUS Program and Federal PLUS Program* are defined in §§ 668.2 and 685.102 to include graduate and professional students as eligible borrowers. Section 682.102 of the FFEL Program regulations and § 685.201 of the Direct Loan Program regulations have been amended to describe the application process for graduate or professional students to obtain a PLUS loan. Sections 682.201 of the FFEL Program regulations and 685.200 of the Direct Loan Program regulations have been amended to specify that a graduate or professional student PLUS borrower must meet the same eligibility criteria as a student Stafford borrower. This includes the new requirement in § 668.32 that a student convicted of fraud in obtaining Title IV, HEA program funds, or who has pled nolo contendere or guilty to such a crime, must complete repayment of the fraudulently obtained funds. In addition, the student PLUS borrower must have received a determination of his or her annual loan maximum eligibility under the Subsidized and Unsubsidized Stafford Loan program. A student PLUS borrower, like a parent PLUS borrower, must not have an adverse credit history to be eligible for a PLUS Loan.

We have also amended § 682.201(c) to reflect that a parent borrower convicted of fraud in obtaining Title IV, HEA program funds, or who has pled nolo contendere or guilty to such a crime, must complete repayment of the fraudulently obtained funds in order to be eligible for a PLUS loan.

Reasons: The regulations are amended to reflect changes made by the HERA.

Joint Consolidation Loans (§§ 682.102, 682.201, and 685.220)

Statute: Section 8009 of the HERA amended section 428C(a)(3)(C) of the HEA by eliminating the ability of a married couple to jointly consolidate their eligible student loans.

Current Regulations: Current regulations permit a married couple to consolidate their eligible student loans into a joint FFEL or Direct Consolidation Loan.

New Regulations: Sections 682.102(d), 682.201(c)(2), 682.201(e), and 685.220(d)(2) have been modified to eliminate the possibility of joint consolidation of loans by a married couple for applications received on or after July 1, 2006.

Reasons: These regulations are amended to reflect changes made by the HERA.

Interest Rates (§§ 682.202 and 685.202)

Statute: Public Law 107–139 amended section 427A of the HEA to establish fixed interest rates for FFEL and Direct Stafford and PLUS loans first disbursed on or after July 1, 2006, at 6.8 percent for Stafford loans and 7.9 percent for PLUS loans. The HERA did not change these interest rates for Stafford loans or Direct PLUS loans but did increase the interest rate for PLUS loans made under the FFEL Program to 8.5 percent. For FFEL and Direct Consolidation loans, the interest rate remains a fixed rate, calculated at the time the consolidation loan is made, as the weighted average of interest rates on the loans consolidated, rounded up to the nearest higher ⅛th of 1 percent, not to exceed 8.5 percent.

Current regulations: Current regulations do not reflect the changed interest rates on Stafford and PLUS loans made under the FFEL and Direct Loan programs. Interest rates on FFEL and Direct Consolidation loans are correctly reflected in the current regulations.

New regulations: Sections 682.202 and 685.202 of the FFEL and Direct Loan program regulations, respectively, have been amended to reflect a fixed interest rate of 6.8 percent for Stafford Loans first disbursed on or after July 1, 2006. The regulations have also been amended to reflect a fixed interest rate of 8.5 and 7.9 percent, respectively, for FFEL and Direct PLUS loans first disbursed on or after July 1, 2006.

Reasons: The regulations are amended to reflect changes made by Public Law 107–139 and the HERA.

Origination Fees (§§ 682.202 and 685.202)

Statute: Section 8008(c) of the HERA amended section 438(c)(2) of the HEA to

reduce and eventually eliminate the 3 percent origination fee that is paid by FFEL Program lenders and that the lenders may charge to FFEL Stafford Loan borrowers. Section 8008(c) of the HERA also amended section 455(b)(8)(A) of the HEA to reduce the 4 percent origination fee that may be charged to Stafford Loan borrowers in the Direct Loan Program. The 4 percent Direct Stafford Loan origination fee is equivalent to the combined 3 percent FFEL Stafford Loan origination fee plus the 1 percent insurance premium (now the Federal default fee) that is authorized in the FFEL Program. Origination fees currently charged to FFEL and Direct PLUS loan borrowers are not changed by the HERA. FFEL and Direct Consolidation Loan borrowers are also not charged origination fees.

Current Regulations: The current regulations authorize lenders in the FFEL Program to charge borrowers an origination fee of up to 3 percent of the amount of a Stafford Loan and the Secretary to charge a fee of up to 4 percent of the amount of a Direct Stafford Loan. Lenders in the FFEL Program are required to pay the full amount of the origination fee to the Secretary whether or not they charge the fee to the borrower.

New regulations: The FFEL Program regulations have been amended in § 682.202(c) to reduce origination fees as follows: Beginning with loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007, the maximum origination fee that a lender may charge a borrower will be 2 percent. The maximum origination fee that may be charged to an FFEL Stafford loan borrower drops to 1.5 percent on July 1, 2007, 1.0 percent on July 1, 2008, and 0.5 percent on July 1, 2009. The lender must pay the specified maximum fee for each period to the Secretary whether or not it is charged to the borrower. The fee will be eliminated as of July 1, 2010.

Section 685.202(c) of the Direct Loan Program regulations has been amended to reduce origination fees as follows: Beginning with loans for which the first disbursement of principal is made on or after February 8, 2006, and before July 1, 2007, the maximum origination fee that may be charged to Direct Stafford Loan borrowers is 3 percent. The maximum origination fee that may be charged drops to 2.5 percent on July 1, 2007, 2.0 percent on July 1, 2008, 1.5 percent on July 1, 2009, and 1.0 percent on July 1, 2010.

Reasons: The regulations are amended to reflect the changes made by the HERA.

Loan Limits (§§ 682.204 and 685.203)

Statute: Section 8005 of the HERA amended sections 425(a)(1)(A), 428(b)(1)(A), and 428H(d) of the HEA to increase loan limits for certain Stafford Loan borrowers. The higher loan limits are effective in the FFEL Program for loans certified on or after July 1, 2007, and, in the Direct Loan Program, for loans originated on or after July 1, 2007. The HERA did not increase aggregate loan limits in either program.

Current Regulations: Under the current regulations, the base subsidized/unsubsidized combined annual loan limit for first-year undergraduates is $2,625 and $3,500 for second year undergraduates. For graduate or professional students, the additional unsubsidized annual loan limit is $10,000. For students who have obtained a baccalaureate degree and are enrolled in coursework necessary for enrollment in a graduate or professional program, the additional unsubsidized annual loan limit is $5,000. For students who have obtained a baccalaureate degree, and are enrolled in coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary school, the additional unsubsidized loan limit is $5,000.

New Regulations: Under the interim final regulations, for FFEL loans certified on or after July 1, 2007 and for Direct Loans originated on or after July 1, 2007:

- For first-year undergraduates, the base subsidized/unsubsidized combined annual loan limit is $3,500;
- For second year undergraduates, the base subsidized/unsubsidized combined annual loan limit is $4,500;
- For graduate or professional students, the additional unsubsidized annual loan limit is $12,000;
- For students who have obtained a baccalaureate degree and are enrolled in coursework necessary for enrollment in a graduate or professional program, the additional unsubsidized annual loan limit is $7,000; and
- For students who have obtained a baccalaureate degree, and are enrolled in coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary school, the additional unsubsidized loan limit is $7,000.

The HERA did not increase the base subsidized/unsubsidized combined loan limits for third year and above undergraduate students and for graduate students. The HERA also did not change the limits on the additional amount of unsubsidized loans that are available to all undergraduate students.

Reasons: These regulations are amended to reflect changes made by the HERA.

Elimination of Option of Early Entrance Into Repayment (§§ 682.209 and 685.220)

Statute: Section 8009 of the HERA amended sections 428(b)(7)(A), 428C(a)(3), and 428C(b)(5) to eliminate the ability of FFEL Stafford Loan borrowers to request to enter repayment on their loans early. Early conversion to repayment allows a borrower to consolidate FFEL loans while still enrolled at least half-time.

Section 8009 of the HERA also amended sections 455(a), 455(d), and 455(g) of the HEA to require that Direct Consolidation Loans have the same terms and conditions as FFEL Consolidation Loans. For both FFEL Stafford Loan and Direct Stafford Loan borrowers, the repayment period is now defined as the period beginning 6 months and one day after the date the student ceases to carry at least one-half the normal full-time academic workload, as determined by the institution.

Current Regulations: Section 682.209(a)(5) of the FFEL program regulations permits FFEL Stafford Loan borrowers to request and be granted a repayment schedule prior to the end of their grace period and therefore enter repayment on their loans. Current Direct Loan regulations in § 685.220(d)(1)(ii)(A) permit borrowers in an in-school period with loans made under both the FFEL program and the Direct Loan program to obtain a Direct Consolidation loan. Also, under § 685.220(d)(1)(ii)(B), a borrower with FFEL loans only, in an in-school period at a school participating in the Direct Loan program is eligible to consolidate these loans into the Direct Loan program.

New Regulations: To implement the HERA, section 682.209(a)(5) of the FFEL regulations has been removed. FFEL Stafford Loan borrowers may no longer request to enter repayment early on their loans. Section 685.220(d)(1)(ii)(A) of the Direct Loan regulations has been removed so that Direct Stafford Loan borrowers are no longer able to consolidate while in an in-school status.

Reasons: The regulations were modified to reflect the changes made by the HERA to the HEA.

Teacher Loan Forgiveness (§§ 682.215 and 685.217)

Statute: Section 8013(c) of the HERA eliminated the previous termination date of October 1, 2005, for the increased teacher loan forgiveness

amounts of up to $17,500 for highly-qualified teachers in certain specialties as originally provided under the Taxpayer-Teacher Protection Act of 2004 (TTPA). In addition, the HERA established an alternative method for teachers in private non-profit schools to qualify for the same forgiveness benefits as ''highly qualified'' teachers in public schools.

Current Regulations: Sections 682.215 and 685.217 of the FFEL and Direct Loan Program regulations, respectively, do not reflect the eligibility requirements for teacher loan forgiveness established in the TTPA, the increased loan forgiveness amount that are available for certain teachers, or the alternative method for teachers in private, non-profit schools to qualify for teacher loan forgiveness.

New Regulations: Sections 682.215 and 685.217 continue to reflect the original eligibility requirements for teacher loan forgiveness, and have been amended to reflect the eligibility requirements, and increased forgiveness amounts, established by the TTPA and the HERA.

A borrower whose five, consecutive, complete years of qualifying teaching service began before October 30, 2004 may qualify for up to $5,000 of teacher loan forgiveness under the original eligibility criteria for teacher loan forgiveness.

''Highly qualified'' teachers whose teaching service begins on or after October 30, 2004 may qualify for forgiveness of up to:

- $5,000 if the borrower taught full-time in an eligible elementary or secondary school;
- $17,500 if the borrower taught mathematics or science on a full-time basis in an eligible secondary school;
- $17,500 if the borrower taught as a special education teacher on a full-time basis, the borrower's primary responsibility was to provide special education to children with disabilities in either an eligible elementary or secondary school, if the borrower's special education training corresponded to the children's disabilities and the borrower demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum that the borrower is teaching.

Highly qualified teachers whose teaching service began before October 30, 2004, may also qualify for $17,500 of loan forgiveness if they meet the applicable eligibility requirements. To qualify for loan forgiveness based on being a ''highly qualified'' teacher, the borrower must have been a ''highly qualified'' teacher for each of the five consecutive years of teaching service.

Teachers in private, non-profit schools who are exempt from State certification requirements may qualify for the same forgiveness benefits as ''highly qualified'' public school teachers, if the private school teacher is otherwise eligible for teacher loan forgiveness and:

- The private school teacher is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in applicable grade levels and subject areas;
- The competency tests taken by the private school teacher are recognized by five or more States for the purposes of fulfilling the highly qualified teacher requirements of the Elementary and Secondary Education Act of 1965, as amended; and
- The private school teacher achieves a score on each test that equals or exceeds the average passing score for those five States.

Reasons: These regulations are amended to reflect changes made by the TTPA and the HERA.

Loan Discharge for False Certification as a Result of Identity Theft (§§ 682.402 and 685.215)

Statute: Section 8012 of the HERA amended section 437(c) of the HEA to authorize a discharge of a FFEL or Direct Loan Program loan if the borrower's eligibility to borrow was falsely certified because the borrower was a victim of the crime of identity theft. This change is effective July 1, 2006.

Current Regulations: FFEL and Direct Loan Program regulations in §§ 682.402 and 685.215 do not explicitly authorize the discharge of a FFEL or Direct Loan Program loan if the borrower's eligibility was falsely certified because the borrower was the victim of the crime of identity theft.

New Regulations: Sections 682.402 and 685.215 of the FFEL and Direct Loan Program regulations, respectively, have been amended to authorize a discharge of an FFEL or Direct Loan Program loan if the borrower's eligibility to receive the loan was falsely certified because the borrower was a victim of the crime of identity theft. The interim final regulations provide that the borrower's obligation is discharged if the borrower provides the holder of a loan, or the Secretary in the case of a Direct Loan, a copy of a local, State, or Federal court verdict or judgment that conclusively determines that the individual who is the named borrower of the loan was the victim of the crime of identity theft, and the borrower demonstrates that the loan in question was made as a result of that identity theft. Discharge relief is available to the victim of the proven crime of identity theft, whether or not the prosecution was based on, or expressly referred to, the loan in question. If the conviction or judgment did not expressly reference that loan, the individual must provide authentic examples of his or her other identification credentials, and an explanation of facts that demonstrate that this criminal conduct resulted in the school certifying that individual's eligibility to borrow, and, as a result, in the loan being made.

In addition, because the statute authorizes discharge for individuals who are *victims* of the crime of identity theft, the interim final regulations provides relief only to individuals who did not knowingly accept the benefit of the falsely-certified loan, and require individuals who claim relief to certify that they did not, with knowledge that the loan had been made, receive or accept the benefits of the loan.

Where discharge relief is provided to an injured borrower, or where a borrower receives FFEL benefits based on providing false or erroneous information, the HEA and the current regulations generally require the Secretary and the guarantor, as applicable, to pursue claims against the responsible party. Approval of an identity theft discharge claim will rest on a judicial determination that a named individual committed the crime of identity theft and at very least a presentation by the victim of a persuasive statement showing that the identified perpetrator was responsible for the loan obligation. The Secretary interprets the enforcement language in section 437 of the HEA to include enforcement action against the identified perpetrator of the identity theft.

By adding this discharge authority, the Secretary in no way suggests that unless a crime of identity theft has been successfully prosecuted, individuals are liable for a loan for which they did not execute or authorize another to execute a promissory note, from which they received no benefits, and which they have not ratified by later conduct. To the contrary, a person is ordinarily not liable on an instrument, such as a promissory note or check, unless that person signed that instrument or authorized another to sign on his or her behalf. Section 682.402(e)(1)(i)(B) of the FFEL Program regulations provide that FFEL program benefits are payable to the holder of the loan only where the lender obtained a legally-enforceable promissory note to evidence the loan,

and § 682.406(a)(1) provides that reinsurance may be received only with respect to a claim on a legally-enforceable loan. Because a forged promissory note is not an enforceable obligation of the named borrower, FFEL Program benefits can not lawfully be claimed on a loan evidenced by such a note, absent conduct by the individual named as borrower that applicable law would regard as a ratification of knowing acceptance of the loan by the individual.[1] In § 682.402(e)(1)(i)(B) of the FFEL Program regulations that implement the discharge authority in section 437(c) of the HEA for false certification of eligibility to borrow, the Secretary carved out a narrow exception to this rule to authorize both discharge relief to individuals named as borrowers and reimbursement to the loan holders if the loan application or promissory note had been forged by the school. No regulation grants relief to those individuals who demonstrate that their signatures were forged on the note, but who cannot credibly assert that the forger was a person affiliated with the school, because that relief is already available for those individuals under the common law (and in many instances, State law) defense of forgery. That defense has applied to FFEL Program loans as to any other contracts, and therefore no regulations were needed, or are now needed, to create relief from liability on a forged FFEL Program note.

Moreover, the rights of the lender, and any subsequent holder, have always been subject to the obligation of the lender to exercise due diligence in making the loan in accordance with § 682.206(a)(2). A lender whose employee or agent either committed the crime of identity theft of that individual, or knew at the time the loan was made of the identity theft of that individual, has not relied in good faith on representations made by the borrower or the school in the loan application process, and is not held harmless under FFEL Program regulations from the consequences of the making of a loan that is not legally enforceable against the individual named as borrower. In this instance, as with forged or unauthorized endorsements on disbursement instruments or authorizations, the holders of the loan must refund to the Secretary any FFEL Program benefits received on that loan.

Reasons: The regulations are amended to reflect changes made by the HERA.

[1] The Department applied this same principle in DCL 93–L–156, July 1993, with respect to FFEL Program loans disbursed by checks on which the borrower's endorsement had been forged.

Loan Rehabilitation Agreement (§§ 682.405 and 685.211)

Statute: Section 8014(h) of the HERA amended section 428F(a) of the HEA to modify the requirements for a borrower to rehabilitate a defaulted loan under the FFEL and Direct Loan Programs. Under the HERA, a borrower will only need to make nine payments within 20 days of the due date during a period of 10 consecutive months to rehabilitate a defaulted loan(s). This change does not apply to the Federal Perkins Loan Program.

Current Regulations: Current regulations require a defaulted FFEL or Direct Loan borrower to make 12 consecutive monthly payments on the defaulted loan to rehabilitate the loan.

New Regulations: Sections 682.405 and 685.211 of the FFEL and Direct Loan Program regulations, respectively, have been amended to provide that a borrower meets the requirements for rehabilitation if that borrower makes at least nine of the ten payments required under a monthly repayment, if each payment is received within 20 days of the scheduled due date for that payment, and notwithstanding the 20-day grace period otherwise applicable, if all nine of those payments are received within a period of no more than 10 consecutive calendar months that begins no earlier than the first scheduled due date of the nine payments and ends no later than the scheduled due date in the tenth month following that first due date. This change is effective on July 1, 2006. For a loan rehabilitation agreement that began prior to July 1, 2006, a guaranty agency may consider the borrower to have met the new rehabilitation standard if at least one of the borrower's payments is due to be made on or after July 1, 2006, even if that payment is received prior to July 1, 2006, but within 20 days of the required due date in July. The guaranty agency must treat all borrowers in this situation equally. On defaulted loans held by the Department, we will consider the borrower to have met the new rehabilitation standards if the borrower makes payments as required under the existing agreement, and at least one of the nine payments made by the borrower was due on or after July 1, 2006, even if that specific payment was received prior to July 1, 2006, but within 20 days of the July due date.

Reasons: These regulations are amended to reflect changes made by the HERA.

FFEL Program Changes

Single Holder Rule (§§ 682.102 and 682.201)

Statute: Section 7015 of The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Pub. L. 109–234) amended section 428C(b)(1)(A) of the HEA by repealing the single holder rule with respect to any FFEL Consolidation Loan for which an application is received by an eligible lender on or after June 15, 2006. The single holder rule required that a borrower with FFEL loans held by a single lender could only consolidate his or her loans with that lender.

Current Regulations: Sections 682.102(d) and 682.201(d) provide that a borrower who is applying for a Consolidation Loan must certify that the lender making the Consolidation Loan holds at least one outstanding loan that is being consolidated unless the borrower has multiple holders of FFEL Program loans, or the borrower's single loan holder declines to make a Consolidation Loan, or declines to make one with income-sensitive repayment terms.

New Regulations: Sections 682.102(d) and 682.201(d) have been amended to remove these requirements.

Reasons: The interim final regulations are necessary to reflect the changes made to the HEA by The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.

Federal Default Fee (§§ 682.202, 682.401 and 682.419)

Statute: Effective for loans guaranteed on or after July 1, 2006, section 8014 of the HERA amended section 428(b)(1)(H) of the HEA to eliminate the optional 1 percent insurance premium fee that guaranty agencies could charge to lenders and that lenders could charge to borrowers and establishes a Federal default fee equal to 1 percent of the principal amount of the loan. The default fee must be collected by the guaranty agency and deposited into the Federal Fund held by a guaranty agency under section 422A of the HEA. The default fee may be deducted and collected by the lender from the proceeds of the loan and paid to the guaranty agency or paid from other non-Federal sources. If the fee is charged to the borrower, it must be deducted proportionally from each disbursement of the loan proceeds.

A guaranty agency must ensure that the proceeds of the Federal default fee will not be used for incentive payments

to lenders. The Secretary is prohibited from waiving these provisions for guaranty agencies that have Voluntary Flexible Agreements under section 428A of the HEA.

Current Regulations: Section § 682.401(b)(10) of the current regulations provides that a guaranty agency may charge the lender an insurance premium equal to 1 percent of the principal balance of each Stafford, SLS, or PLUS loan it guarantees. Under § 682.202(d) of the current regulations, a lender may pass the cost of the insurance premium along to the borrower by deducting the amount of the premium from the borrower's loan proceeds. Section 682.419(b) requires the guaranty agency to deposit into its Federal Fund the total amount of insurance premiums collected from lenders.

New Regulations: Section 682.401(b)(10) has been amended to reflect that insurance premiums will no longer be charged on Stafford or PLUS loans guaranteed on or after July 1, 2006. The regulations have been amended to reflect the new requirement for a Federal default fee. In accordance with the HERA, the interim final regulations require, for loans guaranteed on or after July 1, 2006, that the guaranty agency must collect, from the borrower or from any non-Federal source, a Federal default fee equal to one percent of the principal amount of the loan. The guaranty agency must deposit the proceeds of the default fee into its Federal Fund and ensure that the proceeds of such fees are not used for incentive payments to lenders. Section 682.202 has also been amended to provide that a lender may pass the cost of the Federal default fee along to the borrower. If the borrower is charged the Federal default fee, the amount of the default fee must be deducted proportionately from each disbursement of the loan. The lender or guaranty agency may also use other non-Federal sources to pay the default fee that must be deposited into the agency's Federal Fund.

Section 682.419, which regulates the guaranty agency Federal Fund, has also been amended to require the guaranty agencies to deposit Federal default fees into the Federal Fund and to use assets of the Federal Fund as those assets relate to the Federal default fee only as directed.

Reasons: The regulations are modified to reflect the change made by the HERA.

Loan Disbursement Through an Escrow Agent (§§ 682.207 and 682.408)

Statute: Section 8014(j) of the HERA amended section 428(i)(1) of the HEA to reduce the amount of time before disbursement to the borrower that a lender may transfer loan funds to an escrow agent. Under the HERA, a lender may now transfer funds to the escrow agent no more than 10 days prior to the date the funds are disbursed to the borrower.

Current Regulations: The current regulations permit lenders to transfer funds to an escrow agent no more than 21 days prior to the date the funds are disbursed to the borrower.

New Regulations: The regulations in §§ 682.207(b)(1)(iv) and 682.408(c) have been amended to permit lenders to transfer funds to an escrow agent no more than 10 days prior to the date the funds are disbursed to the borrower.

Reasons: The regulations were modified to reflect the changes made by the HERA to the HEA in reducing this time period.

Due Diligence in Disbursing a Loan (§§ 682.207 and 682.604)

Statute: Section 8008 of the HERA amended section 428(b)(1)(N) of the HEA to provide that, for U.S. students attending an eligible foreign school, FFEL Stafford Program loans will be disbursed directly to the borrower only if the foreign school requests this method. Prior to the change, a disbursement could be made directly to a student enrolled in a foreign school at the request of the student. No change was made to the requirement that a disbursement be made directly to a student enrolled in a study-abroad program that is approved for credit by the student's home institution upon the request of the student. However, for both borrowers enrolled at a foreign school and borrowers enrolled in a study-abroad program, section 8008 of the HERA specifies that a lender or guaranty agency must verify the borrower's enrollment at the foreign school before making a disbursement of FFEL Stafford funds directly to a borrower. Under section 428B of the HEA, a lender may not make a disbursement of PLUS loan funds (including loan funds for graduate and professional student PLUS borrowers) directly to the borrower. These changes are effective for loans first disbursed on or after July 1, 2006.

Current Regulations: The current regulations in § 682.207(b)(1)(v)(C) and (D) provide that, for both students enrolled in an eligible foreign school and students enrolled in a study-abroad program, FFEL Program loans are disbursed directly to the borrower by the lender only upon the request of the student. Section 682.207(b)(1)(v)(E) requires a lender to notify the foreign school when the lender makes a disbursement directly to a student enrolled at the foreign school.

New Regulations: Section 682.207 has been amended to reflect the statutory change that provides that a lender may disburse FFEL Stafford Loan funds directly to a U.S. student attending an eligible foreign school only if the school requests this method. Without a request from the school, lenders must disburse loan funds directly to an office of the foreign school designated by the school to receive them. A foreign school may make a single request to a lender to disburse all FFEL Stafford Loans directly to eligible students who attend the foreign school.

In addition, the interim final regulations incorporate the HERA change that provides that a lender may not make a direct disbursement to a borrower enrolled at a foreign school or in a study-abroad program until the lender or guaranty agency verifies the borrower's enrollment at the foreign school. A guaranty agency or lender must verify enrollment before each disbursement, including second and subsequent disbursements, of a Stafford loan. If the lender or guaranty agency has verified a borrower's enrollment, the lender must honor the student's or school's request, as appropriate, that a direct disbursement be made. As foreign schools may not participate in the Direct Loan Program and Direct Loan funds are disbursed to the borrower in a study-abroad program directly by the school, these provisions are not applicable to the Direct Loan Program.

In new paragraph 682.207(b)(2) we have listed the requirements a lender or guaranty agency must follow to verify a student's enrollment at a foreign school or enrollment in a study-abroad program. These requirements are based on the guaranty agency program requirements in Dear Colleague Letter (DCL) G–03–348 (August 2003). To verify enrollment in a foreign school, a guaranty agency must confirm that the foreign school the student is to attend is currently certified to participate in the FFEL Program. To do this, the guaranty agency must access the Department's Postsecondary Education Participants System (PEPS) Database. As noted in DCL G–03–348, schools that have an eligibility status of ''Eligible/Loan Deferment'' and a certification status of ''Not Certified'' in the PEPS Database are eligible for FFEL loan deferment purposes only. They are not certified to participate in the FFEL programs and students attending those schools are not eligible to receive FFEL program funds.

After confirming that a school is certified to participate in the FFEL

Program, the lender or guaranty agency must contact the foreign school by telephone or e-mail to verify the borrower's enrollment at the school.

The interim final regulations have different standards for verifying enrollment at a foreign school for a new student and for verifying enrollment for a continuing student. For a new student, the lender or guaranty agency must verify that the student has been admitted to the foreign school. For a continuing student, the lender or guaranty agency must verify that the student is still enrolled as ''enrolled'' is defined in 34 CFR 668.2. Specifically, the lender or guaranty agency must confirm that the student is admitted/enrolled for the period for which the loan is intended at the enrollment status for which the loan was certified. Finally, the lender or guaranty agency must document the student's file with information on the contact.

Similarly, for a student enrolled in a study-abroad program, the lender or guaranty agency must contact the home institution by telephone or e-mail to confirm the student's admission to the program, for a new student, or continuing enrollment in the program, for a continuing student, for the period for which the loan is intended at the enrollment status for which the loan was certified.

Guaranty agencies and lenders must coordinate their activities to ensure that the requirements for verifying the borrower's enrollment are met before any disbursement may be made.

New paragraph § 682.604(b) also incorporates the requirements formerly found in § 682.207(b)(1)(v)(E) for lender notification to the foreign school when the lender makes a direct disbursement to a student enrolled at a foreign school. The interim final regulations now require lenders to notify the school when the lender makes a disbursement directly to a student enrolled in a study-abroad program. In the case of a student enrolled in a study-abroad program, the lender must notify the home institution when the lender makes the disbursement directly to the student. Section 682.604(b)(1) is amended to require that, upon receipt of such a notice, a foreign school, or the home institution for a student enrolled in a study-abroad program, must immediately notify the lender if the student is no longer eligible to receive the disbursement.

Reasons: These changes are made to implement the provisions of the HERA. To ensure proper implementation of the statutory changes, the interim final regulations include procedures issued in DCL G–03–348.

In the past, the Department's Office of the Inspector General and the Government Accountability Office have found that FFEL funds have been disbursed directly to students for attendance at foreign schools that either did not exist, or that were not participating in the FFEL Programs. To avoid this problem in the future, verification of a student's enrollment at a foreign school must include confirmation of the foreign school's certification to participate in the FFEL Programs, as currently required by DCL G–03–348.

As a lender may still make an FFEL disbursement directly to a student in a study-abroad program at the student's request, these regulations require that the lender or guaranty agency confirm the student's enrollment in a study-abroad program with the student's home institution prior to any disbursement of funds.

Finally, for consistency in the verification of enrollment procedures, we have extended the requirement that a lender notify a foreign school when the lender makes a direct disbursement to a student enrolled at the foreign school, to require the lender to notify the home institution when it makes a direct disbursement to a student enrolled in a study-abroad program. The change to § 682.604(b)(1) is made to make clear that an institution that is notified by the lender of a disbursement directly to a borrower must inform the lender if the student is no longer eligible. Under § 682.610(c)(2), an institution is already required to notify a guaranty agency or lender if it discovers that a loan has been made to or on behalf of a student who enrolled at that school, but who has ceased to be enrolled on at least a half-time basis. However, § 682.610(c) refers to the submission of such information in terms of the submission of student status confirmation reports (SSCRs). The new requirement makes clear that all institutions, including those that now report data through the Department's National Student Loan Data System instead of SSCRs, must respond to a lender's notification of a direct disbursement if the student is no longer eligible.

Forbearance (§ 682.211)

Statute: Section 8014(e) of the HERA amended section 428(c)(3) of the HEA to require that lenders confirm any non-written forbearance agreement by recording the terms of the agreement in the borrower's file.

Current Regulations: The current regulations state that a lender may grant forbearance if the lender and the borrower or endorser agree to the terms of the forbearance and, unless the agreement was in writing, the lender sends, within 30 days, a notice to the borrower or endorser confirming the terms of the forbearance.

New Regulations: Section 682.211(b)(1) of the FFEL Program regulations has been amended to require a lender to record the terms of the forbearance in the borrower's file. This change is effective for agreements entered into or renegotiated with a borrower on or after July 1, 2006.

Reasons: The regulations are modified to reflect the change made by the HERA.

Loans Disbursed Through an Escrow Agent (§ 682.300)

Statute: Section 8014(j) of the HERA amended section 428(a)(3)(A) of the HEA to provide that a lender may first receive interest subsidy payments on loans disbursed by an escrow agent on behalf of the lender three days prior to the first day of the period of enrollment, or if the loan is disbursed after the first day of the period of enrollment, three days after disbursement.

Current Regulations: Current regulations do not include specific rules for interest subsidy payments on loans disbursed by an escrow agent.

New Regulations: Section 682.300(c)(3) has been amended to provide for the payment of interest subsidies on loans disbursed through an escrow agent no sooner than three days prior to the first day of the period of enrollment or, if the loan is disbursed after the first day of the period of enrollment, three days after disbursement.

Reasons: The regulations are modified to reflect the change made by the HERA.

Special Allowance Rates for Loans First Disbursed on or After January 1, 2000 (§ 682.302)

Statute: Prior to enactment of the HERA, section 438(b)(2)(I)(v) of the HEA provided that special allowance payments (SAPs) were not paid to lenders for any PLUS loans that were first disbursed on or after January 1, 2000, unless a calculation using the bond equivalent rates of certain 3-month commercial paper (financial) plus a spread of 3.1 percent, exceeded 9.0 percent. This provision of the HEA has been struck by the HERA effective April 1, 2006, for claims that accrued on or after that date.

Current Regulations: Current regulations do not reflect the changes made by the HERA.

New Regulations: Section 682.302(c) of the regulations has been amended to reflect the changes made by the HERA

regarding special allowance to provide for a special allowance payment on PLUS loans that were first disbursed on or after January 1, 2000 beginning with payments made after July 1, 2006. This change acknowledges that lenders began earning special allowance payments April 1, 2006.

Reasons: The regulations are modified to reflect the changes made by the HERA.

Special Allowance Payments on Loans Funded by Tax-Exempt Obligations (§ 682.302)

Statute: Effective on February 8, 2006, the HERA made the special allowance payment provisions of the Taxpayer-Teacher Protection Act of 2004 (TTPA) permanent by eliminating its January 1, 2006 sunset provisions. The TTPA provided that upon the occurrence of specified events after September 30, 2004 and before January 1, 2006, the special allowance paid on loans made or purchased with funds from particular sources derived by the holder from tax-exempt obligations originally issued prior to October 1, 1993, would revert to the usual rates paid on other loans, instead of the otherwise applicable rate of not less than 9.5 percent minus the applicable interest rate. This change affected loans that had qualified for the minimum 9.5 percent special allowance rate, but were:

1. Financed by a tax-exempt obligation that, after September 30, 2004, and before January 1, 2006, has matured or been refunded, retired or defeased;

2. Refinanced after September 30, 2004, and before January 1, 2006, with funds obtained from a source other than those described in section 438(b)(2)(B)(v)(I) of the HEA; or

3. Sold or transferred to any other holder after September 30, 2004, and before January 1, 2006.

The HERA eliminated the ending dates on these limitations. In addition, the HERA added two provisions that prohibit a loan from acquiring eligibility for the 9.5 percent minimum special allowance rates under 438(b)(2)(B) of the HEA. These new provisions state that special allowance is computed at the normal, rather than the 9.5 percent minimum return rate for any loan:

- Made or purchased on or after February 8, 2006 (the date of enactment of the HERA); or
- Not earning on February 8, 2006 a quarterly rate of special allowance determined under section 438(b)(2)(B)(i) or (ii) of the HEA.

The HERA delays these new requirements for certain holders by providing that they take effect later—substituting ''December 31, 2010,'' for February 8, 2006—for a holder that:

- Was, as of February 8, 2006, and during the quarter for which the special allowance is paid, a unit of State or local government or a nonprofit private entity;
- Was, as of February 8, 2006, and during such quarter, not owned or controlled by, or under common ownership or control with, a for-profit entity; and
- Held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100 million on loans for which special allowances were paid under section 438(b)(2)(B) of the HEA in the most recent quarterly payment prior to September 30, 2005.

Current Regulations: Current regulations in § 682.302(c)(3) provide that special allowance rates for loans that were made or purchased with funds obtained by the holder from the issuance of tax-exempt obligations originally issued prior to October 1, 1993, or from other sources listed there that were derived from those bond proceeds, receive a special allowance at a rate that is generally one-half of the rate established for other loans, but not less than 9.5 percent minus the applicable interest rate on such loans and, in § 682.302(e), that the issuer of such obligations receives special allowance payments on these loans at the usual rate if the issuer retires the tax-exempt obligation or defeases it by means of yield-restricted obligations. Current regulations refer to obligations ''originally issued'' before or after specified dates, but do not define that term, which derives directly from section 438(b)(2)(B) of the HEA. Current regulations do not incorporate the Department's interpretation of the term ''originally issued'' nor do they incorporate the Department's longstanding interpretation of the statute and regulations as applicable to the treatment of loans acquired from the tax-exempt funding sources listed in the statute and in § 682.302(c)(3)(i), if the ''originally issued'' obligation is later refunded by a tax-exempt refunding obligation.

New Regulations: Section 682.302(e) has been amended and new paragraph § 682.302(f) has been added to reflect the provisions of the HERA and, as pertinent, of the TTPA as described above and the Department's interpretation of terms found in current regulations as necessary for the proper implementation of provisions added by the HERA and TTPA. In addition, § 682.302(c) has been amended to incorporate the various statutory changes in special allowance rate calculations.

Reasons: The regulations are modified to reflect the changes made by the HERA, and as necessary to reflect those changes, the changes made by the TTPA and the interpretations by the Department of terms found in current regulations affected by those enactments.

Interest Repayment From Lenders (§ 682.305)

Statute: Section 8006(b) of the HERA amended section 438(b)(2)(C)(v) of the HEA to require payment by the lender of excess interest received by the lender when the applicable interest rate on a loan for any quarter exceeds the special allowance support level for the loan.

Under the HERA, excess interest is calculated each quarter by subtracting the ''special allowance support level'' from the applicable interest, multiplying the result by the average daily principal balance of the loan (not including unearned interest added to principal) during the quarter, and dividing by four.

Current Regulations: Current regulations do not provide for the recapture of excess interest by the Secretary.

New Regulations: Section 682.305 of the regulations has been amended by adding a new paragraph (d) that provides for the recovery of excess interest from a lender in accordance with the provisions added by the HERA.

Section 682.305(d) requires the payment by a lender of excess interest when the applicable interest rate on a loan for any quarter exceeds the special allowance support level for the loan. This requirement applies to loans for which the first disbursement of principal is made on or after April 1, 2006, but does not apply with respect to any special allowance payment made under section 438 of the HEA before April 1, 2006. The Secretary will collect the excess interest from lenders quarterly.

The interim final regulations require that excess interest is calculated each quarter by subtracting the special allowance support level from the applicable interest rate, multiplying the result by the average daily principal balance of the loan (not including unearned interest added to principal) during the quarter and dividing by four. For example, if the average daily principal balance of a loan was $1,000, and the applicable interest rate and special allowance support level were 6.8 percent and 5.8 percent, respectively, the excess interest to be rebated would be: $1,000 × 1.0 percent/4 = $2.50.

Reasons: The regulations are modified to reflect the changes made by the HERA.

Lender Insurance (§ 682.401)

Statute: Section 8014(a) of the HERA amended section 428(b)(1)(G) of the HEA to require a guaranty agency to reduce the amount of insurance to a lender to 97 percent of a loan's unpaid principal.

Current Regulations: Section 682.401(b)(14)(ii) of the FFEL Program regulations provides that a guaranty agency insures 98 percent of a loan's unpaid principal.

New Regulations: The regulations are amended by adding new paragraph § 682.401(b)(14)(iii) to require a guaranty agency to insure 97 percent of the unpaid principal balance on loans first disbursed on or after July 1, 2006.

Reasons: The regulations are modified to reflect the change made by the HERA.

Default Collection (§ 682.401)

Statute: Section 8014(d) of the HERA amended section 428(c) of the HEA to require each guaranty agency to ensure that consolidation loans are not an excessive proportion of the agency's recoveries on defaulted loans. In addition, under the HERA, if a borrower repays a defaulted loan through a Federal Consolidation Loan on or after October 1, 2006, a guaranty agency may not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of the defaulted loan. Also on or after October 1, 2006, when returning proceeds to the Secretary from the consolidation of a defaulted loan, a guaranty agency that charged the borrower collection costs must remit an amount that equals the lesser of the actual collection costs charged or 8.5 percent of the outstanding principal and interest of the loan. On or after October 1, 2009, when returning proceeds to the Secretary from the consolidation of a defaulted loan that is paid off with excess consolidation proceeds, a guaranty agency must remit the entire collection cost charged. The HERA defines the term *excess consolidation proceeds* to mean, for any Federal fiscal year beginning on or after October 1, 2009, the amount of proceeds from the consolidation of defaulted loans under the FFEL Program that exceed 45 percent of the agency's total collections on defaulted loans in that Federal fiscal year.

Current Regulations: Current regulations in § 682.401(b)(27) allow a guaranty agency to charge collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest of a defaulted FFEL Program loan that is repaid by a Federal Consolidation loan. When returning the proceeds from the consolidation of a defaulted loan to the Secretary, a guaranty agency may retain only the actual amount of collection costs charged to the borrower on the loan repaid by the consolidation loan (which may not exceed 18.5 percent).

New Regulations: Section 682.401(b)(27) has been amended to reflect the new statutory requirements regarding the consolidation of defaulted FFEL loans and excess consolidation proceeds described above.

Reasons: The regulations are modified to reflect the changes made by the HERA.

College Access Initiative (§ 682.401)

Statute: Section 8023 of the HERA amended section 485D of the HEA to establish a new College Access Initiative. As part of the Initiative, each guaranty agency must establish a plan to promote access to postsecondary education. The HERA requires each guaranty agency to provide the Secretary and the public with information on access to a comprehensive listing of postsecondary education opportunities, programs and publications available in the State or States for which the agency is the designated guaranty agency. A guaranty agency must also promote and publicize information for students and traditionally underrepresented populations on how to plan, prepare and pay for college. The guaranty agency must pay for these activities from its Operating Fund or from remaining funds in restricted accounts established pursuant to section 422(h)(4) of the HEA. Finally, a guaranty agency must ensure that this information is free and available in printed format by November 5, 2006.

Current Regulations: Current regulations do not provide for the College Access Initiative.

New Regulations: Section 682.401 has been amended to reflect the requirements of the College Access Initiative.

Reasons: The regulations are modified to reflect the changes made by the HERA.

Reinsurance Claims From Guaranty Agencies—Exempt Claims (§ 682.404)

Statute: Section 8014(c) of the HERA amended section 428(c)(1) of the HEA to provide that, for loans on which the first disbursement of principal is made on or after July 1, 2006, a guaranty agency will receive 100 percent insurance from the Department for exempt claims under new section 428(c)(1)(G) of the HEA. The statute defines the term *exempt claims* to mean claims with respect to loans for which it is determined that the borrower (or student on whose behalf a parent has borrowed), without the lender's or institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits on the loan. The new statutory definition is the same definition used in § 682.412(a).

Current Regulations: Current regulations have addressed exempt claims in § 682.412(a). Under prior regulations these claims were paid the regular reinsurance percentage.

New Regulations: Section 682.404(a) has been amended to provide 100 percent reinsurance for exempt claims and to include the statutory definition of exempt claims.

Reasons: The regulations are modified to reflect the changes made by the HERA.

Submission of Reinsurance Claims for Payment by the Secretary (§ 682.406)

Statute: Section 8014(j) of the HERA amended section 428(c)(1) of the HEA by reducing the amount of time a guaranty agency is allowed for filing a reinsurance claim with the Department.

Current Regulations: The current regulations allow guaranty agencies 45 days following the date it paid a lender's claim to file a reinsurance claim with the Department.

New Regulations: The regulations in § 682.406(a) have been amended to allow guaranty agencies 30 days following the date a lender's claim has been paid to file a reinsurance claim with the Department.

Reasons: The regulations were modified to reflect the changes made by the HERA to the HEA in reducing this time period.

Wage Garnishment (§ 682.410)

Statute: Section 8024 of the HERA amended section 488A(a)(1) of the HEA to increase the amount of a borrower's disposable pay that can be garnished from 10 percent to 15 percent effective July 1, 2006.

Current Regulations: Currently, the regulations allow a borrower's disposable pay to be garnished at a rate of 10 percent.

New Regulations: Section 682.410(b)(9)(i)(A) has been amended to allow a borrower's wages to be garnished in an amount that does not exceed 15 percent of the borrower's disposable pay. If a guaranty agency

decides to increase the withholding rate for a borrower already being garnished at the lesser rate based on a garnishment proceeding pre-dating July 1, 2006, the agency must notify the borrower that: (1) He or she can obtain a hearing upon request if he or she objects to the increased withholding amount on the basis of undue hardship; and (2) a borrower who has new information not presented at the initial garnishment hearing may request a reconsideration of the existence or amount of the debt.

In general, a guaranty agency must follow the procedures in § 682.410(b)(9) for sending notices to borrowers and employers and for scheduling a hearing for a borrower who chooses to have one.

Reasons: The regulations were revised to reflect changes made by the HERA.

Exceptional Performers (§ 682.415)

Statute: Section 8014 of the HERA amended section 428(I) of the HEA to decrease from 100 percent to 99 percent the insurance percentage paid to lenders or lender servicers who are designated as exceptional performers.

Current Regulations: Section 682.415(a)(1) of the FFEL Program regulations provides for reimbursement of 100 percent of the unpaid principal and interest.

New Regulations: Section 682.415(a)(1) is amended to provide for reimbursement to a loan holder of 99 percent of the unpaid principal and interest for default claims submitted to a guaranty agency on or after July 1, 2006.

Reasons: The regulations are modified to reflect the change made by the HERA.

School as Lender (§ 682.601)

Statute: Section 8011 of the HERA amends section 435(d)(2) of the HEA by replacing the existing school-as-lender requirements with a new set of requirements. In addition, to be a school lender, a school must have met the school-as-lender requirements as they existed on February 7, 2006 and must have made FFEL loans as a lender on or before April 1, 2006.

Current Regulations: Section 682.601 of the FFEL Program regulations reflects the school-as-lender requirements as they existed on February 7, 2006. The current regulations stipulate the requirements for establishing loan denial by a commercial lender, and the requirements for qualifying for a waiver of the 50 percent lending limit.

New Regulations: Section 682.601 is amended by replacing the existing school-as-lender requirements with the school-as-lender requirements established by the HERA. Under the new regulations, a school lender must have met the requirements in effect as of February 7, 2006, and must have made loans on or before April 1, 2006. In addition, the school must not:

- Be a home study school;
- Make a loan to any undergraduate student;
- Make a loan other than Federal Stafford loan to a graduate or professional student; or
- Make a loan to a borrower who is not enrolled at the school.

The school must:

- Employ at least one person whose full-time responsibilities are limited to the administration of the programs of financial aid for students attending that school;
- Award any contract for financing, servicing, or administration of FFEL loans on a competitive basis;
- Offer loans with an origination fee and/or interest rate that is less than the applicable statutory fee or rate for any loan first disbursed on or after July 1, 2006;
- Maintain a cohort default rate that is not greater than 10 percent;
- Submit an annual lender compliance audit, in accordance with the requirements of 34 CFR 682.305(c)(2), to the Department for any fiscal year beginning on or after July 1, 2006, in which the school engages in activities as an eligible lender; and
- Use any special allowance payments, interest payments from borrowers, interest subsidy payments from the Department, and any proceeds from the sale or other disposition of loans (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loans, and the cost of charging origination fees or interest rates at less than the fees or rates authorized under the HEA) for need-based grants. However, school lenders may use a portion of these payments or proceeds for reasonable and direct administrative expenses. Such expenses are those that are incurred by the school that are directly related to the school's performance of an administrative requirement in the FFEL Program, and do not include the cost the school pays to obtain funding, the cost of paying Federal default fees on behalf of borrowers, or the cost of providing origination fees or interest rates at less than the fee or rate authorized under the provisions of the Act.
- Funds for need-based grants must supplement, not supplant, non-federal funds the school would otherwise use for need-based grants.

Because schools may no longer make loans to undergraduate students, the requirements for establishing loan denial from another lender and for qualifying for a waiver of the 50 percent lending limit on making loans to undergraduates have been removed from the regulations.

The HERA modified the existing requirements for audits of school lenders. The new requirements will apply to audits of lending activities for any fiscal year beginning on or after July 1, 2006. All school lenders are required to submit a lender compliance audit without regard to the amount of loans the lender makes or holds. The Department will be issuing further guidelines for the lender compliance audits that must be submitted by school lenders. School lenders subject to the Single Audit Act, 31 U.S.C. 7502, will be required to include the lending activities in the annual audit and to include information on those activities in the audit report. Other school lenders will have to arrange for a separate audit of their lending activities. School lenders must submit audits for fiscal years beginning before July 1, 2006, in accordance with current requirements.

Reasons: The regulations include rules for determining how schools may use the proceeds of loan making activities for need based grants and reasonable and direct administrative costs. These rules reflect the Secretary's interpretation of the new statutory language added by the HERA.

Disbursement Exemptions for Foreign Schools (§ 682.604)

Statute: Section 8010 of the HERA amended sections 428G(a)(3), (b)(1), and (e) of the HEA to end the exemption from the multiple disbursement requirements for eligible foreign institutions.

Current Regulations: Section 682.604(c) of the FFEL Program regulations reflects the previous statutory provision exempting eligible foreign institutions from the multiple disbursement requirements in section 428G of the HEA.

New Regulations: The regulations in § 682.604(c) have been amended to remove the exemption from the multiple disbursement requirements for eligible foreign institutions.

Reasons: The regulations were modified to reflect the changes made by the HERA to the HEA.

Direct Loan Program Changes

Repayment Plans (§ 685.208)

Statute: Section 8008(b) of the HERA amended section 455(d)(1) of the HEA to provide the same repayment plans in the Direct Loan program as in the FFEL program (except for income contingent repayment).

Current Regulations: Section 685.208 of the Direct Loan Program regulations permits a Direct Loan borrower to choose between the standard, extended, graduated, income contingent, and if appropriate, an alternative repayment plan as determined by the Secretary. Implementation of the HERA does not require any changes to the standard, income contingent, or alternative repayment plan regulations.

Under the extended repayment plan, a borrower makes fixed monthly payments over a period of time that varies with the total amount of the borrower's loans. Under the graduated repayment plan a borrower makes payments at two or more levels within a period of time determined by the amount of the borrower's loans. The repayment schedule used for these two repayment plans is as follows. If the total amount of the borrower's Direct Loans is:

- Less than $10,000, the borrower must repay the loans within 12 years of entering repayment;
- Greater than or equal to $10,000 but less than $20,000, the borrower must repay the loans within 15 years of entering repayment;
- Greater than or equal to $20,000 but less than $40,000, the borrower must repay the loans within 20 years of entering repayment;
- Greater than or equal to $40,000 but less than $60,000, the borrower must repay the loans within 25 years of entering repayment; and
- Greater than or equal to $60,000, the borrower must repay the loans within 30 years of entering repayment.

New Regulations: Section 685.208 has been modified to conform the terms of the extended and graduated repayment plans offered in the Direct Loan program to reflect the similar repayment plans available in the FFEL Program. Under the graduated repayment plan a borrower is required to repay a loan in full over a fixed period of time not to exceed ten years. Borrowers with outstanding loans totaling more than $30,000 that had no outstanding principal or interest balances on a Direct Loan program loan as of October 7, 1998, or on the date the borrower obtains a Direct Loan program loan after October 7, 1998, are eligible for the extended repayment plan. Under this plan, borrowers are required to repay either a fixed annual or graduated repayment amount over a period of time not to exceed 25 years.

Changes were also made to the repayment plans available to Direct Consolidation Loan borrowers to reflect the terms of the similar repayment plans in the FFEL program. Under the revised regulations, Direct Loan borrowers must repay their loans under the following schedule. If the sum of the amount of the consolidation loan and the unpaid balance on other student loans to the applicant:

- Is less than $7,500, the borrower must repay the consolidation loan in not more than 10 years;
- Is equal to or greater than $7,500 but less than $10,000, the borrower must repay the consolidation loan in not more than 12 years;
- Is equal to or greater than $10,000 but less than $20,000, the borrower must repay the consolidation loan in not more than 15 years;
- Is equal to or greater than $20,000 but less than $40,000, the borrower must repay the consolidation loan in not more than 20 years;
- Is equal to or greater than $40,000 but less than $60,000, the borrower must repay the consolidation loan in not more than 25 years; or
- Is equal to or greater than $60,000, the borrower must repay the consolidation loan in not more than 30 years.

Conforming amendments were also made to § 685.220(2)(i) regarding the repayment of Direct Consolidation loans.

Reasons: The regulations were modified to reflect the changes made to the HEA by the HERA.

Eligibility of a FFEL Borrower for a Federal Direct Consolidation Loan (§§ 685.100 and 685.220)

Statute: Section 8009 of the HERA amended section 428C(a)(3)(B)(i) of the HEA and added a provision providing limited eligibility for a Direct Consolidation Loan to certain FFEL Consolidation Loan borrowers.

Current Regulations: The current regulations allow borrowers with FFEL Consolidation Loans to obtain a Direct Consolidation Loan if they are unable to obtain a FFEL Consolidation Loan with income-sensitive repayment terms acceptable to the borrower.

New Regulations: The interim final regulations implement the HERA and modify §§ 685.100(c) and 685.220(d) to provide that a borrower with a FFEL Consolidation Loan is eligible to receive a Direct Consolidation Loan if the loan has been submitted to the guaranty agency by the lender for default aversion, and the borrower wants to consolidate the FFEL Consolidation Loan into the Direct Loan Program for the purpose of obtaining an income contingent repayment plan.

Reasons: The regulations were modified to reflect changes made by the HERA to the HEA.

Federal Direct Consolidation Loans (§§ 685.102 and 685.220)

Statute: Section 8009 of the HERA amended section 455(a) of the HEA to designate that Federal Direct Consolidation Loans have the same terms, conditions, and benefits as FFEL Consolidation Loans, except as otherwise provided in the HEA. Previously, the HEA did not require Federal Direct Consolidation Loans to have the same terms and conditions as FFEL Consolidation Loans.

Current Regulations: Under current regulations, the Federal Direct Consolidation Loan Program does not have the same terms, conditions and benefits as the FFEL Consolidation Loan Program.

New Regulations: To ensure that Direct Consolidation Loans and FFEL Consolidation Loans have the same terms, conditions and benefits (except as otherwise provided in the HEA), the definition of *Federal Direct Consolidation Loan Program* in § 685.102 has been revised. The prior regulations established three types of Direct Consolidation Loans. Under the interim final regulations, there is only a single Direct Consolidation Loan, but it may include up to three separate components representing subsidized, unsubsidized, and PLUS loans that were repaid by the consolidation loan. This more accurately reflects operational processes and is consistent with processes in the FFEL Program. We have also revised the definition to reflect that effective for consolidation applications received on or after July 1, 2006, a borrower may not consolidate loans that are in an in-school status. In addition, the regulations in § 685.220 have been changed to eliminate the provision that provided for an interest subsidy on Direct Subsidized Consolidation Loans during in-school and grace periods.

Reasons: The regulations were revised to reflect changes made by the HERA.

Borrowers Subject to a Judgment or Wage Garnishment (§ 685.220)

Statute: Section 8009 of the HERA amended section 455(a)(1), (2), and (g) of the HEA to conform the program borrower eligibility requirements and the terms of Federal Direct Consolidation loans to those of FFEL Consolidation loans.

Current Regulations: Generally, the borrower eligibility requirements for these two programs are similar. However, the Direct Consolidation Loan program has allowed borrowers to obtain a Direct Consolidation Loan while the borrower is in school. In addition, the two programs have had

different rules for borrowers with loans on which a judgment has been obtained. The regulations for both programs also provide for certain situations in which a borrower may add loans to an existing consolidation loan or obtain a subsequent Consolidation Loan.

New Regulations: Section 685.220(d) of the Federal Direct Consolidation Loan regulations have been amended to reflect program borrower eligibility requirements that have been in the FFEL Program for loans on which a judgment has been obtained and for which wage garnishment has been initiated.

Reasons: The regulations were modified to reflect the changes made by the HERA.

Reconsolidation in the Direct Loan Program (§ 685.220)

Statute: Section 8009 of the HERA modified section 455(g) of the HEA to require borrowers seeking a Direct Consolidation loan to meet the same eligibility criteria as borrowers seeking a FFEL Consolidation Loan. One of these criteria provides that an FFEL borrower's eligibility to consolidate is terminated upon receipt of a FFEL Consolidation loan, except that an individual who receives eligible student loans after the date of receipt of the consolidation loan may receive a subsequent consolidation loan.

Current Regulations: The current regulations permit Direct Loan borrowers to reconsolidate a Direct Consolidation loan into a new Direct Loan Consolidation loan without including any additional loans.

New Regulations: The regulations in § 685.220 have been modified by adding new paragraph (d)(2), which requires a Direct Loan borrower seeking to include an existing Direct Consolidation loan in a new Direct Consolidation loan to include at least one additional eligible loan for consolidation.

Reasons: The regulations were modified to reflect the changes made by the HERA to the HEA.

Executive Order 12866

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and subject to review by the OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

Pursuant to the terms of the Executive order, it has been determined this regulatory action will have an annual effect on the economy of more than $100 million. Therefore, this action is ''economically significant'' and subject to OMB review under section 3(f)(1) of Executive Order 12866. The Secretary accordingly has assessed the potential costs and benefits of this regulatory action and has determined the benefits justify the costs.

Need for Federal Regulatory Action

These interim final regulations are needed to implement provisions of the HERA that affect students, borrowers and program participants in the Federal student aid programs authorized under Title IV of the HEA.

These interim final regulations also implement provisions of the HERA that modify and make permanent the provisions of the Taxpayer-Teacher Protection Act of 2004 (Pub. L. 108–409). This Act changed the calculation of special allowance payments for certain FFEL Program loans made with proceeds of tax-exempt obligations and increased teacher loan forgiveness amounts for FFEL and Direct Loan borrowers teaching in certain areas.

These interim final regulations are also needed to incorporate into the regulations the provisions of Public Law 107–139, which changed the formula for calculating special allowance payments in the FFEL Program for loans made on or after July 1, 2000 and set interest rates for FFEL and Direct Loans first disbursed on or after July 1, 2006 at fixed interest rates.

These interim final regulations are also needed to implement the statutory changes made to the HEA by the Pell Grant Hurricane and Disaster Relief Act (Pub. L. 109–66) and the Student Grant Hurricane and Disaster Relief Act (Pub. L. 109–67). These laws authorize the Secretary to waive the requirement that a student repay a Title IV, HEA grant if the student withdrew from an institution because of a major disaster.

These interim final regulations also change the Department's regulations to reflect changes made to the HEA by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Pub. L. 109–234). The Supplemental Appropriations Act amended section 428C(b)(1)(A) of the HEA to eliminate the single holder rule with respect to any FFEL Consolidation Loan for which an application is received by an eligible lender on or after June 15, 2006. This Act also repealed section 8009(a)(2) of the HERA and added back to the HEA the previous statutory conditions under which a borrower may consolidate outstanding FFEL Program loans into the Federal Direct Consolidation Loan Program.

The Secretary has limited discretion in implementing most of the HERA provisions. The majority of the changes included in these interim final regulations simply modify the Department's regulations to reflect statutory changes made by the HERA and the other laws mentioned earlier. These statutory provisions are either already effective or will be effective shortly.

The Secretary has exercised limited discretion in implementing the HERA provisions in the following areas:

- *Direct Assessment:* The HERA extends eligibility for Title IV, HEA programs to instructional programs using or recognizing the use by others of direct assessment of student learning;
- *Identity Theft:* The HERA authorizes a discharge of a FFEL or Direct Loan Program loan if the borrower's eligibility to borrow was falsely certified because the borrower was a victim of the crime of identity theft; and
- *Special Allowance Payments:* The HERA modifies the conditions under which a loan holder qualifies for special allowance interest benefits related to PLUS loans the first disbursement of which was made on or after January 1, 2000.

The following section addresses the alternatives that the Secretary considered in implementing these discretionary portions of the HERA provisions.

Regulatory Alternatives Considered

Direct Assessment Alternatives: In developing the direct assessment regulations, the Secretary drew upon the Department's experience with Western Governors University (WGU), the only institution currently participating in the Title IV student financial assistance programs that uses direct assessment, in lieu of credit or clock hours, as a

measure of student learning. WGU became an eligible institution by participating in the Distance Education Demonstration Program.

The Secretary looked at how the Title IV student financial aid rules had been applied in both the nonterm and non-standard term models employed by WGU and identified basic principles on which to base the regulations. One principle is that institutions that use direct assessment would need to develop equivalencies in credit or clock hours in terms of instructional time for the amount of student learning being assessed. This was necessary because many applicable Title IV, HEA program requirements use time and/or credit or clock hours to measure things other than student learning. In addition, institutions would have to define enrollment status, payment periods, and satisfactory academic progress.

A second principle is tied to the statutory language that characterizes direct assessment programs as instructional programs. The Secretary determined that institutions must provide a means for students to fill in the gaps in their knowledge and that Title IV, HEA program funds should only be used to pay for learning that occurs while the student is enrolled in the program.

The Secretary considered what should constitute ''instruction'' in a direct assessment program. The word ''instruction'' is not specifically defined in the Department's regulations and, in its ordinary meaning the word connotes teaching. There are several other ways, however, in which an institution might assist students to prepare for assessments. The Secretary considered whether the definition of instructional time in § 668.8(b)(3), which is used for other types of programs, could be used for direct assessment programs and determined that the definition was not sufficiently broad to be used in this context.

The Secretary recognized that institutions offering direct assessment programs might use courses or learning materials developed by other entities, such as training and professional development organizations and other educational institutions, to assist students in preparing for the assessments. The Secretary considered whether the use of outside resources could be considered contracting out a portion of an educational program and determined that it could be. Therefore, the Secretary included in the direct assessment regulations a provision that exempts direct assessment programs from the limitations on contracting for part of an educational program.

Identity Theft Alternatives: Section 8012 of the HERA authorizes a discharge of a FFEL or Direct Loan Program loan under section 437(c) of the HEA if the eligibility of the borrower was falsely certified as a result of the crime of identity theft. In developing regulations to implement section 8012, we sought to reflect the statutory language that requires the Department to discharge the borrower's responsibility to repay the loan when a ''crime of identity theft'' has occurred. The interim final regulations require that to receive a discharge on a loan, an individual must provide the holder of the loan, a copy of a local, State, or Federal court verdict or judgment that conclusively determines that the individual who is the named borrower of the loan was the victim of the crime of identity theft. We adopted this standard as an inexpensive and reliable way to implement the new discharge provision. If the perpetrator of an identity theft is never prosecuted, and no judicial determination that a crime occurred is rendered, a borrower can still be relieved of any responsibility to repay the loan under the common law (and in many instances, State law) defense of forgery. We stress this consideration in the preamble to the regulations.

One alternative we considered was to authorize a discharge for ''identity theft'' based on representations from the individual, much as is now done for closed school discharge relief, that the crime of identity theft had been committed, and that the claimant was the victim of that criminal act. We rejected this alternative as costly, unworkable, and unnecessary to provide relief to the individuals who may be victims of this crime. Under this alternative, the claimant and/or the lender would be required to submit evidence needed to establish whether conduct has occurred that would constitute the crime of identity theft. That evidence may be voluminous, difficult to obtain, and would likely include witness testimony. Amassing and transmitting that evidence would be difficult and costly for lenders and claimants. Furthermore, determining whether a crime has been committed requires discerning the identity of the perpetrator and determining the state of mind of that person. Neither the Department nor the guaranty agency is authorized to determine whether that evidence shows that a crime has been committed. That determination is routinely and reliably made through the judicial process, which is designed to perform this function. Moreover, there is no need to ignore the judicial process in order to give relief to those individuals who did not in fact take out the loans for which they are listed as borrowers. Under State statutes and common law, individuals whose signatures have been forged on loan documents are not liable for those debts. Individuals who show that their signatures have been forged on loan documents, and that they neither authorized nor received a loan made in their name, are not held liable by the Department. For these reasons, we rejected the alternative that would entail an extra-judicial proof of a crime. Instead, we simply require the claimant to submit a copy of a judicial verdict that identity theft was committed.

Special Allowance Payment Alternatives: The Department considered a number of alternatives related to the effective date for implementation of Section 8006 of the HERA, which eliminates the limitation that special allowance payments on PLUS loans for which the first disbursement was made on or after January 1, 2000, only be paid if the formula for determining the borrower interest rate produces a rate that exceeds the statutory maximum borrower rate of 9 percent.

The first alternative was to make this provision retroactive to January 1, 2000, an approach that would result in substantial additional special allowance payments to many PLUS loan holders. Although this option was suggested by some members of the student loan industry, the Department determined that this approach was inconsistent with the statute.

Other alternatives considered reflected differing interpretations of the provision's effective date. Section 8006 states that ''amendments made by this subsection shall not apply with respect to any special allowance payment made under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087–1) before April 1, 2006.'' Since special allowance payments are made on a quarterly basis, the Department had to determine whether the statute's intent was to remove the limitation on PLUS special allowance payments for the quarter of January–March 2006—the first quarter for which bills would be submitted, verified, and paid after April 1, 2006 or for the quarter of April–July 2006, the first full quarter after the HERA's enactment. The Department estimated Federal costs would increase by $53 million if the limitation was removed for the January–March quarter. This estimate was based on data on special allowance rates and balances for the affected quarter. After a careful

review of the statutory language, the Department determined that the statute's likely intent was to remove the limitation for the January March 2006 quarter, since this was the first quarter for which payments would be made after April 1, 2006. The interim final regulations reflect this determination.

Benefits

Given the breadth of these regulations, the discussion of benefits and costs will be limited in most cases to provisions with an economic impact of $100 million or more in any one year. By facilitating the implementation of changes made in the HERA and other recent student aid-related statutes, these interim final regulations will support the provision of a broad range of student benefits. In general, these benefits reduce the costs of higher education to students, increase the amount of Federal student aid or increase the number of students eligible for Federal student aid. The economic benefits of any specific change are difficult to discern, as they have direct benefit to the individual aid recipient and broader societal benefits resulting from the economic impact and tax-paying potential of a well-educated population. Research indicates that reductions in the cost of higher education are correlated to increased student enrollment, retention, and completion. The U.S. Census Bureau has found people with a bachelor's degree realize as much as 75 percent higher lifetime earnings than those whose education is limited to a high school degree. (''The Big Payoff: Educational Attainment and Synthetic Estimates of Work-Life Earnings,'' July 2002.)

Specific benefits provided to student borrowers in these interim final regulations include increases in certain FFEL and Direct Loan Program loan limits; reduced origination fees in the FFEL and Direct Loan Programs; broadened eligibility for PLUS loans to include graduate and professional students; expanded access to distance education programs; permanently expanded loan forgiveness for highly qualified math, science, and special education teachers at low-income schools; and a new deferment for FFEL, Direct Loan and Perkins Loan Program borrowers who serve on active duty military service during times of war or national emergency. These benefits are projected to increase Federal outlays by $5.2 billion for loans originated in FY 2006–2010. This estimate was developed using projected interest rate, loan volume, and borrower demographic data used in preparing the FY 2007 President's Budget. Projected loan volume and borrower data are based on trend analyses of actual program activity, primarily drawn from the National Student Loan Data System (NSLDS) and other Department systems.

The expansion of distance education made possible by the regulation's changes to the ''50 percent rule'' and the definition of correspondence courses will allow institutions to more aggressively pursue new communication technologies to provide students significantly greater flexibility in the scheduling and location of academic programs. The Department estimates this expanded flexibility will increase the pool of students eligible for Federal student aid by 30,000 students a year in 2006 and 2007, of whom 17,000 per year will be eligible to receive a Pell Grant. These additional Pell Grant recipients will receive an estimated $196 million in Pell Grant aid over 2006–2010. This estimate is based on a trend analysis of Pell Grant program data and projections of institutional and program eligibility for Federal student aid derived through the use of accreditation data.

Lastly, the regulation's teacher loan forgiveness provisions offer incentives to help address longstanding national and regional elementary and secondary school staffing problems. Many studies (Boe, Bobbitt, & Cook, 1997; Grissmer & Kirby, 1992; Murnane et al., 1991; Rumberger, 1987; and extensive research prepared for the National Commission on Mathematics and Science Teaching) have found math, science, and special education to be fields with especially high turnover and those predicted most likely to suffer shortages. More than tripling the teacher loan forgiveness amount—from $5,000 to $17,500—for qualifying teachers in these fields should offer a powerful incentive for recruitment and retention, especially given the additional eligibility requirement that recipients teach for five consecutive years before receiving the benefit. The Department estimates this expanded benefit will increase Federal loan subsidy costs in the FFEL and Direct Loan programs by $825 million for loans originated in 2007–2010. (The additional benefits were available for loans made in 2006 as a result of the Taxpayer-Teacher Protection Act of 2004, so for the purposes of this analysis benefits have only been considered for 2007 and beyond.) This estimate was developed using projected interest rate, loan volume, and borrower demographic data used in preparing the FY 2007 President's Budget. Estimates of borrower eligibility were based on program data—primarily from NSLDS—and demographic information from the National Center for Education Statistics' Schools and Staffing Survey.

In addition to implementing expanded borrower benefits, these interim final regulations also implement a number of provisions intended to improve the cost-effectiveness and efficiency of the FFEL and Direct Loan programs, streamline program operations for participating institutions, and standardize loan terms and conditions across the two programs. These changes are estimated to reduce Federal outlays by $7.0 billion for loans made in FY 2006–2010, freeing up resources for other urgent requirements. This estimate was also developed using projected interest rate, loan volume, and borrower demographic data used in preparing the FY 2007 President's Budget. Projected loan volume, guaranty agency and lender information, and borrower data are based on trend analyses of actual program activity, primarily drawn from the National Student Loan Data System (NSLDS) and other Department systems.

Provisions intended to enhance loan program efficiency include a number of changes intended to promote risk-sharing by FFEL participants through reduced program subsidies, including: Restrictions on higher-than-standard special allowance payments for loans funded through tax-exempt securities; provisions under which the Department will recover excess interest paid to loan holders when student interest payments exceed the special allowance level set in statute; and a reduction in loan holder's insurance against default from 98 percent to 97 percent of a loan's principle and accrued interest. Given the broad availability of FFEL program loans—over 4,000 lenders provided more than $43 billion in new loans and an additional $53 billion in consolidation loans in FY 2005—these changes are not expected to reduce student and parent access to loan capital.

The student loan industry features high competition among loan providers, using an array of interest rate discounts and other borrower benefits to attract volume. The overwhelming majority of student loans are sold by the originating lender in the secondary market. The impact on individual lenders of HERA provisions reducing Federal subsidies are inestimable; a substitution of subsidies for student interest rate cuts may occur or the secondary market price of securitized loans may be revalued. Given the high level of government guaranty on these loans, as well as the guaranteed rate of return, continued access to loan capital for all

borrowers should be assured. The impact on individual loan holders may be mitigated by investment and tax considerations from their investment portfolios as a whole. Higher borrower loan limits and standardized repayment terms may increase long-term interest income to some loan holders under these regulations.

Lastly, the interim final regulations include a number of provisions intended to standardize terms and conditions and broaden borrower choices, particularly for consolidation loans. These changes include the repeal of the single holder rule, which limits the ability of FFEL borrowers whose loans are held by a single holder to consolidate with other lenders, and the standardization of graduated and extended repayment plans—previously different for Direct Loans and FFEL—on the FFEL model. The repeal of the single holder rule should give all borrowers access to interest rate discounts and other benefits available through the highly competitive consolidation loan market. The standardization of repayment plan terms will eliminate a possible source of confusion for borrowers and promote equity across the two loan programs. These provisions also are expected to improve market transparency and remove transaction barriers for loan borrowers, improving market openness and efficiency for both borrowers and loan providers.

Costs

These interim final regulations include a number of provisions that will impose increased costs on some borrowers, such as an increase in the loan interest rate for FFEL PLUS borrowers, the elimination of in-school and joint consolidation loans, and the mandatory imposition of the previously optional 1 percent guaranty agency default insurance premium. (At the same time, these provisions will reduce the Federal costs of these programs and, in the case of the guaranty fee, improve the financial stability of guaranty agencies.) Prior to the HERA, these provisions allowed loan providers or guaranty agencies to discriminate among borrowers through the unequal distribution of borrower costs. While some borrowers may lose unearned benefits through these statutory and regulatory changes, market equitability and transparency are improved.

These interim final regulations also authorize the Secretary to waive a student's Title IV grant repayment if the student withdrew from an institution of higher education because of a major disaster as declared by the President in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Secretary will exercise this waiver authority on a case-by-case basis after determining that a major disaster has significantly affected recipients of Title IV grant aid.

Because entities affected by these regulations already participate in the Title IV, HEA programs, these lenders, guaranty agencies, and schools must have already established systems and procedures in place to meet program eligibility requirements. These regulations generally involve discrete changes in specific parameters associated with existing guidance—such as changes in origination fees, loan limits, or reinsurance percentages—rather than wholly new requirements. Accordingly, institutions wishing to continue to participate in the student aid programs have already absorbed most of the administrative costs related to implementing these interim final regulations. Marginal costs over this baseline are primarily related to one-time system changes that, while possibly significant in some cases, are an unavoidable cost of continued program participation. The Department is particularly interested in comments on possible administrative burdens related to these system or process changes.

Assumptions, Limitations, and Data Sources

Because these interim final regulations largely restate statutory requirements that would be self-implementing in the absence of regulatory action, cost estimates provided above reflect a prestatutory baseline in which the HERA and other statutory changes implemented in this regulation do not exist. In general, these estimates should be considered preliminary; they will be reevaluated in the final rule, based on comments received and additional program data that may be available at that time. Costs have been quantified for five years, as over time this has been a typical period between reauthorizations of the Higher Education Act.

In developing these estimates, a wide range of data sources were used, including the National Student Loan Data System, operational and financial data from Department of Education systems, and data from a range of surveys conducted by the National Center for Education Statistics such as the 2004 National Postsecondary Student Aid Survey, the 1994 National Education Longitudinal Study, and the 1996 Beginning Postsecondary Student Survey.

Elsewhere in this **SUPPLEMENTARY INFORMATION** section we identify and explain burdens specifically associated with information collection requirements. See the heading Paperwork Reduction Act of 1995.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.Whitehouse.gov/omb/Circulars/a004/a-4.pdf*), in Table 2 below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these interim final regulations. This table provides our best estimate of the changes in Federal student aid payments as a result of these interim final regulations. Expenditures are classified as transfers to postsecondary students; savings are classified as transfers from program participants (lenders, guaranty agencies).

TABLE 2.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

Category	Transfers
Annualized Monetized Transfers	$976.
From Whom To Whom?	Federal Government To Postsecondary Students; Student Aid Program Participants to Federal Government.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553), the Department is generally required to publish a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed regulations prior to issuing a final rule. In addition, all Department regulations for programs authorized

under title IV of the HEA are subject to the negotiated rulemaking requirements of section 492 of the HEA.[2] However, both the APA and HEA provide for exemptions from these rulemaking requirements. The APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency for good cause finds that notice and comment are impracticable, unnecessary or contrary to the public interest. Similarly, section 492 of the HEA provides that the Secretary is not required to conduct negotiated rulemaking for a title IV, HEA program regulation if the Secretary determines that applying that requirement is impracticable, unnecessary or contrary to the public interest within the meaning of the HEA.

Although these regulations are subject to the APA's notice-and-comment and the HEA's negotiated rulemaking requirements, the Secretary has determined that it is unnecessary and impracticable to either conduct negotiated rulemaking or notice-and-comment rulemaking on these regulations. Most of the changes made by the HERA were effective no later than July 1, 2006. To ensure proper implementation of these statutory changes, they need to be reflected in the Department's regulations. Waiver of rulemaking under the impracticability exemption in the APA and HEA is warranted because it would not be possible for the Department to comply with the APA's and HEA's rulemaking mandates and execute its statutory duties under the HERA.[3]

Even on an extremely expedited timeline, the Department could not have feasibly conduct negotiated or notice-and-comment rulemaking and then promulgated these regulations before the provisions of the HERA became effective on July 1, 2006. Negotiated rulemaking requires the Department to solicit nominations for negotiators to participate in the negotiated rulemaking sessions, select a committee of negotiators, conduct a series of negotiating sessions, publish a notice of proposed rulemaking, review public comments, and issue final regulations. Normally this process would take at least 12 months and possibly longer. The Department cannot both implement the provisions in the HERA and conduct negotiated or notice-and-comment rulemaking.

In addition, most of the changes included in these regulations simply modify the Department's regulations to reflect statutory changes made by the HERA. These statutory provisions are either already effective or will be effective within a short period of time. The Secretary does not have discretion in implementing these changes. Thus, negotiated rulemaking and notice-and-comment rulemaking are unnecessary.

Other changes in these regulations make technical corrections, remove obsolete regulatory provisions or references or align related regulatory provisions as required by the HERA and other laws. These latter changes do not establish or affect substantive policy. Negotiated rulemaking and notice-and-comment rulemaking on these provisions is unnecessary.

Therefore, under 5 U.S.C. 553(b)(B), the Secretary has determined that conducting notice-and-comment rulemaking is unnecessary and impracticable. For the same reasons, the Secretary has determined, under section 492(b)(2) of the Higher Education Act of 1965, as amended, that these regulations should not be subject to negotiated rulemaking.

These regulations are final and in effect as published, thirty days after publication in the **Federal Register**. Although the Department is adopting these regulations on an interim final basis, the Department requests public comment on these regulations. After full consideration of public comments, the Secretary will publish final regulations with any necessary changes to be effective July 1, 2007.

As discussed above, all Department regulations for programs authorized under the title IV, HEA programs are subject to the negotiated rulemaking requirements of section 492 of the HEA. In addition, section 482 of the HEA requires that any title IV regulations that have not been published in final form by November 1 prior to the start of an award year cannot become effective until the beginning of the second award year following the November 1 date.

Therefore, the Secretary has determined that although it may be feasible to conduct notice-and-comment rulemaking for the regulations that would be effective July 1, 2007, it would be impracticable to conduct negotiated rulemaking to implement the provisions of the HERA contained in these interim final regulations.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995

Sections 600.7, 600.10, 668.3, 668.8, 668.10, 668.22, 668.173, 673.5, 674.34, 682.102, 682.200, 682.207, 682.209, 682.210, 682.211, 682.215, 682.305, 682.401, 682.402, 682.404, 682.405, 682.406, 682.410, 682.415, 682.601, 682.604, 685.102, 685.204, 685.208, 685.215, 685.217 and 685.220 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education is required to submit a copy of these sections to the Office of Management and Budget (OMB) for its review. In many cases, the burden associated with the above provisions is associated with forms and applications currently approved for use under existing OMB control numbers. The Department will revise the existing information collection packages for the following sections: §§ 674.34, 682.102, 682.210, 682.402, 685.204, and 685.220. The Department is working with its major stakeholders to develop the forms and applications necessary to implement these provisions and will submit these revised packages for OMB review soon after publication of the interim final regulations and solicit comment at that time.

The Department plans to submit a full information collection package for OMB review to account for the burden associated with §§ 682.207 and 682.401 upon publication of these interim final regulations. We invite comments on these information collection sections at this time.

Lastly, the Department has increased the burden hours for the existing OMB-approved collections associated with §§ 682.215 and 685.217 to account for the increased burden. OMB approved this burden increase on June 16, 2006.

Collection of Information: Institutional Eligibility Under the Higher Education Act of 1965, as amended; Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program; Federal Work-Study Program; and Federal Supplemental Educational Opportunity Grant Program; Federal Perkins Loan Program; Federal Family Education Loan Program; and William D. Ford Federal Direct Loan Program.

[2] Section 492 provides specifically that any regulations issued for the title IV, HEA programs shall be subject to negotiated rulemaking to obtain the advice of and recommendations from individuals and groups involved in the student financial assistance programs.

[3] *See Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1484, n.2 (9th cir. 1992). The term ''impracticable'' has also been described as meaning ''a situation in which the due and required execution of the agency functions would be unavoidably prevented by its undertaking rulemaking proceedings. *Zhang* v. *Slattery,* 55 F.3d 732, 746 (2d Cir. 1995) *citing National Nutiritional Foods Ass'n* v. *Kennedy,* 572 F.2d 377, 385 (2d Cir. 1978) *citing* S. Rep. No. 752, 79th Cong., 1st Sess. (1945).

Sections 600.7 and 600.10—Modification of the 50 Percent Rules

The definition of ''telecommunications course'' is revised, and the references to telecommunications courses pertaining to calculating the percentage of correspondence courses offered by an institution are deleted so that an otherwise eligible institution that offers over 50 percent of its courses by telecommunications is now eligible to participate in the title IV, HEA programs. However, institutions that offer over 50 percent of their courses through correspondence, and foreign institutions that provide any of their programs by telecommunications or correspondence, continue to be ineligible to participate. There is no burden associated with the change in the definition of telecommunications course.

Section 668.3—Academic Year

The definition of academic year is amended to reduce from 30 to 26 the number of weeks of instructional time for a program that measures its length in clock hours. There is no burden associated with the reduction in the number of weeks of instructional time.

Section 668.8—Eligible Program

An otherwise eligible program that is offered in whole or in part through telecommunications is an eligible program for title IV, HEA program purposes. The eligible telecommunications program must be offered by an institution in the United States. The institution must have been evaluated and determined to have the capability to effectively deliver distance education programs by an accrediting agency or association. The accrediting agencies are currently reviewing telecommunications programs consistent with the scope of their authority. Therefore there is no additional burden associated with this provision.

Section 668.10—Direct Assessment Programs

The interim final regulations provide that ''direct assessment programs'' are eligible programs for Title IV purposes. A direct assessment program is an instruction program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by other measures. This assessment must be consistent with the accreditation of the institution or program utilizing the results of the assessment.

In the short-term, we expect no additional burden to be associated with direct assessment programs. We are currently aware of only one institution that utilizes such programs. Therefore, this section is not subject to the Paperwork Reduction Act of 1995.

Sections 668.22 and 668.173—Treatment of Title IV Funds When a Student Withdraws

Under these interim final regulations, the following provisions apply to title IV, HEA program funds when a student withdraws:

- The amount of a grant overpayment due from a student is limited to the amount by which the original grant overpayment amount exceeds half of the total title IV grant funds received by the student.
- When the original amount of a student's title IV grant overpayment amount is $50 or less, it is considered ''de minimis'' and does not have to be repaid or reported.
- An institution must contact a withdrawn student prior to making a post-withdrawal disbursement of a title IV loan. The institution must explain the obligation to repay the loan funds, if the post-withdrawal disbursement is accepted by the borrower. If the borrower's acceptance of the post-withdrawal disbursement is received by the institution after the deadline date for the return of the acceptance of the disbursement, and the institution chooses not to make the post-withdrawal disbursement, the institution is required to notify the borrower of the institution's action.
- Only scheduled hours, not completed hours, are used to determine the percentage of the period completed by a student withdrawing from a clock hour program.
- A student withdrawing from a clock hour program earns 100 percent of his or her aid if the student's withdrawal date occurs after the point when he or she was scheduled to complete 60 percent of the scheduled hours in the payment period or period of enrollment.
- An institution must return unearned funds no later than 45 days after a student withdraws.
- An institution may grant more than one leave of absence.
- The return of title IV funds provisions no longer apply to LEAP, SLEAP, GEAR UP and Student Support Services funds.

The burden associated with the requirement that an institution must contact and counsel a withdrawn student before making a late disbursement is offset by the requirements that simplify and facilitate the return of title IV program funds. Consequently, these changes do not increase burden.

Sections 673.5 and 682.200—Estimated Financial Assistance

Under the interim final regulations, the term ''resources'' is changed to *estimated financial assistance* for the purposes of the Federal Perkins Loan program, the Federal Work-Study program, and the FSEOG program. The term *estimated financial assistance* has also been modified to include the two new grant programs created by the HERA, and the new chapter 1607 veterans education benefits established under the Ronald W. Reagan National Defense Authorization Act for 2005. The interim final regulations also make technical changes to help clarify the existing regulatory language and to standardize the similar definitions used in the Federal Perkins Loan program, the Federal Work-Study programs, the FSEOG program, and the FFEL and Direct Loan programs. There is no burden associated with these provisions.

Section 674.34, 682.210, and 685.204—Active Duty Military Deferments

A new military deferment is established for FFEL, Direct and Perkins Loan Program borrowers who are serving on active duty, or are performing qualifying National Guard duty during a war or other military operation or national emergency. The addition of a new deferment will increase the burden hours associated with two existing OMB Control Numbers, 1845–0005—FFEL Deferment Requests and 1845–0011—Direct Loan Program Deferment Request Forms. These forms will be submitted for OMB review by November 2006. Until new forms are approved, borrowers may submit documentation to the loan holder demonstrating their eligibility for the new deferment.

Section 682.102—Obtaining and Repaying a Loan

Under the interim final regulations, this section is amended to repeal the single holder rule and to add graduate and professional students as eligible borrowers of a PLUS Loan. Repeal of the single holder rule will allow borrowers to apply to any eligible lender when consolidating their loans and will not increase or decrease the actual burden associated with obtaining a Consolidation Loan. The burden associated with the addition of the new graduate/professional PLUS Program will be reflected in the collection of information under modified OMB

Control Numbers 1845–0068—Federal Direct PLUS Loan Application and MPN and Endorser Addendum and 1845–0069—Federal PLUS Loan Application and MPN, endorser Addendum and School Certification. Borrowers may use these temporary forms until revised forms are submitted for OMB review. That submission will occur no later than October 2006.

Section 682.207—Due Diligence in Disbursing a Loan for Attendance at a Foreign School

The Department currently has the paperwork requirements in this section approved under OMB control number 1845–0020 which will be modified to reflect the burden associated with this provision. For a U.S. student attending an eligible foreign institution, FFEL program funds may be disbursed directly to the student only if the institution requests this method. For a student enrolled at a foreign institution, and a student enrolled in a study-abroad program, the lender must verify the student's enrollment at the foreign school before making a direct disbursement of FFEL funds. These new requirements represent an increased burden that will be reflected in OMB Control No. 1845–0020.

Section 682.209—Repayment of a Loan

An FFEL Stafford loan borrower may no longer request to enter repayment early on her loans. There is no additional burden associated with this provision.

Section 682.211—Forbearance

Under these interim final regulations, a lender must confirm any non-written forbearance agreement by recording the terms of the agreement in the borrower's file. There is no additional burden associated with this provision as the current regulations already permit this practice under OMB Control Number 1845–0020.

Section 682.215 and 685.217—Teacher Loan Forgiveness

Under these interim final regulations, increased teacher loan forgiveness in the amount of $17,500 is made permanent for teachers in certain specialties as originally authorized by the Taxpayer-Teacher Protection Act (TTPA) of 2004. The regulations also provide that teachers in private non-profit schools may qualify for the same forgiveness benefits if they are ''highly qualified.'' The current teacher loan forgiveness form, as currently approved by OMB under Control Number 1845–0059, reflects all of the new teacher loan forgiveness requirements of the TTPA with the exception of criteria for teachers in a private non-profit school. The current form will be revised to reflect the new criteria, but we expect no additional burden because most applicants for forgiveness are employed in public elementary and secondary schools, not private non-profit schools.

Section 682.305—Procedures for Payment of Interest and Special Allowance

These interim final regulations require the repayment by a lender of excess interest paid by the Department when the applicable interest rate on a loan for any quarter exceeds the special allowance support level for the loan. The Secretary will collect the excess interest from lenders quarterly. This change represents no increase in burden. The Secretary will make the calculation of excess interest owed by a lender. The lender will pay excess interest to the Secretary under existing processes.

Section 682.401—Basic Program Agreement

The HERA establishes a new College Access Initiative for guaranty agencies to create and carry out a plan to promote access to postsecondary education for each State. While most of the agencies and/or other State government entities already offer this information, we expect this requirement will affect the 35 existing guaranty agencies by 100 hours each, creating a total burden of 3500 hours. The Department will amend OMB Control Number 1845–0020—Federal Family Education Loan Program Regulations to reflect this increase in burden hours.

The following other provisions are being amended but will not produce additional burden. The amount of lender insurance paid to lenders as reimbursement for defaulted loans will decrease. This will not require additional burden since it is merely a change in the percentage used in the calculation of the payment to the lender. Each guaranty agency must now establish procedures to ensure that consolidation loans are not an excessive proportion of its recoveries on defaulted loans. In addition, a guaranty agency must now remit to the Secretary 8.5% of the collection costs it recovers from the borrower or, if the amount of the proceeds from the consolidation of defaulted loans exceeds 45 percent of the agency's total collections on defaulted loans in that Federal fiscal year, all of the collection costs recovered by payment from the consolidation loan. Remitting part or all of the collection costs will not result in additional burden to the guaranty agency since it is already calculated for other purposes. The interim final regulations eliminate the current, optional 1 percent insurance premium fee that guaranty agencies may charge the lender, and replace it with a mandatory 1 percent Federal default fee deducted and collected from the proceeds of the loan or from other non-federal sources. This will not result in additional burden since the prior fee calculation is eliminated and the new fee replaces it.

Sections 682.402 and 685.215—Identity Theft

Under these interim final regulations, the regulations have been amended to authorize discharge of a FFEL or Direct Loan Program loan if the borrower's eligibility was falsely certified because the borrower was a victim of the crime of identity theft. The regulations provide that the borrower's obligation is discharged if the borrower provides the holder of a loan, or the Secretary in the case of a Direct Loan, a copy of a local, State, or Federal court verdict or judgment that conclusively determines that the individual who is the named borrower was the victim of the crime of identity theft. If the judgment or conviction did not expressly reference that loan, the individual must provide authentic examples of his other identification credentials, and an explanation of facts that demonstrate that this criminal conduct resulted in the school certifying that individual's eligibility to borrow, and, as a result, in the loan being made.

The additions do not change the burden hours associated with this section of the regulations. The burden associated with the new requirements will be accounted for under OMB Control Number 1845–0015—FFEL, Direct Loan and Perkins Loan Discharge Applications. These forms will be submitted for OMB review by December 2006. Until new forms are approved, borrowers may submit documentation to the loan holder demonstrating their eligibility for the discharge.

Section 682.404—Federal Reinsurance Agreement

Under these interim final regulations, for loans on which the first disbursement of principal is made on or after July 1, 2006, a guaranty agency will receive 100 percent reinsurance from the Department on ''exempt claims.'' The interim final regulation simply increases the amount of reinsurance paid to guaranty agencies on these claims. This provision does not increase burden because payment of these claims

is already part of the process under which the Secretary pays reinsurance to the guaranty agencies.

Section 682.405—Rehabilitation of a Defaulted Loan

The regulations have been amended to require a FFEL borrower to make 9 payments within 20 days of the due date during a period of 10 consecutive months to rehabilitate a defaulted loan. Previously, the regulations required the borrower to make 12 consecutive on-time monthly payments. The new requirement that the borrower make fewer payments will not change the burden associated with the rehabilitation of a defaulted FFEL loan. The requirements that a borrower must request rehabilitation, and that a guaranty agency must attempt to secure a lender to purchase the loan after it has been successfully rehabilitated, remain unchanged.

Section 682.406—Conditions for Claim Payments From the Federal Fund and Reinsurance Coverage

The amount of time a guaranty agency is allowed for filing a reinsurance claim with the Department is reduced from 45 days to 30 days. However, the process under which the guaranty agency is required to submit a reinsurance claim is unchanged. Consequently, there is no change in burden.

Section 682.410—Fiscal, Administrative and Enforcement Procedures

The amount of a borrower's disposable pay that can be garnished is increased from 10 to 15 percent effective July 1, 2006. There is no burden associated with this change because it has no impact on the manner in which any borrower's wages are currently garnished.

Section 682.415—Special Insurance and Reinsurance

The insurance percentage applicable to lenders or lenders servicers who are designated as exceptional performers is decreased from 100 percent to 99 percent. There is no burden associated with this change. All other factors of reimbursement remain the same.

Section 682.601—School-as-Lender

The current regulations are replaced with an expanded set of requirements for participation as a school-as-lender. The primary requirement to be designated a school-as-lender is that the institution met the requirements in effect as of February 7, 2006, and made loans on or before April 1, 2006. There is no additional burden for institutions since the new requirements are based on data already collected by the institution, reports that are already required, and/or procedures of standard use at institutions.

Section 682.604—Processing Loan Proceeds and Counseling the Borrower

The exemption from the multiple disbursement requirements for eligible foreign institutions is removed. Lenders and guaranty agencies are now required to disburse the proceeds of a loan in two or more installments, neither of which exceeds one-half of the loan. This change will not increase burden. In the vast majority of cases, the lender or guaranty agency is already required to disburse a loan in two installments as a regular business practice under the requirements of the HEA and the FFEL Program regulations.

Section 685.220—Consolidation

Under these interim final regulations, the borrower eligibility requirements of the FFEL and Federal Direct Consolidation Loan programs are harmonized to eliminate program differences and to reflect the repeal of section 8009(a)(2) of the HERA, which restricted the conditions under which a FFEL borrower could obtain a Federal Consolidation Loan. The burden associated with the collection of information will be reflected in the modified OMB Control Number 1845–0036—FFEL Consolidation Loan Application and Promissory Note and OMB Control Number 1845–0053—Federal Direct Consolidation Loan Program Application Documents.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education. You may also send a copy of these comments to the Department representative named in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

We consider your comments on these proposed collections of information in—

- Deciding whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these interim final regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication.

Assessment of Educational Impact

Based on our own review, we have determined that these interim final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family Education Loan Program; 84.038 Federal Perkins Loan Program; 84.268 William D. Ford Federal Direct Loan Program)

List of Subjects

34 CFR Parts 600 and 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student Aid, Vocational education.

34 CFR Parts 673, 675 and 676

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Employment, Grant programs—education, Loan programs—education,

Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Parts 674, 682, and 685

Administrative Practice and Procedure, Colleges and universities, Education, Loans program—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: August 1, 2006.

Margaret Spellings,

Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends parts 600, 668, 673, 674, 675, 676, 682, and 685 of title 34 of the Code of Federal Regulations as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

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

Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099(c), unless otherwise noted.

■ 2. Section 600.2 is amended by:

■ A. In the definition of *Correspondence course,* removing paragraph (3) and redesignating paragraph (4) as paragraph (3);

■ B. Adding a definition of *Direct assessment program;*

■ C. Revising the definitions of *Educational program* and *Telecommunications course.*

The revisions and addition read as follows:

§ 600.2 Definitions.

* * * * *

Direct assessment program: A program as described in 34 CFR 668.10.

Educational program: (1) A legally authorized postsecondary program of organized instruction or study that:

(i) Leads to an academic, professional, or vocational degree, or certificate, or other recognized educational credential; and

(ii) May, in lieu of credit hours or clock hours as a measure of student learning, utilize direct assessment of student learning, or recognize the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment and with the provisions of § 668.10.

(2) The Secretary does not consider that an institution provides an educational program if the institution does not provide instruction itself (including a course of independent study) but merely gives credit for one or more of the following: Instruction provided by other institutions or schools; examinations or direct assessments provided by agencies or organizations; or other accomplishments such as ''life experience.''

* * *

Telecommunications course: A course offered principally through the use of one or a combination of technologies including television, audio, or computer transmission through open broadcast, closed circuit, cable, microwave, or satellite; audio conferencing; computer conferencing; or video cassettes or discs to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between these students and the instructor, either synchronously or asynchronously. The term does not include a course that is delivered using video cassettes or disc recordings unless that course is delivered to students physically attending classes at the institution providing the course during the same award year. If the course does not qualify as a telecommunications course, it is considered to be a correspondence course.

* * * * *

■ 3. Section 600.7 is amended by:

■ A. Removing paragraph (b)(1).

■ B. Redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(1) and (b)(2), respectively;

■ C. Revising the heading of the newly redesignated paragraph (b)(1) to read as set forth below;

■ D. In the newly redesignated paragraph (b)(2)(i), removing the words ''section 521(4)(C)'' and adding in their place the words ''section 3(3)(C)'' and adding at the end of the sentence the words ''of 1995.''

§ 600.7 Conditions of institutional ineligibility.

* * * * *

(b)* * *

(1) *Calculating the number of correspondence courses.* * * *

* * * * *

§ 600.10 [Amended]

■ 4. Section 600.10(c)(2) is amended by adding the words ''except as provided in 34 CFR 668.10'' after the words ''eligible program of that institution''.

§ 600.21 [Amended]

■ 5. Section 600.21(a)(4) is amended by adding at the beginning of the paragraph, the words ''Except as provided in 34 CFR 668.10,''.

■ 6. Section 600.51 is amended by adding a new paragraph (d) to read as follows:

§ 600.51 Purpose and scope.

* * * * *

(d)(1) A program offered by a foreign school through any use of a telecommunications course, correspondence course, or direct assessment program is not an eligible program;

(2) *Correspondence course* has the meaning given in § 600.2;

(3) *Direct assessment program* has the meaning given in § 668.10(a)(1) of this chapter;

(4) *Telecommunications course* is a course offered through any one or a combination of the technologies listed in the definition of telecommunications course in § 600.2, except that telecommunications technologies may be used to supplement and support instruction that is offered in a classroom located in the foreign country where the students and instructor are physically present.

* * * * *

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

■ 7. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1085, 1091b, 1092, 1094, 1099c, and 1099c–1, unless otherwise noted.

■ 8. Section 668.2(b) is amended by removing the word ''parent'' from the definition of *Federal Consolidation Loan Program* and by revising the definitions of *Federal Direct PLUS Program* and *Federal PLUS program.* The authority citations for these definitions remain unchanged.

The revisions read as follows:

§ 668.2 General definitions.

* * * * *

(b) * * *

Federal Direct PLUS Program: A loan program authorized by title IV, Part D of the HEA that is one of the components of the Direct Loan Program. The Federal Direct PLUS Program provides loans to parents of dependent students attending schools that participate in the Direct Loan Program. The Federal Direct PLUS Program also provides loans to graduate or professional students attending schools that participate in the Direct Loan Program. The borrower is responsible for the interest that accrues during any period.

* * * * *

Federal PLUS program: The loan program authorized by Title IV–B,

section 428B, of the HEA, that encourages the making of loans to parents of undergraduate students. Before October 17, 1986, the PLUS Program also provided for making loans to graduate, professional, and independent undergraduate students. Before July 1, 1993, the PLUS Program also provided for making loans to parents of dependent graduate students. Beginning July 1, 2006, the PLUS Program provides for making loans to graduate and professional students.

* * * * *

■ 9. Section 668.3 is amended by revising paragraph (a) to read as follows:

§ 668.3 Academic year.

(a) *General.* Except as provided in paragraph (c) of this section, an academic year for a program of study must include—

(1)(i) For a program offered in credit hours, a minimum of 30 weeks of instructional time; or

(ii) For a program offered in clock hours, a minimum of 26 weeks of instructional time; and

(2) For an undergraduate educational program, an amount of instructional time whereby a full-time student is expected to complete at least—

(i) Twenty-four semester or trimester credit hours or 36 quarter credit hours for a program measured in credit hours; or

(ii) 900 clock hours for a program measured in clock hours.

* * * * *

■ 10. Section 668.8 is amended by adding new paragraphs (m) and (n) to read as follows:

§ 668.8 Eligible program.

* * * * *

(m) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for title IV, HEA program purposes if the program is offered by an institution, other than a foreign institution, that has been evaluated and is accredited for its effective delivery of distance education programs by an accrediting agency or association that—

(1) Is recognized by the Secretary under subpart 2 of part H of the HEA; and

(2) Has accreditation of distance education within the scope of its recognition.

(n) For title IV, HEA program purposes, the term *eligible program* includes a direct assessment program approved by the Secretary under 34 CFR 668.10.

* * * * *

■ 11. New Section 668.10 is added to read as follows:

§ 668.10 Direct assessment programs.

(a)(1) A *direct assessment program* is an instructional program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others. The assessment must be consistent with the accreditation of the institution or program utilizing the results of the assessment.

(2) Direct assessment of student learning means a measure by the institution of what a student knows and can do in terms of the body of knowledge making up the educational program. These measures provide evidence that a student has command of a specific subject, content area, or skill or that the student demonstrates a specific quality such as creativity, analysis or synthesis associated with the subject matter of the program. Examples of direct measures include projects, papers, examinations, presentations, performances, and portfolios.

(3) All regulatory requirements in this chapter that refer to credit or clock hours as a measurement apply to direct assessment programs. Because a direct assessment program does not utilize credit or clock hours as a measure of student learning, an institution must determine the number of credit or clock hours that the program (or portion of the program, as applicable) is equivalent to in credit hours or clock hours in order to demonstrate compliance with the regulatory requirements in this chapter. The institution must provide a factual basis satisfactory to the Secretary for its claim that the program is equivalent to a specific number of credit or clock hours.

(i) An academic year in a direct assessment program is a period of instructional time that consists of a minimum of 30 weeks of instructional time during which, for an undergraduate educational program, a full-time student is expected to complete the equivalent of at least 24 semester or trimester credit hours, 36 quarter credit hours or 900 clock hours.

(ii) A payment period in a direct assessment program for which equivalence in credit hours has been established must be determined under the requirements in § 668.4(a) or (b), as applicable, using the academic year determined in accordance with paragraph (a)(3)(i) of this section (or the portion of that academic year comprising or remaining in the program). A payment period in a direct assessment program for which equivalence in clock hours has been established must be determined under the requirements in § 668.4(c), using the academic year determined in accordance with paragraph (a)(3)(i) of this section (or the portion of that academic year comprising or remaining in the program).

(iii) A week of instructional time in a direct assessment program is any seven-day period in which at least one day of educational activity occurs. Educational activity in a direct assessment program includes regularly scheduled learning sessions, faculty-guided independent study, consultations with a faculty mentor, development of an academic action plan addressed to competencies identified by the institution, or, in combination with any of the foregoing, assessments. It does not include credit for ''life experience''.

(iv) A full-time student in a direct assessment program is an enrolled student who is carrying a full-time academic workload as determined by the institution under a standard applicable to all students enrolled in the program. However, for an undergraduate student, the institution's minimum standard must equal or exceed the minimum full-time requirements specified in the definition of *full-time student* in § 668.2 based on the credit or clock hour equivalency established by the institution for the direct assessment program.

(v) A half-time student in a direct assessment program is an enrolled student who is carrying half of the academic workload of a full-time student in that program.

(vi) A three-quarter-time student in a direct assessment program is an enrolled student who is carrying three-quarters of the academic workload of a full-time student in that program.

(b) An institution that offers a direct assessment program must apply to the Secretary to have that program determined to be an eligible program for title IV, HEA program purposes. The institution's application must provide information satisfactory to the Secretary that includes—

(1) A description of the educational program, including the educational credential offered (degree level or certificate) and the field of study;

(2) A description of how the assessment of student learning is done;

(3) A description of how the direct assessment program is structured, including information about how and when the institution determines on an individual basis what each student enrolled in the program needs to learn;

(4) A description of how the institution assists students in gaining the knowledge needed to pass the assessments;

(5) The number of semester or quarter credit hours, or clock hours, that are equivalent to the amount of student learning being directly assessed for the certificate or degree, as required by paragraph (b)(3) of this section;

(6) The methodology the institution uses to determine the number of credit or clock hours to which the program is equivalent;

(7) The methodology the institution uses to determine the number of credit or clock hours to which the portion of a program an individual student will need to complete is equivalent;

(8) Documentation from the institution's accrediting agency indicating that the agency has evaluated the institution's offering of direct assessment program(s) and has included the program(s) in the institution's grant of accreditation;

(9) Documentation from the accrediting agency or relevant state licensing body indicating agreement with the institution's claim of the direct assessment program's equivalence in terms of credit or clock hours; and

(10) Any other information the Secretary may require to determine whether to approve the institution's application.

(c) To be an eligible program, a direct assessment program must meet the requirements in § 668.8 including, if applicable, minimum program length and qualitative factors.

(d) Notwithstanding paragraphs (a) through (c) of this section, no program offered by a foreign institution that involves direct assessment will be considered to be an eligible program under § 668.8.

(e) A direct assessment program may use learning resources (e.g., courses or portions of courses) that are provided by entities other than the institution providing the direct assessment program without regard to the limitations on contracting for part of an educational program in § 668.5(c)(3).

(f) Title IV, HEA program funds may be used only for learning that results from instruction provided, or overseen, by the institution, not for the portion of the program that the student has demonstrated mastery of prior to enrollment in the program or tests of learning that are not associated with educational activities overseen by the institution.

(g) Title IV, HEA program eligibility with respect to direct assessment programs is limited to direct assessment programs approved by the Secretary. Title IV, HEA program funds may not be used for—

(1) the course of study described in § 668.32(a)(1)(ii) and (iii) if offered by direct assessment, or

(2) remedial coursework described in § 668.20 offered by direct assessment. However, remedial instruction that is offered in credit or clock hours in conjunction with a direct assessment program is eligible for title IV, HEA program funds.

(h) The Secretary's approval of a direct assessment program expires on the date that the institution changes one or more aspects of the program described in the institution's application submitted under paragraph (b) of this section. To maintain program eligibility, the institution must obtain prior approval from the Secretary through reapplication under paragraph (b) of this section that sets forth the revisions proposed.

§ 668.15 [Amended]

■ 12. Section 668.15 is amended by:
■ A. In paragraph (d)(1)(i)(C) removing the parentheticals ''(j)(4)'' and adding, in their place, the parenthetical ''(j)''.
■ B. In paragraph (d)(1)(ii)(B) removing the figure ''§ 668.22(h)'' and adding, in its place, the figure ''§ 668.22(i)''.
■ 13. Section 668.22 is amended by:
■ A. Revising paragraph (a)(1).
■ B. Redesignating paragraphs (a)(2), (a)(3), and (a)(4) as paragraphs (a)(3), (a)(4), and (a)(5), respectively.
■ C. Adding a new paragraph (a)(2).
■ D. In newly redesignated paragraph (a)(4) removing the parenthetical ''(a)(4)'' and adding, in its place, the parenthetical ''(a)(5)''.
■ E. Revising newly redesignated paragraph (a)(5).
■ F. Revising paragraph (e)(2).
■ G. Revising paragraph (f)(1)(ii).
■ H. In paragraph (h)(3) in the introductory text, adding the word ''parent'' after the words ''funds due to a''.
■ I. Revising paragraph (h)(3)(ii).
■ J. Adding a new paragraph (h)(5).
■ K. Revising paragraph (i)(2).
■ L. In paragraph (j)(1), removing the figure ''30'' and adding, in its place, the figure ''45''.

The revisions and additions read as follows:

§ 668.22 Treatment of title IV funds when a student withdraws.

(a) *General.* (1) When a recipient of title IV grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the institution must determine the amount of title IV grant or loan assistance that the student earned as of the student's withdrawal date in accordance with paragraph (e) of this section.

(2) For purposes of this section, ''title IV grant or loan assistance'' includes only assistance from the Federal Perkins Loan, Direct Loan, FFEL, Federal Pell Grant, Academic Competitiveness Grant, National SMART Grant, and FSEOG programs, not including the non-Federal share of FSEOG awards if an institution meets its FSEOG matching share by the individual recipient method or the aggregate method.

* * * * *

(5)(i) A post-withdrawal disbursement must be made from available grant funds before available loan funds.

(ii)(A) If outstanding charges exist on the student's account, the institution may credit the student's account up to the amount of outstanding charges with all or a portion of any—

(*1*) Grant funds that make up the post-withdrawal disbursement in accordance with § 668.164(d)(1) and (d)(2); and

(*2*) Loan funds that make up the post-withdrawal disbursement in accordance with § 668.164(d)(1), (d)(2) and (d)(3) only after obtaining confirmation from the student or parent, in the case of a parent PLUS loan, that they still wish to have the loan funds disbursed in accordance with paragraph (a)(5)(iii) of this section.

(B)(*1*) The institution must offer to disburse directly to a student, or parent in the case of a parent PLUS loan, any amount of a post-withdrawal disbursement that is not credited to the student's account, or for which the institution is not required to obtain confirmation to credit to the student's account, to the student, or the parent in the case of a parent PLUS loan, in accordance with paragraph (a)(5)(iii) of this section.

(*2*) The institution must make a direct disbursement of any grant or loan funds that make up the post-withdrawal disbursement only after obtaining the student's, or parent's in the case of a parent PLUS loan, confirmation that they still wish to have the grant or loan funds disbursed in accordance with paragraph (a)(5)(iii).

(iii)(A) The institution must provide within 30 days of the date of the institution's determination that the student withdrew, as defined in paragraph (l)(3) of this section, a written notification to the student, or parent in the case of parent PLUS loan, that—

(*1*) Requests confirmation of any post-withdrawal disbursement of loan funds that the institution wishes to credit to the student's account in accordance with paragraph (a)(5)(ii)(A)(*2*),

identifying the type and amount of those loan funds and explaining that a student, or parent in the case of a parent PLUS loan, may accept or decline some or all of those funds;

(*2*) Requests confirmation of any post-withdrawal disbursement of grant or loan funds that the student, or parent in the case of a parent PLUS loan, can receive as a direct disbursement, identifying the type and amount of these title IV funds and explaining that the student, or parent in the case of a parent PLUS loan, may accept or decline some or all of those funds;

(*3.*) Explains that a student, or parent in the case of a parent PLUS loan, who does not confirm that a post-withdrawal disbursement of loan funds may be credited to the student's account may not receive any of those loan funds as a direct disbursement unless the institution concurs;

(*4*) Explains the obligation of the student, or parent in the case of a parent PLUS loan, to repay any loan funds he or she chooses to have disbursed; and

(*5*) Advises the student, or parent in the case of a parent PLUS loan, that no post-withdrawal disbursement will be made, unless the institution chooses to make a post-withdrawal disbursement based on a late response in accordance with paragraph (a)(5)(iii)(C) of this section, if the student or parent in the case of a parent PLUS loan, does not respond within 14 days of the date that the institution sent the notification, or a later deadline set by the institution.

(B) The deadline for a student, or parent in the case of a parent PLUS loan, to accept a post-withdrawal disbursement under paragraph (a)(5)(iii)(A)(*4*) must be the same for both a confirmation of a direct disbursement of the post-withdrawal disbursement and a confirmation of a post-withdrawal disbursement of loan funds to be credited to the student's account;

(C) If the student, or parent in the case of a parent PLUS loan, submits a timely response that confirms that they wish to receive all or a portion of a direct disbursement of the post-withdrawal disbursement, or confirms that a post-withdrawal disbursement of loan funds may be credited to the student's account, the institution must disburse the funds in the manner specified by the student, or parent in the case of a parent PLUS loan, within 120 days of the date of the institution's determination that the student withdrew, as defined in paragraph (l)(3) of this section.

(D) If a student, or parent in the case of a parent PLUS loan, submits a late response to the institution's notice requesting confirmation, the institution may make the post-withdrawal disbursement as instructed by the student, or parent in the case of a parent PLUS loan (provided the institution disburses all the funds accepted by the student, or parent in the case of a parent PLUS loan), or decline to do so.

(E) If a student, or parent in the case of a parent PLUS loan, submits a late response to the institution and the institution does not choose to make the post-withdrawal disbursement, the institution must inform the student, or parent in the case of a parent PLUS loan, electronically or in writing of the outcome of the post-withdrawal disbursement request.

(F) If the student, or parent in the case of a parent PLUS loan, does not respond to the institution's notice, no portion of the post-withdrawal disbursement of loan funds that the institution wishes to credit to the student's account, nor any portion that would be disbursed directly to the student, or parent in the case of a parent PLUS loan, may be disbursed.

(iv) An institution must document in the student's file the result of any notification made in accordance with paragraph (a)(5)(iii) of this section of the student's right to cancel all or a portion of loan funds or of the student's right to accept or decline loan funds, and the final determination made concerning the disbursement.

* * * * *

(e) * * *

(2) *Percentage earned.* The percentage of title IV grant or loan assistance that has been earned by the student is—

(i) Equal to the percentage of the payment period or period of enrollment that the student completed (as determined in accordance with paragraph (f) of this section) as of the student's withdrawal date, if this date occurs on or before—

(A) Completion of 60 percent of the payment period or period of enrollment for a program that is measured in credit hours; or

(B) Sixty percent of the clock hours scheduled to be completed for the payment period or period of enrollment for a program that is measured in clock hours; or

(ii) 100 percent, if the student's withdrawal date occurs after—

(A) Completion of 60 percent of the payment period or period of enrollment for a program that is measured in credit hours; or

(B) Sixty percent of the clock hours scheduled to be completed for the payment period or period of enrollment for a program measured in clock hours.

* * * * *

(f) * * *

(1) * * *

(ii)(A) In the case of a program that is measured in clock hours, by dividing the total number of clock hours in the payment period or period of enrollment into the number of clock hours scheduled to be completed as of the student's withdrawal date.

(B) The scheduled clock hours used must be those established by the institution prior to the student's beginning class date for the payment period or period of enrollment and must be consistent with the published materials describing the institution's programs, unless the schedule was modified prior to the student's withdrawal.

(C) The schedule must have been established in accordance with requirements of the accrediting agency and the State licensing agency, if such standards exist.

* * * * *

(h) * * *

(3) * * *

(ii) Any title IV grant program as an overpayment of the grant; however, a student is not required to return the following—

(A) The portion of a grant overpayment amount that is equal to or less than 50 percent of the total grant assistance that was disbursed (and that could have been disbursed, as defined in paragraph (l)(1) of this section) to the student for the payment period or period of enrollment.

(B) A grant overpayment amount, as determined after application of paragraph (h)(3)(ii)(A) of this section, of 50 dollars or less that is not a remaining balance.

* * * * *

(5) The Secretary may waive grant overpayment amounts that students are required to return under this section if the withdrawals on which the returns are based are withdrawals by students—

(i) Who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

(ii) Whose attendance was interrupted because of the impact of the disaster on the student or institution; and

(iii) Whose withdrawal ended within the award year during which the designation occurred or during the next succeeding award year.

* * * * *

(i) * * *

(2) *Remaining funds.* If unearned funds remain to be returned after

repayment of all outstanding loan amounts, the remaining excess must be credited to any amount awarded for the payment period or period of enrollment for which a return of funds is required in the following order:

(i) Federal Pell Grants.

(ii) Academic Competitiveness Grants.

(iii) National SMART Grants.

(iv) FSEOG Program aid.

* * * * *

■ 14. Section 668.32 is amended by:

■ A. In paragraph (k)(7), removing the word ''and'' after the punctuation '';'' at the end of the paragraph.

■ B. In paragraph (l), removing the punctuation ''.'' at the end of the paragraph and adding, in its place, the words ''; and''.

■ C. Adding a new paragraph (m).

The addition reads as follows:

§ 668.32 Student eligibility—general.

* * * * *

(m) In the case of a student who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance, has completed the repayment of such assistance to:

(1) The Secretary; or

(2) The holder, in the case of a title IV, HEA program loan.

* * * * *

■ 15. Section 668.35 is amended by:

■ A. Revising the introductory text in paragraph (e).

■ B. In paragraph (h)(2)(ii), removing the punctuation ''.'' at the end of the paragraph and adding, in its place, the words ''; and''.

■ C. Adding new paragraph (i).

The revisions and additions read as follows:

§ 668.35 Student debts under the HEA and to the U.S.

* * * * *

(e) Except as provided in 34 CFR 668.22(h), a student who receives an overpayment under the Federal Perkins Loan Program, or under a title IV, HEA grant program, may nevertheless be eligible to receive title IV, HEA program assistance if—

* * * * *

(i) In the case of a student who has been convicted of, or has pled nolo contendere or guilty to a crime involving fraud in obtaining title IV, HEA program assistance, has completed the repayment of such assistance to:

(1) The Secretary; or

(2) The holder, in the case of a title IV, HEA program loan.

* * * * *

■ 16. Section 668.38 is amended by:

■ A. Removing paragraph (b)(3); and

■ B. Revising paragraphs (b)(1) and (b)(2).

The revisions read as follows:

§ 668.38 Enrollment in telecommunications and correspondence courses.

* * * * *

(b) * * *

(1) For purposes of this section, a student enrolled in a telecommunications course at an institution of higher education is not enrolled in a correspondence course.

(2) For purposes of paragraph (b)(1) of this section, an institution of higher education is one that is not an institute or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Applied Technology Act of 1995.

* * * * *

■ 17. Section 668.40(a)(1) is revised to read as follows:

§ 668.40 Conviction for possession or sale of illegal drugs.

(a)(1) A student is ineligible to receive title IV, HEA program funds, for the period described in paragraph (b) of this section, if the student has been convicted of an offense under any Federal or State law involving the possession or sale of illegal drugs for conduct that occurred during a period of enrollment for which the student was receiving title IV, HEA program funds. However, the student may regain eligibility before that time period expires under the conditions described in paragraph (c) of this section.

* * * * *

§ 668.164 [Amended]

■ 18. Section 668.164 is amended by, in paragraph (g)(3)(i), removing the parentheticals ''(a)(4)'' and adding, in their place, the parentheticals ''(a)(5)'' and removing the parentheticals ''(a)(3)'' and adding, in their place the parentheticals ''(a)(4)''.

■ 19. Section 668.173 is amended by revising paragraph (b) to read as follows:

§ 668.173 Refund reserve standards.

* * * * *

(b) *Timely return of title IV, HEA program funds.* In accordance with procedures established by the Secretary or FFEL Program lender, an institution returns unearned title IV, HEA program funds timely if—

(1) The institution deposits or transfers the funds into the bank account it maintains under § 668.163 no later than 45 days after the date it determines that the student withdrew;

(2) The institution initiates an electronic funds transfer (EFT) no later than 45 days after the date it determines that the student withdrew;

(3) The institution initiates an electronic transaction, no later than 45 days after the date it determines that the student withdrew, that informs a FFEL lender to adjust the borrower's loan account for the amount returned; or

(4) The institution issues a check no later than 45 days after the date it determines that the student withdrew. An institution does not satisfy this requirement if—

(i) The institution's records show that the check was issued more than 45 days after the date the institution determined that the student withdrew; or

(ii) The date on the cancelled check shows that the bank used by the Secretary or FFEL Program lender endorsed that check more than 60 days after the date the institution determined that the student withdrew.

* * * * *

PART 673—GENERAL PROVISIONS FOR THE FEDERAL PERKINS LOAN PROGRAM, FEDERAL WORK-STUDY PROGRAM, AND FEDERAL SUPPLEMENTAL EDUCTIONAL OPPORTUNITY GRANT PROGRAM

■ 20. The authority citation for part 673 continues to read as follows:

Authority: 20 U.S.C. 421–429, 1070b–1070b–3, and 1087aa–1087ii; 42 U.S.C. 2751–2756b, unless otherwise noted.

■ 21. Section 673.5 is amended by revising paragraphs (a), (b), (c) and (d) to read as follows:

§ 673.5 Overaward.

(a) *Overaward prohibited*—(1) *Federal Perkins Loan and FSEOG Programs.* An institution may only award or disburse a Federal Perkins loan or an FSEOG to a student if that loan or the FSEOG, combined with the other estimated financial assistance the student receives, does not exceed the student's financial need.

(2) *FWS Program.* An institution may only award FWS employment to a student if the award, combined with the other estimated financial assistance the student receives, does not exceed the student's financial need.

(b) *Awarding and disbursement.* (1) When awarding and disbursing a Federal Perkins loan or an FSEOG or awarding FWS employment to a student, the institution shall take into account those amounts of estimated financial assistance it—

(i) Can reasonably anticipate at the time it awards Federal Perkins Loan funds, an FSEOG, or FWS funds to the student;

(ii) Makes available to its students; or

(iii) Otherwise knows about.

(2) If a student receives amounts of estimated financial assistance at any time during the award period that were not considered in calculating the Federal Perkins Loan amount or the FWS or FSEOG award, and the total amount of estimated financial assistance including the loan, the FSEOG, or the prospective FWS wages exceeds the student's need, the overaward is the amount that exceeds need.

(c) *Estimated financial assistance.* (1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, the Secretary considers that ''estimated financial assistance'' includes, but is not limited to, any—

(i) Funds a student is entitled to receive from a Federal Pell Grant;

(ii) William D. Ford Federal Direct Loans;

(iii) Federal Family Education Loans;

(iv) Long-term need-based loans, including Federal Perkins loans;

(v) Grants, including FSEOGs, State grants, Academic Competitiveness Grants, National SMART Grants, and ROTC subsistence allowances;

(vi) Scholarships, including athletic scholarships and ROTC scholarships;

(vii) Waivers of tuition and fees;

(viii) Fellowships or assistantships, except non-need-based employment portions of such awards;

(ix) Veterans educational benefits paid under Chapters 30 (Montgomery GI Bill-Active Duty), 31 (Vocational Rehabilitation and Employment Program), 32 (Veterans' Educational Assistance Program), and 35 (Dependents' Educational Assistance Program) of title 38 of the United States Code, and Chapters 31 (National Call to Service), 1606 (Montgomery GI Bill-Selected Reserve), and 1607 (Reserve Educational Assistance Program) of title 10 of the United States Code;

(x) National service education awards or post-service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps);

(xi) Net earnings from need-based employment;

(xii) Insurance programs for the student's education; and

(xiii) Any educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary education expenses.

(2) The Secretary does not consider as estimated financial assistance—

(i) Any portion of the estimated financial assistance described in paragraph (c)(1) of this section that is included in the calculation of the student's expected family contribution (EFC);

(ii) Earnings from non-need-based employment;

(iii) Those amounts used to replace EFC, including the amounts of any unsubsidized Federal Stafford or Direct Loans, Federal PLUS or Federal Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the loan amounts received that are being used to replace the student's EFC actually exceed the EFC, the excess amount must be treated as estimated financial assistance; and

(iv) Assistance not received under this part if that assistance is designated to offset all or a portion of a specific component of the cost of attendance and that amount is excluded from the cost of attendance as well. If that assistance is excluded from either estimated financial assistance or cost of attendance, that amount must be excluded from both.

(3) The institution may also exclude as estimated financial assistance any portion of a subsidized Federal Stafford or Direct Loan that is equal to or less than the amount of a student's veterans education benefits paid under Chapter 30 of title 38 of the United States Code (Montgomery GI Bill—Active Duty) and national service education awards or post service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps).

(d) *Treatment of estimated financial assistance in excess of need—General.* An institution shall take the following steps if it learns that a student has received additional amounts of estimated financial assistance not included in the calculation of Federal Perkins Loan, FWS, or FSEOG eligibility that would result in the student's total amount of estimated financial assistance exceeding his or her financial need by more than $300:

(1) The institution shall decide whether the student has increased financial need that was unanticipated when it awarded financial aid to the student. If the student demonstrates increased financial need and the total amount of estimated financial assistance does not exceed this increased need by more than $300, no further action is necessary.

(2) If the student's total amount of estimated financial assistance still exceeds his or her need by more than $300, as recalculated pursuant to paragraph (d)(1) of this section, the institution shall cancel any undisbursed loan or grant (other than a Federal Pell Grant).

(3) *Federal Perkins loan and FSEOG overpayment.* If the student's total amount of estimated financial assistance still exceeds his or her need by more than $300, after the institution takes the steps required in paragraphs (d)(1) and (2) of this section, the institution shall consider the amount by which the estimated financial assistance amount exceeds the student's financial need by more than $300 as an overpayment.

* * * * *

■ 22. Section 673.6 is amended by revising paragraph (a) to read as follows:

§ 673.6 Coordination with BIA grants.

(a) *Coordination of BIA grants with Federal Perkins loans, FWS awards, or FSEOGs.* To determine the amount of a Federal Perkins loan, FWS compensation, or an FSEOG for a student who is also eligible for a Bureau of Indian Affairs (BIA) education grant, an institution shall prepare a package of student aid—

(1) From estimated financial assistance other than the BIA education grant the student has received or is expected to receive; and

(2) That is consistent in type and amount with packages prepared for students in similar circumstances who are not eligible for a BIA education grant.

* * * * *

PART 674—FEDERAL PERKINS LOAN PROGRAM

■ 23. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087hh and 20 U.S.C. 421–429, unless otherwise noted.

§ 674.9 [Amended]

■ 24. Section 674.9 is amended in paragraph (a) by removing the words ''34 CFR 668.32'' and adding, in its place, the words ''34 CFR part 668''.

■ 25. Section 674.16 is amended by revising paragraph (c) to read as follows:

§ 674.16 Making and disbursing loans.

* * * * *

(c) If a student incurs uneven costs or estimated financial assistance amounts during an academic year and needs additional funds in a particular payment period, the institution may disburse loan funds to the student for those uneven costs.

* * * * *

■ 26. Section 674.34 is amended by:

■ A. In paragraph (a), adding the words ''paragraphs (b), (c), (d), (e), (f), and (g) of'' immediately after the words ''described in''.

■ B. Redesignating paragraphs (h) and (i) as paragraphs (i) and (j), respectively.

■ C. Adding a new paragraph (h).

■ D. In newly redesignated paragraph (i), removing the word ''and'' immediately after the parenthetical ''(f)'', adding the words '', and (h)'' immediately after the parenthetical ''(g),'' and removing the words ''paragraph (i)'' and adding, in their place, the words ''paragraph (j)''.
■ E. In newly redesignated paragraph (j), removing the word ''and'' immediately after the parenthetical ''(f)'', and adding the words '', and (h)'' immediately after the parenthetical ''(g)''.
■ F. The addition reads as follows:

§ 674.34 Deferment of repayment—Federal Perkins loans, NDSLs and Defense loans.

* * * * *

(h)(1) The borrower need not pay principal and interest does not accrue on a Federal Perkins Loan made on or after July 1, 2001, for any period not to exceed 3 years during which the borrower is—

(i) Serving on active duty during a war or other military operation or national emergency; or

(ii) Performing qualifying National Guard duty during a war or other military operation or national emergency.

(2) *Serving on active duty during a war or other military operation or national emergency* means service by an individual who is—

(i) A Reserve of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304, or 12306;

(ii) A retired member of an Armed Force ordered to active duty under 10 U.S.C. 688 for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; or

(iii) Any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the member is normally assigned.

(3) *Qualifying National Guard duty during a war or other operation or national emergency* means service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5), under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f) in connection with a war, other military operation, or national emergency declared by the President and supported by Federal funds.

(4) As used in this section—

(i) *Active duty* means active duty as defined in 10 U.S.C. 101(d)(1) except that it does not include active duty for training or attendance at a service school;

(ii) *Military operation* means a contingency operation as defined in 10 U.S.C. 101(a)(13); and

(iii) *National emergency* means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(5) These provisions do not authorize the refunding of any payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment.

* * * * *

§ 674.39 [Amended]

■ 27. Section 674.39 is amended in paragraph (a) by adding the words ''or loans obtained by fraud for which the borrower has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance.'' after the word ''secured''.

PART 675—FEDERAL WORK STUDY PROGRAM

■ 28. The authority citation for part 675 continues to read as follows:

Authority: 42 U.S.C. 2751–2756b, unless otherwise noted.

■ 29. Section 675.26 is amended by revising paragraph (a)(4) to read as follows:

§ 675.26 FWS Federal share limitations.

(a) * * *

(4) An institution may not use FWS funds to pay a student after he or she has, in addition to other estimated financial assistance, earned $300 or more over his or her financial need.

* * * * *

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

■ 30. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

■ 31. Section 676.16 is amended by revising paragraph (b) to read as follows:

§ 676.16 Payment of an FSEOG.

* * * * *

(b) If a student incurs uneven cost or estimated financial assistance amounts during an academic year and needs additional funds in a particular payment period, the institution may pay FSEOG funds to the student for those uneven costs.

* * * * *

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

■ 32. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

■ 33. Section 682.100 is amended in paragraph (a)(3), by adding a sentence to the end of the paragraph to read as follows:

§ 682.100 The Federal Family Education Loan program.

* * * * *

(3) * * * The PLUS Program also provides for making loans to graduate and professional students on or after July 1, 2006.

* * * * *

■ 34. Section 682.101 is amended in paragraph (c) by adding a sentence to the end of the paragraph to read as follows:

§ 682.101 Participation in the FFEL programs.

* * * * *

(c) * * * The PLUS Program also provides for making loans to graduate and professional students on or after July 1, 2006.

* * * * *

■ 35. Section 682.102 is amended by:
■ A. In paragraph (a), by removing the words ''or contacting'' and adding, in their place, the words ''and contacting''.
■ B. Revising paragraphs (c) and (d).
■ C. In paragraph (e)(1), in the third sentence removing the words ''The borrower's obligation to repay a PLUS Loan'' and adding, in their place, the words ''A parent borrower's obligation to repay a PLUS loan''.

The revision reads as follows:

§ 682.102 Obtaining and repaying a loan.

* * * * *

(c) *PLUS loan application.* (1) For a parent to obtain a PLUS loan, the parent completes an application and submits it to the school for certification. After the school certifies the application, the application is submitted to a participating lender. If the lender decides to make the loan, the lender obtains a loan guarantee from a guaranty agency or the Secretary. Prior to loan disbursement, the parent completes a PLUS MPN, unless the parent has previously completed a PLUS MPN that the lender may use for the new loan.

(2) For a graduate or professional student to obtain a PLUS loan, the

student applies for a PLUS Loan by completing a Free Application for Federal Student Aid (FAFSA) and contacting the school, lender or guarantor. The school determines and certifies the student's eligibility for the PLUS loan. After the school certifies the application, the application is submitted to a participating lender. If the lender decides to make the loan, the lender obtains a loan guarantee from a guaranty agency or the Secretary. Prior to loan disbursement, the student completes a PLUS MPN, unless the student has previously completed a PLUS MPN that the lender may use for the new loan.

(d) Consolidation loan application. Generally, to obtain a Consolidation loan, a borrower completes an application and submits it to a lender participating in the Consolidation Loan Program. If the lender decides to make the loan, the lender obtains a loan guarantee from a guaranty agency or the Secretary.

* * * * *

■ 36. Section 682.200(b) is amended by revising the definition of *estimated financial assistance* to read as follows:

§ 682.200 Definitions

* * * * *

(b) * * *

Estimated financial assistance. (1) The estimated amount of assistance for a period of enrollment that a student (or a parent on behalf of a student) will receive from Federal, State, institutional, or other sources, such as, scholarships, grants, the net earnings from need-based employment, or loans, including but not limited to—

(i) Except as provided in paragraph (2)(iii) of this definition, national service education awards or post-service benefits under title I of the National and Community Service Act of 1990 (AmeriCorps) and veterans' educational benefits paid under chapters 30 (Montgomery GI Bill—Active Duty), 31 (Vocational Rehabilitation and Employment Program), 32 (Veterans' Educational Assistance Program, and 35 (Dependents' Educational Assistance Program) of title 38 of the United States Code;

(ii) Educational benefits paid under Chapters 31 (National Call to Service), 1606 (Montgomery GI Bill-Selected Reserve), and 1607 (Reserve Educational Assistance Program) of Title 10 of the United States Code;

(iii) Reserve Officer Training Corps (ROTC) scholarships and subsistence allowances awarded under Chapter 2 of Title 10 and Chapter 2 of Title 37 of the United States Code;

(iv) Benefits paid under Pub. L. 96–342, section 903: Educational Assistance Pilot Program;

(v) Any educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary education expenses;

(vi) Fellowships or assistantships, except non-need-based employment portions of such awards;

(vii) Insurance programs for the student's education; and

(viii) The estimated amount of other Federal student financial aid, including but not limited to a Federal Pell Grant, Academic Competitiveness Grant, National SMART Grant, campus-based aid, and the gross amount (including fees) of subsidized and unsubsidized Federal Stafford Loans or subsidized and unsubsidized Federal Direct Stafford/Ford Loans, and Federal PLUS or Federal Direct PLUS Loans.

(2) Estimated financial assistance does not include—(i) Those amounts used to replace the expected family contribution, including the amounts of any unsubsidized Federal Stafford or Federal Direct Stafford/Ford Loans, Federal PLUS or Federal Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the loan amounts received that are being used to replace the student's EFC exceed the EFC, the excess amount is treated as estimated financial assistance;

(ii) Federal Perkins loan and Federal Work-Study funds that the student has declined;

(iii) For the purpose of determining eligibility for a subsidized Stafford loan, veterans' educational benefits paid under chapter 30 of title 38 of the United States Code (Montgomery GI Bill—Active Duty) and national service education awards or post-service benefits under title I of the National and Community Service Act of 1990 (AmeriCorps);

(iv) Any portion of the estimated financial assistance described in paragraph (1) of this definition that is included in the calculation of the student's expected family contribution (EFC);

(v) Non-need-based employment earnings; and

(vi) Assistance not received under this title, if that assistance is designated to offset all or a portion of a specific amount of the cost of attendance and that component is excluded from the cost of attendance as well. If that assistance is excluded from either estimated financial assistance or cost of attendance, it must be excluded from both.

* * * * *

■ 37. Section 682.201 is amended by:
■ A. In paragraph (a), revising the paragraph heading to read as set forth below.
■ B. Removing paragraph (e).
■ C. Redesignating paragraphs (b), (c), and (d) as paragraphs (c), (d), and (e), respectively.
■ D. Adding a new paragraph (b).
■ E. In newly redesignated paragraph (c), revising the paragraph heading to read as set forth below and adding a new paragraph (c)(1)(viii).
■ F. In newly redesignated paragraph (d)(1)(i)(B), removing the word ''or''.
■ G. Adding new paragraph (d)(1)(i)(D).
■ H. In newly redesignated paragraph (d)(1)(ii), adding the word ''and'' after the punctuation '';''.
■ I. In newly redesignated paragraph (d)(1)(iii), removing the words ''; and'' and inserting, in their place, the punctuation ''.''.
■ J. In newly redesignated paragraph (d), removing paragraphs (d)(1)(iv)(A) and (B).
■ K. Revising newly redesignated paragraph (d)(2).
■ L. In newly redesignated paragraph (e)(2), adding the words ''before or'' immediately after the words ''eligible loan'' and removing the word ''and''.
■ M. In newly redesignated paragraph (e)(3), removing the word ''only'', removing the punctuation ''.'' and adding in its place the punctuation '';'', and adding the word ''and'' immediately after the punctuation '';''.
■ N. Adding a new paragraph (e)(4).

The additions read as follows:

§ 682.201 Eligible borrowers.

(a) *Student Stafford borrower.* * * *

* * * * *

(b) *Student PLUS borrower.* A graduate or professional student who is enrolled or accepted for enrollment on at least a half-time basis at a participating school is eligible to receive a PLUS Loan on or after July 1, 2006, if the student—

(1) Meets the requirements for an eligible student under 34 CFR 668;

(2) Meets the requirements of paragraphs (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) of this section, if applicable;

(3) Has received a determination of his or her annual loan maximum eligibility under the Federal Subsidized and Unsubsidized Stafford Loan Program; and

(4) Does not have an adverse credit history in accordance with paragraphs (c)(2)(i) through (c)(2)(v) of this section,

or obtains an endorser who has been determined not to have an adverse credit history, as provided for in paragraph (c)(1)(vii) of this section.

* * * * *

(c) *Parent PLUS borrower.*

(1) * * *

(viii) Has completed repayment of any title IV, HEA program assistance obtained by fraud, if the parent has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(D) Not in default status resulting from a claim filed under § 682.412.

* * * * *

(2) A borrower may not consolidate a loan under this section for which the borrower is wholly or partially responsible.

(e) * * *

(4) If the consolidation loan has been submitted to the guaranty agency for default aversion, the borrower may obtain a subsequent consolidation loan under the Federal Direct Consolidation Loan Program for purposes of obtaining an income contingent repayment plan.

* * * * *

■ 38. Section 682.202 is amended by:

■ A. In paragraph (a)(1)(viii), by adding after the words ''July 1, 1998,'' the words '' and prior to July 1, 2006,''.

■ B. Adding a new paragraph (a)(1)(ix).

■ C. In paragraph (a)(2)(vi)(A), adding after the words ''July 1, 2001,'' the words ''and prior to July 1, 2006,''.

■ D. Adding a new paragraph (a)(2)(vii).

■ E. Revising paragraph (c)(1).

■ F. Revising paragraph (d).

The revisions and additions read as follows:

§ 682.202 Permissible charges by lenders to borrowers.

(a) * * *

(1) * * *

(ix) For a Stafford loan for which the first disbursement is made on or after July 1, 2006, the interest rate is 6.8 percent.

(2) * * *

(vii) For a PLUS loan first disbursed on or after July 1, 2006, the interest rate is 8.5 percent.

* * * * *

(c) *Fees for FFEL Program loans.* (1)(i) For Stafford loans first disbursed prior to July 1, 2006, a lender may charge a borrower an origination fee not to exceed 3 percent of the principal amount of the loan.

(ii) For Stafford loans first disbursed on or after July 1, 2006, but before July 1, 2007, a lender may charge a borrower an origination fee not to exceed 2 percent of the principal amount of the loan.

(iii) For Stafford loans first disbursed on or after July 1, 2007, but before July 1, 2008, a lender may charge a borrower an origination fee not to exceed 1.5 percent of the principal amount of the loan.

(iv) For Stafford loans first disbursed on or after July 1, 2008, but before July 1, 2009, a lender may charge a borrower an origination fee not to exceed 1 percent of the principal amount of the loan.

(v) For Stafford loans first disbursed on or after July 1, 2009, but before July 1, 2010, a lender may charge a borrower an origination fee not to exceed .5 percent of the principal amount of the loan.

(vi) For Stafford loans first disbursed on or after July 1, 2010, a lender may not charge a borrower an origination fee.

(vii) Except as provided in paragraph (c)(2) of this section, a lender must charge all borrowers the same origination fee.

* * * * *

(d) *Insurance premium and Federal default fee.*

(1) For loans guaranteed prior to July 1, 2006, a lender may charge the borrower the amount of the insurance premium paid by the lender to the guarantor (up to 1 percent of the principal amount of the loan) if that charge is provided for in the promissory note.

(2) For loans guaranteed on or after July 1, 2006, other than an SLS or PLUS loan refinanced under § 682.209(e) or (f), a lender may charge the borrower the amount of the Federal default fee paid by the lender to the guarantor (up to 1 percent of the principal amount of the loan) if that charge is provided for in the promissory note.

(3) If the borrower is charged the insurance premium or the Federal default fee, the amount charged must be deducted proportionately from each disbursement of the borrower's loan proceeds, if the loan is disbursed in more than one installment.

(4) The lender shall refund the insurance premium or Federal default fee paid by the borrower in accordance with the circumstances and procedures applicable to the return of origination fees, as described in paragraph (c)(7) of this section.

* * * * *

§ 682.204 [Amended]

■ 39. Section 682.204 is amended by:

■ A. In paragraph (a)(1)(i), adding the words '', or, for a loan certified on or after July 1, 2007, $3,500,'' immediately after the figure ''$2,625''.

■ B. In paragraph (a)(1)(ii), adding the words '', or, for a loan certified on or after July 1, 2007, $3,500,'' immediately after the figure ''$2,625''.

■ C. In paragraph (a)(1)(iii), adding the words '', or, for a loan certified on or after July 1, 2007, $3,500'' immediately after the figure ''$2,625''.

■ D. In paragraph (a)(2)(i), adding the words '', or, for a loan certified on or after July 1, 2007, $4,500,'' immediately after the figure ''$3,500''.

■ E. In paragraph (a)(2)(ii), adding the words '', or, for a loan certified on or after July 1, 2007, $4,500,'' immediately after the figure ''$3,500''.

■ F. In paragraph (d)(5), adding the words '', or, for a loan certified on or after July 1, 2007, $12,000.'' immediately after the figure ''$10,000''.

■ G. In paragraph (d)(6)(ii), adding the words '', or, for a loan certified on or after July 1, 2007, $7,000,'' immediately after the figure ''$5,000''.

■ H. In paragraph (d)(6)(iii), adding the words '', or, for a loan certified on or after July 1, 2007, $7,000.'' immediately after the figure ''$5,000''.

■ I. In paragraph (h), removing the words ''that parents may borrow on behalf of each dependent student'' and adding, in their place, the words ''that a parent or student may borrow''.

■ 40. Section 682.205 is amended by revising paragraph (a)(2)(xix) to read as follows:

§ 682.205 Disclosure requirements for lenders.

(a) * * *

(2) * * *

(xix) In the case of a Stafford or student PLUS loan, a statement that the loan proceeds will be transmitted to the school for delivery to the borrower;

* * * * *

■ 41. Section 682.207 is amended by:

■ A. In paragraph (b)(1)(iv), removing the figure ''21'' and adding, in its place, the figure ''10''.

■ B. Revising paragraph (b)(1)(v)(B), (C), and (D), and removing paragraph (b)(1)(v)(E).

■ C. Redesignating paragraph (b)(2) as paragraph (b)(3).

■ D. Adding new paragraph (b)(2).

The revisions and addition read as follows:

§ 682.207 Due diligence in disbursing a loan.

(b) * * *

(1) * * *

(v) * * *

(B) In the case of a Federal PLUS loan —

(*1*) By electronic funds transfer or master check from the lender in

accordance with the disbursement schedule provided by the school to an account maintained in accordance with § 668.163 by the school as trustee for the lender. A disbursement made by electronic funds transfer or master check must be accompanied by a list of the names, social security numbers, and loan amounts for the parent or student borrowers who are receiving a portion of the disbursement and the names and social security numbers of the students on whose behalf the parents are borrowing parent PLUS loans.

(*2*) By a check from the lender that is made co-payable to the institution and the parent borrower, for a parent PLUS loan, or student borrower, for a student PLUS loan, directly to the institution of higher education.

(C) In the case of a student enrolled in a study-abroad program approved for credit at the home institution in which the student is enrolled, if the student requests—

(*1*) A Stafford loan directly to the student only after verification of the student's enrollment by the lender or guaranty agency; or

(*2*) To the home institution if the borrower provides a power-of-attorney to an individual not affiliated with the institution to endorse the check or complete an electronic funds transfer authorization.

(D) In the case of a student enrolled in an eligible foreign school, if the foreign school requests, a Stafford loan directly to the student only after verification of the student's enrollment by the lender or guaranty agency.

* * * * *

(2)(i) A lender or guaranty agency must verify a borrower's enrollment at the foreign school, or a borrower's enrollment in a study-abroad program, prior to each disbursement of Stafford loan funds directly to a student by—

(A) For a student enrolled at a foreign school—

(*1*) The guaranty agency accessing the Department's Postsecondary Education Participants System (PEPS) Database (or any successor system) and confirming that the foreign school the student is to attend is certified to participate in the FFEL program.

(*2*) For a new student, contacting the foreign school the student is to attend by telephone or e-mail to verify the student's admission to the foreign school for the period for which the loan is intended at the enrollment status for which the loan was certified.

(*3*) For a continuing student, contacting the foreign school the student is to attend by telephone or e-mail to verify that the student is still enrolled at the foreign school for the period for which the loan is intended at the enrollment status for which the loan was certified.

(B) For a student enrolled in a study-abroad program, contacting the home institution in which the student is enrolled by telephone or e-mail to verify—

(*1*) For a new student, the student's admission to the study-abroad program for the period for which the loan is intended at the enrollment status for which the loan is certified.

(*2*) For a continuing student, that the student is still enrolled in the study-abroad program for the period for which the loan is intended at the enrollment status for which the loan is certified.

(ii) The lender or guaranty agency that is verifying enrollment at the institution the student is to attend must maintain the following information in the student's file:

(A) The name and telephone number of the school representative contacted;

(B) The date of the contact;

(C) The enrollment period;

(D) Whether enrollment was verified at the enrollment status for which the loan was certified; and

(E) Any other pertinent information received from the school.

(iii) Guaranty agencies and lenders must coordinate their activities to ensure that the requirements of this paragraph are met prior to making any direct disbursement to a student.

(iv) If a lender disburses a Stafford loan directly to the borrower for attendance at an eligible foreign school, or to a borrower enrolled in a study-abroad program approved for credit at the home institution, as provided in paragraphs (b)(1)(v)(C)(*1*) and (b)(1)(v)(D)(*1*) of this section, the lender must, at the time of disbursement, notify the foreign school, for a borrower attending a foreign school, or the home institution in which the student is enrolled, for a borrower enrolled in a study-abroad program, of—

(A) The name and social security number of the student;

(B) The type of loan;

(C) The amount of the disbursement, including the amount of any fees assessed the borrower;

(D) The date of the disbursement; and

(E) The name, address, telephone and fax number or electronic address of the lender, servicer, or guaranty agency to which any inquiries should be addressed.

* * * * *

§ 682.208 [Amended]

■ 42. Section 682.208 is amended by:

■ A. In paragraph (c)(2), adding the words ''or a student PLUS loan borrower'' immediately after the words ''Stafford loan borrower''.

■ B. In paragraph (d)(2), adding the words '', as authorized and if practicable,'' immediately after ''repayment schedule''.

■ C. In paragraph (f)(1) introductory text, adding the words ''has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance,'' immediately after the word ''borrowed,''.

§ 682.209 [Amended]

■ 43. Section 682.209 is amended by:

■ A. In paragraph (a)(3)(i) introductory text, removing the words ''paragraphs (a)(4) and (5)'' and adding, in their place, the words ''paragraph (a)(4)''.

■ B. Removing paragraph (a)(5) and redesignating paragraphs (a)(6) through (a)(9) as paragraphs (a)(5) through (a)(8), respectively.

■ C. In newly-redesignated paragraph (a)(6)(v), removing the parentheticals ''(a)(7)(vi)'' and adding, in their place, the parentheticals ''(a)(6)(vi)''.

■ D. In newly-redesignated paragraphs (a)(6)(vii)(A)(*2*) and (a)(6)(viii)(A)(*2*), removing the parentheticals ''(a)(7)(i)'' and adding, in their place, the parentheticals ''(a)(6)(i)''.

■ E. In newly-redesignated paragraph (a)(6)(viii)(E), removing the parentheticals ''(a)(8)'' and adding, in their place, the parentheticals ''(a)(7)''.

■ F. In newly-redesignated paragraph (a)(7)(i), removing the parentheticals ''(a)(7)(ix)'' and adding, in their place, the parentheticals ''(a)(6)(ix)''.

■ G. In newly-designated paragraph (a)(7)(i), removing the parentheticals ''(a)(8)(ii)'' and adding, in their place, the parentheticals ''(a)(7)(ii)''.

■ H. In paragraph (e)(2)(ii), removing the parentheticals ''(a)(8)(i)'' and adding, in their place, the parentheticals ''(a)(7)(i)''.

■ I. In paragraph (e)(3), adding the words ''or Federal default fee'' after the word ''premium''.

■ J. In paragraph (f)(2)(ii), removing the parentheticals ''(a)(8)(i)'' and adding, in their place, the parentheticals ''(a)(7)(i)''.

■ 44. Section 682.210 is amended by adding a new paragraph (t) to read as follows:

§ 682.210 Deferment.

* * * * *

(t) *Military service deferments for loans for which the first disbursement is made on or after July, 1, 2001*—(1) A borrower who receives an FFEL Program loan first disbursed on or after July 1,

2001, may receive a military service deferment for such loans for any period not to exceed 3 years during which the borrower is—

(i) Serving on active duty during a war or other military operation or national emergency; or

(ii) Performing qualifying National Guard duty during a war or other military operation or national emergency.

(2) *Serving on active duty during a war or other military operation or national emergency* means service by an individual who is—

(i) A Reserve of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304 or 12306;

(ii) A retired member of an Armed Force ordered to active duty under 10 U.S.C. 688 for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; or

(iii) Any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which member is normally assigned.

(3) *Qualifying National Guard duty during a war or other operation or national emergency* means service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5), under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f) in connection with a war, other military operation, or national emergency declared by the President and supported by Federal funds.

(4) Payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment are not refunded.

(5) A borrower is eligible for a military service deferment on a Federal Consolidation Loan only if the borrower meets the conditions described in this section and all of the title IV loans included in the Consolidation Loan were first disbursed on or after July 1, 2001.

(6) As used in this section—

(i) *Active duty* means active duty as defined in 10 U.S.C. 101(d)(1) except that it does not include active duty for training or attendance at a service school;

(ii) *Military operation* means a contingency operation as defined in 10 U.S.C. 101(a)(13); and

(iii) *National emergency* means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

* * * * *

■ 45. Section 682.211 is amended by:

■ A. Revising paragraph (b)(1).

■ B. In paragraph (f)(6) adding the word ''parent'' immediately after the words ''in the case of''.

The revisions read as follows:

§ 682.211 Forbearance

* * * * *

(b) * * *

(1) The lender and the borrower or endorser agree to the terms of the forbearance and, unless the agreement was in writing, the lender sends, within 30 days, a notice to the borrower or endorser confirming the terms of the forbearance and records the terms of the forbearance in the borrower's file; or

* * * * *

■ 46. Section 682.215 is amended by:

■ A. Revising paragraph (a).

■ B. In paragraph (b), adding, in alphabetical order, a new definition for *Highly qualified.*

■ C. Revising paragraph (c)(1)(iii).

■ D. Revising paragraph (c)(3).

■ E. Revising paragraph (c)(4).

■ F. Redesignating paragraphs (c)(5), (c)(6), (c)(7), (c)(8), and (c)(9) as paragraphs (c)(7), (c)(8), (c)(9), (c)(10), and (c)(11), respectively.

■ G. Adding a new paragraph (c)(5).

■ H. Adding a new paragraph (c)(6).

■ I. Removing the parentheticals ''(c)(5)'' and adding, in their place, the parentheticals ''(c)(7)'' in newly redesignated paragraph (c)(8).

■ J. Revising paragraph (d)(1).

■ K. Revising paragraph (d)(2).

■ L. In paragraph (f)(3)(ii), removing the figure ''$5,000'' and adding, in its place, the figure ''$17,500''.

■ M. In paragraph (f)(3)(ii), removing the parentheticals ''(c)(9)'' and adding, in its place, the parentheticals ''(c)(11)''.

■ N. In paragraph (g), adding the words '', or up to $17,500,'' immediately after the figure ''$5,000''.

The revisions and additions read as follows:

§ 682.215 Teacher loan forgiveness program.

(a) *General.* The teacher loan forgiveness program is intended to encourage individuals to enter and continue in the teaching profession. For new borrowers, the Secretary repays the amount specified in this paragraph on the borrower's subsidized and unsubsidized Federal Stafford Loans, Direct Subsidized Loans, Direct Unsubsidized Loans, and in certain cases, Federal Consolidation Loans or Direct Consolidation Loans. The forgiveness program is only available to a borrower who has no outstanding loan balance under the FFEL Program or the Direct Loan Program on October 1, 1998 or who has no outstanding loan balance on the date he or she obtains a loan after October 1, 1998. The borrower must have been employed as a full-time teacher for five consecutive complete academic years, at least one of which was after the 1997–1998 academic year, in certain eligible elementary or secondary schools that serve low-income families. All borrowers eligible for teacher loan forgiveness may receive loan forgiveness of up to a combined total of $5,000 on the borrower's eligible FFEL and Direct Loan Program loans. If the borrower taught for five consecutive years as a highly qualified mathematics or science teacher in an eligible secondary school or as a special education teacher in an eligible elementary or secondary school, the borrower may receive loan forgiveness of up to a combined total of $17,500 on the borrower's eligible FFEL and Direct Loan Program loans. The loan for which the borrower is seeking forgiveness must have been made prior to the end of the borrower's fifth year of qualifying teaching service.

* * * * *

(b) * * *

Highly qualified means highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965, as amended.

* * * * *

(c) * * *

(1) * * *

(iii) Is listed in the *Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits.* If this directory is not available before May 1 of any year, the previous year's directory may be used. The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Affairs (BIA) or operated on Indian reservations by Indian tribal groups under contract with the BIA to qualify as schools serving low-income students.

* * * * *

(3) In the case of a borrower whose five consecutive complete years of qualifying teaching service began before October 30, 2004, the borrower—

(i) May receive up to $5,000 of loan forgiveness if the borrower—

(A) Demonstrated knowledge and teaching skills in reading, writing,

mathematics, and other areas of the elementary school curriculum, as certified by the chief administrative officer of the eligible elementary school in which the borrower was employed; or

(B) Taught in a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the eligible secondary school in which the borrower was employed.

(ii) May receive up to $17,500 of loan forgiveness if the borrower—

(A) Taught mathematics or science on a full-time basis in an eligible secondary school and was a highly qualified mathematics or science teacher; or

(B) Taught as a special education teacher on a full-time basis to children with disabilities in either an eligible elementary or secondary school and was a highly qualified special education teacher whose special education training corresponded to the children's disabilities and who has demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum.

(4) In the case of a borrower whose five consecutive years of qualifying teaching service began on or after October 30, 2004, the borrower—

(i) May receive up to $5,000 of loan forgiveness if the borrower taught full time in an eligible elementary or secondary school and was a highly qualified elementary or secondary school teacher.

(ii) May receive up to $17,500 of loan forgiveness if the borrower—

(A) Taught mathematics or science on a full-time basis in an eligible secondary school and was a highly qualified mathematics or science teacher; or

(B) Taught as a special education teacher on a full-time basis to children with disabilities in either an eligible elementary or secondary school and was a highly qualified special education teacher whose special education training corresponded to the children's disabilities and who has demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum.

(5) To qualify for loan forgiveness as a highly qualified teacher, the teacher must have been a highly qualified teacher for all five years of eligible teaching service.

(6) For teacher loan forgiveness applications received by the loan holder on or after July 1, 2006, a teacher in a private, non-profit elementary or secondary school who is exempt from State certification requirements (unless otherwise applicable under State law) may qualify for loan forgiveness under paragraphs (c)(3)(ii) or (c)(4) of this section if—

(i) The private school teacher is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in applicable grade levels and subject areas;

(ii) The competency tests are recognized by 5 or more States for the purposes of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965; and

(iii) The private school teacher achieves a score on each test that equals or exceeds the average passing score for those 5 states.

* * * * *

(d) *Forgiveness amount.* (1) A qualified borrower is eligible for forgiveness of up to $5,000, or up to $17,500 if the borrower meets the requirements of paragraphs (c)(3)(ii) or (c)(4)(ii) of this section. The forgiveness amount is deducted from the aggregate amount of the borrower's subsidized or unsubsidized Federal Stafford or Federal Consolidation Loan obligation that is outstanding after the borrower completes his or her fifth consecutive complete academic year of teaching as described in paragraph (c) of this section. Only the outstanding portion of the consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan, an eligible Direct Subsidized Loan, or an eligible Direct Unsubsidized Loan qualifies for loan forgiveness under this section.

(2) A borrower may not receive more than a total of $5,000, or $17,500 if the borrower meets the requirements of paragraphs (c)(3)(ii) or (c)(4)(ii) of this section, in loan forgiveness for outstanding principal and accrued interest under both this section and under section 34 CFR 685.217.

* * * * *

■ 47. Section 682.300 is amended by:

■ A. In paragraph (c)(3)(i), removing the word ''or'' at the end of the paragraph.

■ B. In paragraph (c)(3)(ii), removing the punctuation ''.'' and adding, in its place, the words ''; or''.

■ C. Adding new paragraph (c)(3)(iii).

The addition reads as follows:

§ 682.300 Payment of interest benefits on Stafford and Consolidation Loans.

* * * * *

(c) * * *

(3) * * *

(iii) In the case of a loan disbursed through an escrow agent, 3 days prior to the first day of the period of enrollment or, if the loan is disbursed after the first day of the period of enrollment, 3 days after disbursement.

* * * * *

■ 48. Section 682.302 is amended by:

■ A. Revising paragraph (b)(1).

■ B. In paragraph (b)(2), adding the words ''or on or after January 1, 2000 for any period prior to April 1, 2006,'' after the words ''on or after July 1, 1998''.

■ C. Revising paragraph (c).

■ D. Revising paragraph (e).

■ E. Adding a new paragraph (f).

The revisions and addition read as follows:

§ 682.302 Payment of special allowance on FFEL Loans.

* * * * *

(b) * * *

(1) Except for non-subsidized Federal Stafford loans disbursed on or after October 1, 1981, for periods of enrollment beginning prior to October 1, 1992, or as provided in paragraphs (b)(2), (b)(3), or (e)(1) of this section, FFEL loans that otherwise meet program requirements are eligible for special allowance payments.

* * * * *

(c) *Rate.* (1) Except as provided in paragraph (c)(2), (c)(3), or (e) of this section, the special allowance rate for an eligible loan during a 3-month period is calculated by—

(i) Determining the average of the bond equivalent rates of—

(A) The quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period for a loan for which the first disbursement is made on or after January 1, 2000; or

(B) The 91-day Treasury bills auctioned during the 3-month period for a loan for which the first disbursement is made prior to January 1, 2000;

(ii) Subtracting the applicable interest rate for that loan;

(iii) Adding—

(A)(*1*) 2.34 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after January 1, 2000;

(*2*) 2.64 percent to the resulting percentage for a Federal PLUS loan for which the first disbursement is made on or after January 1, 2000;

(*3*) 2.64 percent to the resulting percentage for a Federal Consolidation Loan that was made based on an application received by the lender on or after January 1, 2000;

(*4*) 1.74 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after January 1, 2000 during the

borrower's in-school, grace, and authorized period of deferment;

(*5*) 2.8 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after July 1, 1998 and prior to January 1, 2000;

(*6*) 2.2 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after July 1, 1998 and prior to January 1, 2000, during the borrower's in-school, grace, and authorized period of deferment;

(*7*) 2.5 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after July 1, 1995 and prior to July 1, 1998 for interest that accrues during the borrower's in-school, grace, and authorized period of deferment;

(B) 3.1 percent to the resulting percentage for—

(*1*) A Federal Stafford Loan made on or after October 1, 1992 and prior to July 1, 1998, except as provided in paragraph (c)(1)(iii)(A)(*7*) of this section;

(*2*) A Federal SLS Loan made on or after October 1, 1992;

(*3*) A Federal PLUS Loan made on or after October 1, 1992 and prior to July 1, 1998;

(*4*) A Federal PLUS loan made on or after July 1, 1998 and prior to October 1, 1998, except that no special allowance shall be paid during any quarter unless the average of the 91-day Treasury bills auctioned during that quarter, plus 3.1 percent, exceeds the rate determined under § 682.202(a)(2)(v);

(*5*) A Federal PLUS loan made on or after October 1, 1998 and prior to January 1, 2000, except that no special allowance shall be paid during any quarter unless the rate determined under § 682.202(a)(2)(v) exceeds 9 percent;

(*6*) A Federal Consolidation Loan for which the application was received by the lender prior to January 1, 2000, except that no special allowance shall be paid during any quarter on a loan for which the application was received on or after October 1, 1998 unless the average of the bond equivalent rate of the 91-day Treasury bills auctioned during that quarter, plus 3.1 percent, exceeds the rate determined under Section 682.202(a)(4)(iv);

(C) 3.25 percent to the resulting percentage, for a loan made on or after November 16, 1986, but prior to October 1, 1992;

(D) 3.25 percent to the resulting percentage, for a loan made on or after October 17, 1986 but prior to November 16, 1986, for a period of enrollment beginning on or after November 16, 1986;

(E) 3.5 percent to the resulting percentage, for a loan made prior to October 17, 1986, or a loan described in paragraph (c)(2) of this section; or

(F) 3.5 percent to the resulting percentage, for a loan made on or after October 17, 1986 but prior to November 16, 1986, for a period of enrollment beginning prior to November 16, 1986;

(iv) Rounding the result upward to the nearest one-eighth of 1 percent, for a loan made prior to October 1, 1981; and

(v) Dividing the resulting percentage by 4.

(2) The special allowance rate determined under paragraph (c)(1)(iii)(E) of this section applies to loans made or purchased from funds obtained from the issuance of an obligation of the—

(i) Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(ii) South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(3)(i) Subject to paragraphs (c)(3)(iii), (c)(3)(iv), and (e) of this section, the special allowance rate is that provided in paragraph (c)(3)(ii) of this section for a loan made or guaranteed on or after October 1, 1980 that was made or purchased with funds obtained by the holder from—

(A) The proceeds of tax-exempt obligations originally issued prior to October 1, 1993;

(B) Collections or payments by a guarantor on a loan that was made or purchased with funds obtained by the holder from obligations described in paragraph (c)(3)(i)(A) of this section;

(C) Interest benefits or special allowance payments on a loan that was made or purchased with funds obtained by the holder from obligations described in paragraph (c)(3)(i)(A) of this section;

(D) The sale of a loan that was made or purchased with funds obtained by the holders from obligations described in paragraph (c)(3)(i)(A) of this section; or

(E) The investment of the proceeds of obligations described in paragraph (c)(3)(i)(A) of this section.

(ii) The special allowance rate for a loan described in paragraph (c)(3)(i) is one-half of the rate calculated under paragraph (c)(1) of this section, except that in applying paragraph (c)(1)(iii), 3.5 percent is substituted for the percentages specified therein.

(iii) The special allowance rate applicable to loans described in paragraph (c)(3)(i) of this section that are made prior to October 1, 1992, may not be less than—

(A) 2.5 percent per year on eligible loans for which the applicable interest rate is 7 percent;

(B) 1.5 percent per year on eligible loans for which the applicable interest rate is 8 percent; or

(C) One-half of 1 percent per year on eligible loans for which the applicable rate is 9 percent.

(iv) The special allowance rate applicable to loans described in paragraph (c)(3)(i) of this section that are made on or after October 1, 1992, may not be less than 9.5 percent minus the applicable interest rate.

(4) Loans made or purchased with funds obtained by the holder from the issuance of tax-exempt obligations originally issued on or after October 1, 1993, and loans made with funds derived from default reimbursement collections, interest, or other income related to eligible loans made or purchased with those tax-exempt funds, do not qualify for the minimum special allowance rate specified in paragraph (c)(3)(iii) or (iv) of this section, and are not subject to the 50 percent limitation on the maximum rate otherwise applicable to loans made with tax-exempt funds.

(5) For purposes of paragraphs (c)(3) and (c)(4), a loan is purchased with funds described in those paragraphs when the loan is refinanced in consideration of those funds.

* * * * *

(e) *Limits on special allowance payments on loans made or purchased with funds derived from tax-exempt obligations.*

(1) *General.* (i) The Secretary pays a special allowance on a loan described in paragraph (c)(3) or (c)(4) of this section that is held by or on behalf of an Authority only if the loan meets the requirements of § 682.800.

(ii) The Secretary pays a special allowance at the rate prescribed in paragraph (c)(1) or (c)(3) of this section on a loan described in paragraph (c)(3)(i) of this section that is held by or on behalf of an Authority in accordance with paragraphs (e)(2) through (e)(5) of this section, as applicable. References to ''loan'' or ''loans'' in paragraphs (e)(2) through (e)(5) include only loans described in paragraph (c)(3)(i).

(2) *Effect of Refinancing on Special Allowance Payments.* Except as provided in paragraphs (e)(3) through (e)(5) of this section—

(i) The Secretary pays a special allowance at the rate prescribed in paragraph (c)(3) of this section to an Authority that holds a legal or equitable

interest in the loan that is pledged or otherwise transferred in consideration of—

(A) Funds listed in paragraph (c)(3)(i) of this section;

(B) Proceeds of a tax-exempt refunding obligation that refinances a debt that—

(*1*) Was first incurred pursuant to a tax-exempt obligation originally issued prior to October 1, 1993;

(*2*) Has been financed continuously by tax-exempt obligation.

(ii) The Secretary pays a special allowance to an Authority that holds a legal or equitable interest in the loan that is pledged or otherwise transferred in consideration of funds other than those specified in paragraph (e)(2)(i) of this section either—

(A) At the rate prescribed in paragraph (c)(1) of this section, if__

(*1*) The prior tax-exempt obligation is retired; or

(*2*) The prior tax-exempt obligation is defeased by means of obligations that the Authority certifies in writing to the Secretary bears a yield that does not exceed the yield restrictions of section 148 of the Internal Revenue Code and the regulations thereunder, or

(B) At the rate prescribed in paragraph (c)(3) of this section.

(3) *Loans affected by transactions or events after September 30, 2004.* The Secretary pays a special allowance to an Authority at the rate prescribed in paragraph (c)(1) of this section if, after September 30, 2004—

(i) The loan is refinanced with funds other than those listed in paragraph (e)(2)(i) of this section;

(ii) The loan is sold or transferred to any other holder; or

(iii)(A) The loan is financed by a tax-exempt obligation included in the sources in paragraph (e)(2)(i), and

(B) That obligation matures, is refunded, is defeased, or is retired, whichever occurs earliest.

(4) *Loans Affected by Transactions After February 7, 2006.* Except as provided in paragraph (e)(5) of this section, the Secretary pays a special allowance at the rate prescribed in paragraph (c)(1) of this section on any loan—

(i) That was made or purchased on or after February 8, 2006, or

(ii) That was not earning, on February 8, 2006, a quarterly rate of special allowance determined under paragraph (c)(3) of this section.

(5) *Loans affected by transactions after December 30, 2010.* (i) The Secretary pays a special allowance to a holder described in paragraph (e)(5)(ii) of this section at the rate prescribed in paragraph (c)(3) of this section only on a loan—

(A) That was made or purchased prior to December 31, 2010, or

(B) That was earning, before December 31, 2010, a quarterly rate of special allowance determined under paragraph (c)(3) of this section.

(ii) A holder for purposes of this paragraph is an entity that—

(A) On February 8, 2006 and during the quarter for which special allowance is determined under this paragraph—

(*1*) Is a unit of State or local government or a private nonprofit entity, and

(*2*) Is not owned or controlled by, or under common ownership or control by, a for-profit entity; and

(B) In the most recent quarterly special allowance payment prior to September 30, 2005, held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal of $100,000,000 or less for which special allowance was determined and paid under paragraph (c)(3) of this section.

(f) As used in this section—

(1) A tax-exempt obligation is an obligation the income of which is exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C.);

(2) An obligation is originally issued at the time that an Authority issues the obligation to obtain funds to make loans or to purchase loans that an Authority does not hold or have any interest in;

(3) A loan is refinanced when an Authority that has pledged the loan as collateral for an obligation of that Authority retains an interest in the loan, but causes the loan to be released from the lien of that obligation and pledged as collateral for a different obligation of that Authority.

(4) References to an Authority include a successor entity that may not qualify as an Authority under § 682.200(b).

* * * * *

■ 49. Section 682.305 is amended by:

■ A. In paragraph (a)(3)(i)(A)(*2*), removing the punctuation ''.'' at the end of the paragraph and adding, in its place, the words ''; and''.

■ B. Adding a new paragraph (a)(3)(i)(A)(*3*).

■ C. Revising paragraph (c)(1).

■ D. Adding a new paragraph (d).

The revisions and additions read as follows:

§ 682.305 Procedures for payment of interest benefits and special allowance and collection of origination and loan fees.

(a) * * *

(3)(i)(A) * * *

(*3*) The amount of excess interest, as calculated in accordance with paragraph (d) of this section.

* * * * *

(c) *Independent audits.* (1) A lender (other than a school lender) originating or holding more than $5 million in FFEL loans during its fiscal year, and a school lender under § 682.601 that originates or holds any FFEL loans during its fiscal year, must submit an independent annual compliance audit for that year, conducted by a qualified independent organization or person. The Secretary may, following written notice, suspend the payment of interest benefits and special allowance to a lender that does not submit its audit within the time period prescribed in paragraph (c)(2) or this section.

* * * * *

(d) *Recovery of excess interest paid by the Secretary.*

(1) For any loan for which the first disbursement of principal is made on or after April 1, 2006, the Secretary collects the amount of excess interest paid to a lender on a quarterly basis when the applicable interest rate on a loan for each quarter exceeds the special allowance support level in paragraph (d)(2) of this section for the loan. Excess interest is calculated and recovered each quarter by subtracting the special allowance support level from the applicable interest, multiplying the result by the average daily principal balance of the loan (not including unearned interest added to principal) during the quarter, and dividing by four.

(2) The term *special allowance support level* means a number expressed as a percentage equal to the sum of—

(i) The average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period; plus

(ii) 2.34 percent for a Federal Stafford loan in repayment;

(iii) 1.74 percent for a Federal Stafford loan during the in-school, grace, and deferment periods; or

(iv) 2.64 percent for a Federal PLUS or Consolidation Loan.

* * * * *

■ 50. Section 682.401 is amended by:

■ A. In paragraph (b)(3)(i), removing the word ''SLS'' and inserting, in its place, the words ''PLUS Loan''.

■ B. Amending the first sentence of paragraph (b)(4) by adding the words ''and § 668.35(i) for a borrower who fraudulently obtained title IV, HEA program assistance'' after the word ''obtained''.

■ C. In paragraph (b)(4)(iv), removing the figure ''six'' and inserting, in its place, the figure ''three''.

■ D. In paragraph (b)(5)(ii) introductory text, by inserting the word ''parent'' before the word ''PLUS''.
■ E. Revising paragraphs (b)(10)(i), (ii), (iii), (iv), (v), (vi) introductory text, (vi)(A), and (vi)(B) introductory text.
■ F. In paragraph (b)(14)(i), removing the word ''and''.
■ G. In paragraph (b)(14)(ii), removing the punctuation ''.'' and adding the words ''and before July 1, 2006; and'' immediately after the date ''October 1, 1993''.
■ H. Adding a new paragraph (b)(14)(iii).
■ I. In paragraph (b)(19)(i)(F), by adding the words ''unpaid refunds, identity theft'' after the word ''certification,''.
■ J. Revising paragraph (b)(27).
■ K. Adding a new paragraph (b)(29).
■ L. Adding a new paragraph (f).

The revisions and additions read as follows:

§ 682.401 Basic program agreement.

* * * * *

(b) * * *

(10) *Insurance premiums and Federal default fees.* (i) Except for a Consolidation Loan or SLS or PLUS loans refinanced under § 682.209 (e) or (f), a guaranty agency:

(A) May charge the lender an insurance premium for Stafford, SLS, or PLUS loans it guarantees prior to July 1, 2006; and

(B) Must collect, either from the lender or by payment from any other non-Federal source, a Federal default fee for any Stafford or PLUS loans it guarantees on or after July 1, 2006, to be deposited into the Federal Fund under § 682.419.

(ii) The guaranty agency may not use the Federal default fee for incentive payments to lenders, and may only use the insurance premium or the Federal default fee for costs incurred in guaranteeing loans or in the administration of the agency's loan guarantee program, as specified in § 682.410(a)(2) or § 682.419(c).

(iii) If a lender charges the borrower an insurance premium or Federal default fee, the lender must deduct the charge proportionately from each disbursement of the borrower's loan proceeds.

(iv) The amount of the insurance premium or Federal default fee, as applicable—

(A) May not exceed 3 percent of the principal balance for a loan disbursed on or before June 30, 1994;

(B) May not exceed 1 percent of the principal balance for a loan disbursed on or after July 1, 1994;

(C) Shall be 1 percent of the principal balance of a loan guaranteed on or after July 1, 2006.

(v) If the circumstances specified in paragraph (vi) exist, the guaranty agency shall refund to the lender any insurance premium or Federal default fee paid by the lender.

(vi) The lender shall refund to the borrower by a credit against the borrower's loan balance the insurance premium or Federal default fee paid by the borrower on a loan under the following circumstances:

(A) The insurance premium or Federal default fee attributable to each disbursement of a loan must be refunded if the loan check is returned uncashed to the lender.

(B) The insurance premium or Federal default fee, or an appropriate prorated amount of the premium or fee, must be refunded by application to the borrower's loan balance if—

* * * * *

(14) * * *

(iii) Not more than 97 percent of the unpaid principal balance of each loan guaranteed for loans first disbursed on or after July 1, 2006.

* * * * *

(27) *Consolidation of defaulted FFEL loans.*

(i) A guaranty agency may charge collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest on a defaulted FFEL Program loan that is paid off by a Federal Consolidation loan.

(ii) Prior to October 1, 2006, when returning the proceeds from the consolidation of a defaulted loan to the Secretary, a guaranty agency may only retain the amount charged to the borrower pursuant to this paragraph.

(iii) On or after October 1, 2006, when returning proceeds to the Secretary from the consolidation of a defaulted loan, a guaranty agency that charged the borrower collection costs must remit an amount that equals the lesser of the actual collection costs charged or 8.5 percent of the outstanding principal and interest of the loan.

(iv) On or after October 1, 2009, when returning proceeds to the Secretary from the consolidation of a defaulted loan that is paid off with excess consolidation proceeds as defined in paragraph (b)(27)(ii)(D) of this section, a guaranty agency must remit the entire amount of collection costs repaid through the consolidation loan pursuant to paragraph (b)(27)(ii) of this section.

(v) The term *excess consolidation proceeds* means, for any Federal fiscal year beginning on or after October 1, 2009, the amount of Consolidation Loan proceeds received for defaulted loans under the FFEL Program that exceed 45 percent of the agency's total collections on defaulted loans in that Federal fiscal year.

* * * * *

(29) Plans to Reduce Consolidation of defaulted loans. A guaranty agency shall establish and submit to the Secretary for approval, procedures to ensure that consolidation loans are not an excessive proportion of the guaranty agency's recoveries on defaulted loans.

* * * * *

(f) College Access Initiative. (1) A guaranty agency shall establish a plan to promote access to postsecondary education by—

(i) Providing the Secretary and the public with information on Internet web links and a comprehensive listing of postsecondary education opportunities, programs, publications and other services available in the State, or States for which the guaranty agency serves as the designated guaranty agency;

(ii) Promoting and publicizing information for students and traditionally underrepresented populations on college planning, career preparation, and paying for college in coordination with other entities that provide or distribute such information in the State, or States for which the guaranty agency serves as the designated guaranty agency;

(2) The activities required by this section may be funded from the guaranty agency's Operating Fund in accordance with § 682.423(c)(1)(vii) or from funds remaining in restricted accounts established pursuant to section 422(h)(4) of the HEA.

(3) The guaranty agency shall ensure that the information required by this subsection is available to the public by November 5, 2006 and is—

(i) Free of charge; and

(ii) Available in print.

* * * * *

■ 51. Section 682.402 is amended by:
■ A. Amending paragraph (a)(4) by removing the words ''paragraphs (e)(1)(ii)'' and, inserting in their place, the words ''paragraph (e)(1)(ii) or (iii)''.
■ B. Revising paragraph (e)(1)(i) introductory text.
■ C. Adding a new paragraph (e)(1)(i)(C).
■ D. Adding a new paragraph (e)(1)(iii).
■ E. Redesignating paragraphs (e)(3)(v) and (e)(3)(vi) as paragraphs (e)(3)(vi) and (e)(3)(vii), respectively.
■ F. Adding a new paragraph (e)(3)(v).
■ G. In the heading of paragraph (e)(7), adding the words ''that he or she was a victim of the crime of identity theft'' after the word ''note.''
■ H. In paragraph (e)(7)(ii)(C)(*2*), removing the punctuation ''.'', and adding, in its place, the words ''; and''.

■ I. In paragraph (e)(7)(ii), adding a new paragraph (e)(7)(ii)(D).
■ J. In the heading of the paragraph (e)(9), adding the words ''that he or she was a victim of the crime of identity theft,'' after the word ''note,''.
■ K. In paragraph (e)(9)(ii)(B), removing the word ''and''.
■ L. In paragraph (e)(9)(ii)(C), removing the punctuation ''.'', and adding, in its place, the words ''; and''.
■ M. In paragraph (e)(9)(ii), adding a new paragraph (e)(9)(ii)(D).
■ N. Redesignating paragraph (e)(14) as paragraph (e)(15).
■ O. Adding a new paragraph (e)(14).

The revisions and additions read as follows:

§ 682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

* * * * *

(e) *False certification by a school of a student's eligibility to borrower and unauthorized disbursements.*

(1) *General.* (i) The Secretary reimburses the holder of a loan received by a borrower on or after January 1, 1986, and discharges a current or former borrower's obligation with respect to the loan in accordance with the provisions of paragraph (e) of this section, if the borrower's (or the student for whom a parent received a PLUS loan) eligibility to receive the loan was falsely certified by an eligible school. On or after July 1, 2006, the Secretary reimburses the holder of a loan, and discharges a borrower's obligation with respect to the loan in accordance with the provisions of paragraph (e) of this section, if the borrower's eligibility to receive the loan was falsely certified as a result of a crime of identity theft. For purposes of a false certification discharge, the term ''borrower'' includes all endorsers on a loan. A student's or other individual's eligibility to borrow shall be considered to have been falsely certified by the school if the school—

* * * * *

(C) Certified the eligibility of an individual for an FFEL Program loan as a result of the crime of identity theft committed against the individual, as that crime is defined in § 682.402(e)(14).

* * * * *

(iii) If a loan was made as a result of the crime of identity theft that was committed by an employee or agent of the lender, or if at the time the loan was made, an employee or agent of the lender knew of the identity theft of the individual named as the borrower—

(A) The Secretary does pay reinsurance, and does not reimburse the holder, for any amount disbursed on the loan; and

(B) Any amounts received by a holder as interest benefits and special allowance payments with respect to the loan must be refunded to the Secretary, as provided in paragraphs (e)(8)(ii)(B)(4) and (e)(10)(ii)(D) of this section.

* * * * *

(3) * * *

(v) In the case of an individual who is requesting a discharge of a loan because the individual's eligibility was falsely certified as a result of a crime of identity theft committed against the individual—

(A) Certify that the individual did not sign the promissory note, or that any other means of identification used to obtain the loan was used without the authorization of the individual claiming relief;

(B) Certify that the individual did not receive or benefit from the proceeds of the loan with knowledge that the loan had been made without the authorization of the individual;

(C) Provide a copy of a local, State, or Federal court verdict or judgment that conclusively determines that the individual who is named as the borrower of the loan was the victim of a crime of identify theft;

(D) If the judicial determination of the crime does not expressly state that the loan was obtained as a result of the crime, provide—

(*1*) Authentic specimens of the signature of the individual, as provided in paragraph (e)(3)(iii)(B), or other means of identification of the individual, as applicable, corresponding to the means of identification falsely used to obtain the loan; and

(*2*) A statement of facts that demonstrate, to the satisfaction of the Secretary, that eligibility for the loan in question was falsely certified as a result of the crime of identity theft committed against that individual.

* * * * *

(7) * * *

(ii) * * *

(D) Within 30 days, demand payment in full from the perpetrator of the identity theft committed against the individual, and if payment is not received, pursue collection action thereafter against the perpetrator.

* * * * *

(9) * * *

(ii) * * *

(D) Within 30 days, demand payment in full from the perpetrator of the identity theft committed against the individual, and if payment is not received, pursue collection action thereafter against the perpetrator.

* * * * *

(14) *Identity theft.* (i) The unauthorized use of the identifying information of another individual that is punishable under 18 U.S.C. 1028, 1029, or 1030, or substantially comparable State or local law.

(ii) Identifying information includes, but is not limited to—

(A) Name, Social Security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, and employer or taxpayer identification number;

(B) Unique biometric data, such as fingerprints, voiceprint, retina or iris image, or unique physical representation;

(C) Unique electronic identification number, address, or routing code; or

(D) Telecommunication identifying information or access device (as defined in 18 U.S.C. 1029(e)).

* * * * *

■ 52. Section 682.404 is amended by:
■ A. Redesignating paragraph (a)(1)(iii)(D) as paragraph (a)(1)(iii)(E).
■ B. Adding a new paragraph (a)(1)(iii)(D).
■ C. Adding a new paragraph (a)(2)(iii).

The additions read as follows:

§ 682.404 Federal reinsurance agreement.

(a) * * *

(1) * * *

(iii) * * *

(D) For loans that meet the definition of exempt claims in paragraph (a)(2)(iii) of this section;

(2) * * *

(iii) *Exempt claims* means claims with respect to loans for which it is determined that the borrower (or student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all of a portion of the loan or for interest benefits on the loan.

* * * * *

■ 53. Section 682.405 is amended by:
■ A. Revising paragraphs (a)(1) and (2).
■ B. Revising paragraph (b)(1).
■ C. Redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(3) and (b)(4), respectively.
■ D. In newly redesignated paragraph (b)(4), removing the words ''12 consecutive'' both times they appear and adding, in their place, the figure ''9''.
■ E. Add new paragraph (b)(2).

The revisions read as follows:

§ 682.405 Loan rehabilitation agreement.

(a) *General.* (1) A guaranty agency that has a basic program agreement must

enter into a loan rehabilitation agreement with the Secretary. The guaranty agency must establish a loan rehabilitation program for all borrowers with an enforceable promissory note for the purpose of rehabilitating defaulted loans, except for loans for which a judgment has been obtained, loans on which a default claim was filed under § 682.412, and loans on which the borrower has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance, so that the loan may be purchased, if practicable, by an eligible lender and removed from default status.

(2) A loan is considered to be rehabilitated only after—

(i) The borrower has made and the guaranty agency has received nine of the ten payments required under a monthly repayment agreement.

(A) Each of which payments is—

(*1*) Made voluntarily;

(*2*) In the full amount required; and

(*3*) Received within 20 days of the due date for the payment, and

(B) All nine payments are received within a 10-month period that begins with the month in which the first required due date falls and ends with the ninth consecutive calendar month following that month, and

(ii) The loan has been sold to an eligible lender.

(b) * * *

(1) A borrower may request rehabilitation of the borrower's defaulted loan held by the guaranty agency. In order to be eligible for rehabilitation of the loan, the borrower must voluntarily make at least nine of the ten payments required under a monthly repayment agreement.

(i) Each of which payment is—

(A) Made voluntarily,

(B) In the full amount required, and

(C) Received within 20 days of the due date for the payment, and

(ii) All nine payments are received within a ten-month period that begins with the month in which the first required due date falls and ends with the ninth consecutive calendar month following that month.

(2) For the purposes of this section, payment in the full amount required means payment of an amount that is reasonable and affordable, based on the borrower's total financial circumstances, as agreed to by the borrower and the agency. Voluntary payments are those made directly by the borrower and do not include payments obtained by Federal offset, garnishment, income or asset execution, or after a judgment has been entered on a loan. A guaranty agency must attempt to secure a lender to purchase the loan at the end of the 9- or 10-month payment period as applicable.

§ 682.406 [Amended]

■ 54. Section 682.406 is amended in paragraph (a)(9) by removing the figure ''45'' and adding, in its place, the figure ''30''.

■ 55. Section 682.408 is amended by revising paragraph (c) to read as follows:

§ 682.408 Loan disbursement through an escrow agent.

* * * * *

(c) Transmittal of FFEL loan proceeds by an escrow agent. The escrow agent shall transmit Stafford and PLUS loan proceeds received from a lender under this section to a school in accordance with the requirements of § 682.207(b)(1)(ii) and (iv) not later than 10 days after the agent receives the funds from the lender.

* * * * *

§ 682.410 [Amended]

■ 56. Section 682.410 is amended by:

■ A. In paragraph (a)(1)(i), adding the words ''and Federal default fees'' after the word ''premiums''.

■ B. In paragraph (a)(2)(vi), adding the words ''and Federal default fees'' after the word ''premiums''.

■ C. In paragraph (b)(9)(i)(A), removing the figure ''10'' and adding, in its place, the figure ''15''.

■ 57. Section 682.415 is amended by revising paragraph (a)(1) to read as follows:

§ 682.415 Special insurance and reinsurance rules.

(a)(1) A lender or lender servicer (as an agent for an eligible lender) designated for exceptional performance under paragraph (b) of this section shall receive reimbursement at the applicable rate under paragraphs (a)(1)(i) or (a)(1)(ii) of this section on all claims submitted for insurance during the 12-month period following the date the lender or lender servicer and appropriate guaranty agencies receive notification of the designation of the eligible lender or lender servicer under paragraph (b) of this section. A guaranty agency or a guaranty agency servicer (as an agent for a guaranty agency) designated for exceptional performance under paragraph (c) of this section shall receive the applicable reinsurance rate under section 428(c)(1) of the Act on all claims submitted for payments by the guaranty agency or guaranty agency servicer during the 12-month period following the date the guaranty agency receives notification of its designation, or its servicer's designation, under paragraph (c) of this section. A notice of designation for exceptional performance under this section is deemed to have been received by the lender, servicer, or guaranty agency no later than 3 days after the date the notice is mailed, unless the lender, servicer, or guaranty agency is able to prove otherwise. A lender or lender servicer designated for exceptional performance shall receive reimbursement at the rate of—

(i) 100 percent of the unpaid principal and interest for default claims submitted to the guaranty agency for payment before July 1, 2006; and

(ii) 99 percent of the unpaid principal and interest for default claims submitted to the guaranty agency for payment on or after July 1, 2006.

* * * * *

§ 682.419 [Amended]

■ 58. Section 682.419 is amended by:

■ A. In paragraph (b)(2), adding the words ''or Federal default fees'' after the word ''premiums''.

■ B. In paragraph (c)(7), by adding the words ''or Federal default fees'' after the word ''premiums''.

■ 59. Section 682.601 is revised to read as follows:

§ 682.601 Rules for a school that makes or originates loans.

(a) *General.* To make or originate loans under the FFEL program, a school—

(1) Must employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending the school;

(2) Must not be a home study school;

(3) Must not—

(i) Make a loan to any undergraduate student;

(ii) Make a loan other than a Federal Stafford loan to a graduate or professional student; or

(iii) Make a loan to a borrower who is not enrolled at that school;

(4) Must award any contract for financing, servicing, or administration of FFEL loans on a competitive basis;

(5) Must offer loans that carry an origination fee or an interest rate, or both, that are less than the fee or rate authorized under the provisions of the Act;

(6) Must not have a cohort default rate, as calculated under subpart M of 34 CFR part 668, greater than 10 percent;

(7) Must, for any fiscal year beginning on or after July 1, 2006 in which the school engages in activities as an eligible lender, submit a compliance audit conducted in accordance with the requirements of 34 CFR 682.305(c)(2);

(8) Must use any proceeds from special allowance payments and interest payments from borrowers, interest subsidy payments, and any proceeds from the sale or other disposition of loans (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loans, and the cost of charging origination fees or interest rates at less than the fees or rates authorized under the HEA) for need-based grants which does not include providing origination fees or interest rates at less than the fee or rate authorized under the provisions of the Act; and

(9) Must have met the requirements to be an eligible lender as of February 7, 2006, and must have made loans on or before April 1, 2006.

(b) An eligible school lender may use a portion of the proceeds described in paragraph (a)(8) of this section for reasonable and direct administrative expenses. Reasonable and direct administrative expenses are those that are incurred by the school and are directly related to the school's performance of actions required of the school under the Act or the regulations in this part. Reasonable and direct administrative expenses do not include financing and similar costs such as costs paid by the school to obtain funding to make FFEL loans, the cost of paying Federal default fees on behalf of borrowers, or the cost of providing origination fees or interest rates at less than the fee or rate authorized under the provisions of the Act.

(c) An eligible school lender must ensure that the proceeds described in paragraph (a)(8) of this section are used to supplement, and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.

(Authority: 20 U.S.C. 1077, 1078–1, 1078–2, 1078–3, 1082, 1085)

§ 682.603 [Amended]

■ 60. Section 682.603 is amended, in paragraph (h), by adding the word ''parent'' immediately after the words ''in the case of a''.

* * * * *

■ 61. Section 682.604 is amended by:

■ A. In paragraph (c)(3) introductory text, adding the word ''parent'' immediately after the words ''in the case of''.

■ B. Revising paragraph (b)(1).

■ C. In paragraph (c)(2)(i), removing the words ''§ 682.207(b)(1)(v)(C)(*1*) and (D)(*1*)'' and adding, in their place, the words ''§ 682.207(b)(1)(v)(C)(*1*) and (D)''.

■ D. In paragraphs (c)(5)(i) and (c)(10)(i)(B), adding the word ''or'' after the punctuation '';''.

■ E. In paragraphs (c)(5)(ii) and (c)(10)(ii), removing the words ''; or'' and adding, in their place, the punctuation ''.''.

■ F. Removing paragraphs (c)(5)(iii) and (c)(10)(iii).

■ G. In paragraph (h) introductory text, removing the words '', or in the case of a student attending a foreign school,''.

The revision reads as follows:

§ 682.604 Processing the borrower's loan proceeds and counseling borrowers.

* * * * *

(b) *Releasing loan proceeds.* (1)(i) Except as provided in § 682.207(b)(1)(v)(C)(1) and (D), the proceeds of a Stafford or PLUS loan disbursed using electronic transfer of funds must be sent directly to the school by the lender.

(ii) Upon notification by a lender under § 682.207(b)(2)(iv) that it has disbursed a loan directly to a borrower as provided under § 682.207(b)(1)(v)(C)(1) and (D), the institution must immediately notify the lender if the student is no longer eligible to receive the disbursement.

* * * * *

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 62. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

■ 63. Section 685.100 is amended by:

■ A. In paragraph (a)(3), adding the words ''and to graduate or professional students'' immediately after the words ''dependent students.''

■ B. Revising paragraph (c)(2).

The revision reads as follows:

§ 685.100 The William D. Ford Federal Direct Loan Program.

* * * * *

(c) * * *

(2) A borrower with a loan made under the Federal Family Education Loan Program who—

(i) Is not able to obtain a Federal Consolidation Loan;

(ii) Is not able to obtain a Federal Consolidation Loan with income-sensitive repayment terms that are satisfactory to the borrower; or

(iii) Has a Federal Consolidation Loan that has been submitted by the lender to the guaranty agency for default aversion, and wishes to consolidate the Federal Consolidation Loan into the Direct Loan Program for the purpose of obtaining an income contingent repayment plan.

* * * * *

■ 64. Section 685.101 is amended by revising paragraph (b) to read as follows:

§ 685.101 Participation in the Direct Loan Program.

* * * * *

(b) An eligible undergraduate student who is enrolled at a school participating in the Direct Loan Program may borrow under the Federal Direct Stafford/Ford Loan and Federal Direct Unsubsidized Stafford/Ford Loan Programs. An eligible graduate or professional student enrolled at a school participating in the Direct Loan Program may borrow under the Federal Direct Stafford/Ford Loan, Federal Direct Unsubsidized Stafford/Ford Loan, and Federal Direct PLUS Programs. An eligible parent of an eligible dependent student enrolled at a school participating in the Direct Loan Program may borrow under the Federal Direct PLUS Program.

* * * * *

■ 65. Section 685.102(b) is amended by:

■ A. Revising the definition of *estimated financial assistance*.

■ B. Revising the definition of *Federal Direct Consolidation Loan Program*.

■ C. Revising the definition of *Federal Direct PLUS Program*.

■ D. In paragraph (2) of the definition of *Satisfactory repayment arrangement*, removing the reference to ''685.220(d)(1)(ii)(E)'' and adding, in its place, a reference to ''685.220(d)(1)(ii)(C)''.

The revisions read as follows:

§ 685.102 Definitions.

* * * * *

(b) * * *

Estimated financial assistance. (1) The estimated amount of assistance for a period of enrollment that a student (or a parent on behalf of a student) will receive from Federal, State, institutional, or other sources, such as scholarships, grants, net earnings from need-based employment, or loans, including but not limited to—

(i) Except as provided in paragraph (2)(iv) of this definition, veterans' educational benefits paid under chapters 30 (Montgomery GI Bill—Active Duty), 31 (Vocational Rehabilitation and Employment Program), 32 (Veterans' Educational Assistance Program), and 35 (Dependents' Educational Assistance Program) of title 38 of the United States Code;

(ii) Educational benefits paid under chapters 31 (National Call to Service), 1606 (Montgomery GI Bill—Selected Reserve), and 1607 (Reserve Educational Assistance Program) of title 10 of the United States Code;

(iii) Reserve Officer Training Corps (ROTC) scholarships and subsistence allowances awarded under chapter 2 of title 10 and chapter 2 of title 37 of the United States Code;

(iv) Benefits paid under Public Law 96–342, section 903: Educational Assistance Pilot Program;

(v) Any educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary education expenses;

(vi) Fellowships or assistantships, except non-need-based employment portions of such awards;

(vii) Insurance programs for the student's education;

(viii) The estimated amount of other Federal student financial aid, including but not limited to a Federal Pell Grant, Academic Competitiveness Grant, National SMART Grant, campus-based aid, and the gross amount (including fees) of subsidized and unsubsidized Federal Stafford Loans or subsidized and unsubsidized Direct Stafford Loans and Federal PLUS or Direct PLUS Loans; and

(ix) Except as provided in paragraph (2)(iii) of this definition, national service education awards or post-service benefits under title I of the National and Community Service Act of 1990 (AmeriCorps).

(2) Estimated financial assistance does not include—

(i) Those amounts used to replace the expected family contribution (EFC), including the amounts of any unsubsidized Federal Stafford Loans or Direct Stafford Loans, Federal PLUS or Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the loan amounts received that are being used to replace the student's EFC exceed the EFC, the excess amount must be treated as estimated financial assistance;

(ii) Federal Perkins loan and Federal Work-Study funds that the student has declined;

(iii) Non-need-based employment earnings;

(iv) For the purpose of determining eligibility for a Direct Subsidized Loan, veterans' educational benefits paid under chapter 30 of title 38 of the United States Code (Montgomery GI Bill—Active Duty) and national service education awards or post-service benefits under title I of the National and Community Service Act of 1990 (AmeriCorps);

(v) Any portion of the estimated financial assistance described in paragraph (1) of this definition that is included in the calculation of the student's EFC; and

(vi) Assistance not received under this part if that assistance is designated to offset all or a portion of a specific amount of the cost of attendance and that component is excluded from the cost of attendance as well. If that assistance is excluded from either estimated financial assistance or cost of attendance, it must be excluded from both.

* * * * *

Federal Direct Consolidation Loan Program: (1) A loan program authorized by title IV, part D of the Act that provides loans to borrowers who consolidate certain Federal educational loan(s), and one of the components of the Direct Loan Program. Loans made under this program are referred to as Direct Consolidation Loans.

(2) The term ''Direct Subsidized Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to certain subsidized title IV education loans that were repaid by the consolidation loan. Interest is not charged to the borrower during deferment periods, or, for a borrower whose consolidation application was received before July 1, 2006, during in-school and grace periods.

(3) The term ''Direct Unsubsidized Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to unsubsidized title IV education loans, certain subsidized title IV education loans, and certain other Federal education loans that were repaid by the consolidation loan. The borrower is responsible for the interest that accrues during any period.

(4) The term ''Direct PLUS Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to Direct PLUS Loans, Direct PLUS Consolidation Loans, Federal PLUS Loans, and Parent Loans for Undergraduate Students that were repaid by the consolidation loan. The borrower is responsible for the interest that accrues during any period.

* * * * *

Federal Direct PLUS Program: A loan program authorized by title IV, Part D of the Act that is one of the components of the Federal Direct Loan Program. The Federal Direct PLUS Program provides loans to parents of dependent students attending schools that participate in the Direct Loan Program. The Federal Direct PLUS Program also provides loans to graduate or professional students attending schools that participate in the Direct Loan Program. The borrower is responsible for the interest that accrues during any period. Loans made under this program are referred to as Direct PLUS Loans.

* * * * *

■ 66. Section 685.200 is amended by:

■ A. In paragraph (a), revising the paragraph heading to read as set forth below.

■ B. Redesignating paragraphs (b), (c), and (d) as paragraphs (c), (d), and (e), respectively.

■ C. Adding a new paragraph (b).

■ D. In newly redesignated paragraph (c), revising the paragraph heading to read as set forth below and adding a new paragraph (c)(3).

■ E. In newly redesignated paragraph (c)(1)(vii)(B) introductory text, removing the reference to ''(b)(1)(vii)(A)'' and adding, in its place, a reference to ''(c)(1)(vii)(A)''.

■ F. In newly redesignated paragraph (c)(1)(vii)(C), removing the reference to ''(b)(1)(vii)(A)'' adding, in its place, a reference to ''(c)(1)(vii)(A)''.

■ G. In newly redesignated paragraph (c)(2), removing the reference to ''(b)(1)'' and adding, in its place, a reference to ''(c)(1)''.

■ H. In newly redesignated paragraph (d), by removing the reference to ''685.220(d)(1)(ii)(F)'' and adding, in its place, a reference to ''685.220(d)(1)(ii)(D)''.

■ I. Revising newly redesignated paragraph (e).

The additions read as follows:

§ 685.200 Borrower eligibility.

(a) *Student Direct Subsidized or Direct Unsubsidized borrower.*

* * * * *

(b) *Student PLUS borrower.* (1) A graduate or professional student is eligible to receive a Direct PLUS Loan originated on or after July 1, 2006, if the student meets the following requirements—

(i) The student is enrolled, or accepted for enrollment, on at least a half-time basis in a school that participates in the Direct Loan Program.

(ii) The student meets the requirements for an eligible student under 34 CFR part 668.

(iii) The student meets the requirements of paragraphs (a)(1)(iv) and (a)(1)(v) of this section, if applicable.

(iv) The student has received a determination of his or her annual loan maximum eligibility under the Federal Direct Stafford/Ford Loan Program and the Federal Direct Unsubsidized and Stafford/Ford Loan Program; and

(v) The student does not have an adverse credit history in accordance with paragraph (c)(1)(vii) of this section.

* * * * *

(c) *Parent PLUS borrower.*

* * * * *

(3) Has completed repayment of any title IV, HEA program assistance obtained by fraud, if the parent has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance.

* * * * *

(e) *Use of loan proceeds to replace expected family contribution.* The amount of a Direct Unsubsidized Loan, a Direct PLUS loan, or a non-federal non-need based loan, including a private, state-sponsored, or institution loan, obtained for a loan period may be used to replace the expected family contribution for that loan period.

* * * * *

■ 67. Section 685.201 is amended by revising paragraph (b) to read as follows:

§ 685.201 Obtaining a loan.

* * * * *

(b) *Application for a Direct PLUS Loan.* (1) For a parent to obtain a Direct PLUS Loan, the parent must complete the Direct PLUS MPN and submit it to the school at which the student is enrolled.

(2) For a graduate or professional student to apply for a Direct PLUS Loan, the student must complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application. The graduate or professional student must also complete the PLUS MPN and submit it to the school.

(3) For either a parent or student PLUS borrower, as applicable, the school must complete its portion of the PLUS MPN and submit it to the Servicer, which makes a determination as to whether the parent or graduate or professional student has an adverse credit history. Unless a school's agreement with the Secretary specifies otherwise, the school must perform the following functions: A school participating under school origination option 2 must draw down funds and disburse the funds. For a school participating under school origination option 1 or standard origination, the Servicer initiates the drawdown of funds, and the school disburses the funds.

* * * * *

■ 68. Section 685.202 is amended by:

■ A. In the heading of paragraph (a)(1)(iii), adding the words ''and before July 1, 2006'' immediately after the words ''July 1, 1998''.

■ B. Adding a new paragraph (a)(1)(iv).

■ C. In the heading of paragraph (a)(2)(ii), adding the words ''and before July 1, 2006'' after the words ''July 1, 1998''.

■ D. Adding a new paragraph (a)(2)(iii).

■ E. In paragraph (b)(2), adding the words ''under the regulations that were in effect for consolidation applications received before July 1, 2006'' after the words ''grace period''.

■ F. In paragraph (b)(3), removing the reference to ''685.208(g)(5)'' and adding, in its place, a reference to ''85.208(l)(5)''.

■ G. In paragraph (b)(4), removing the reference to ''685.208(g)(5)'' and adding, in its place, a reference to ''685.208(l)(5)''.

■ H. Revising paragraph (c)(1).

The revisions and additions read as follows:

§ 685.202 Charges for which Direct Loan Program borrowers are responsible.

(a) * * *

(1) * * *

(iv) *Loans first disbursed on or after July 1, 2006.* The interest rate is 6.8 percent.

(2) * * *

(iii) *Loans first disbursed on or after July 1, 2006.* The interest rate is 7.9 percent.

(c) * * *

(1)(i) For a Direct Subsidized or Direct Unsubsidized loan first disbursed prior to February 8, 2006, charges a borrower a loan fee not to exceed 4 percent of the principal amount of the loan;

(ii) For a Direct Subsidized or Direct Unsubsidized loan first disbursed on or after February 8, 2006, but before July 1, 2007, charges a borrower a loan fee not to exceed 3 percent of the principal amount of the loan;

(iii) For a Direct Subsidized or Direct Unsubsidized loan first disbursed on or after July 1, 2007, but before July 1, 2008, charges a borrower a loan fee not to exceed 2.5 percent of the principal amount of the loan;

(iv) For a Direct Subsidized or Direct Unsubsidized loan first disbursed on or after July 1, 2008, but before July 1, 2009, charges the borrower a loan fee not to exceed 2 percent of the principal amount of the loan;

(v) For a Direct Subsidized or Direct Unsubsidized loan first disbursed on or after July 1, 2009, but before July 1, 2010, charges the borrower a loan fee not to exceed 1.5 percent of the principal amount of the loan;

(vi) For a Direct Subsidized or Direct Unsubsidized loan first disbursed on or after July 1, 2010, charges the borrower a loan fee not to exceed 1 percent of the principal amount of the loan; and

(vii) Charges a borrower a loan fee of four percent of the principal amount of the loan on a Direct PLUS loan.

* * * * *

§ 685.203 [Amended]

■ 69. Section 685.203 is amended by:

■ A. In paragraph (a)(1)(i), adding the words '', or, for a loan originated on or after July 1, 2007, $3,500,'' immediately after the figure ''$2,625''.

■ B. In paragraph (a)(1)(ii), adding the words '', or, for a loan originated on or after July 1, 2007, $3,500,'' immediately after the figure ''$2,625''.

■ C. In paragraph (a)(1)(iii), adding the words '', or, for a loan originated on or after July 1, 2007, $3,500'' immediately after the figure ''$2,625''.

■ D. In paragraph (a)(2)(i), adding the words '', or, for a loan originated on or after July 1, 2007, $4,500,'' immediately after the figure ''$3,500''.

■ E. In paragraph (a)(2)(ii), adding the words '', or, for a loan originated on or after July 1, 2007, $4,500,'' immediately after the figure ''$3,500''.

■ F. In paragraph (c)(2)(v), adding the words '', or, for a loan originated on or after July 1, 2007, $12,000.'' immediately after the figure ''$10,000''.

■ G. In paragraph (c)(2)(vi)(B), adding the words '', or, for a loan originated on or after July 1, 2007, $7,000,'' immediately after the figure ''$5,000''.

■ H. In paragraph (c)(2)(vii), adding the words '', or, for a loan originated on or after July 1, 2007, $7,000.'' immediately after the figure ''$5,000''.

■ I. In paragraph (f), adding the words '', or that a graduate or professional student may borrow,'' immediately after the words ''dependent student'' and removing the words ''that student'' and adding, in their place, the words ''the student''.

■ J. In paragraph (g), adding the words '', or that a graduate or professional student may borrow,'' immediately after the words ''dependent student''.

■ 70. Section 685.204 is amended by:

■ A. In paragraph (a)(1), removing the words ''paragraph (b)'' and adding, in their place, the words ''paragraphs (b) and (e)''.

■ B. In paragraph (a)(2), removing the words ''paragraph (b)'' and adding, in their place, the words ''paragraphs (b) and (e)''.

■ C. In paragraph (b), removing the parenthetical ''(e)'' and adding, in its place, the parenthetical ''(f)''.

■ D. Redesignating paragraph (e) as paragraph (f).

■ E. In paragraph (d)(1), removing the words ''paragraph (b)'' and adding, in their place, the words ''paragraphs (b) and (e)''.

■ F. Adding a new paragraph (e).

The addition reads as follows:

§ 685.204 Deferment.

* * * * *

(e)(1) A borrower who receives a Direct Loan Program loan first disbursed on or after July 1, 2001, may receive a military service deferment for such loan for any period not to exceed 3 years during which the borrower is—

(i) Serving on active duty during a war or other military operation or national emergency; or

(ii) Performing qualifying National Guard duty during a war or other military operation or national emergency.

(2) *Serving on active duty during a war or other military operation or national emergency* means service by an individual who is—

(i) A Reserve of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304, or 12306;

(ii) A retired member of an Armed Force ordered to active duty under 10 U.S.C. 688 for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; or

(iii) Any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the member is normally assigned.

(3) *Qualifying National Guard duty during a war or other operation or national emergency* means service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f) in connection with a war, other military operation, or national emergency declared by the President and supported by Federal funds.

(4) These provisions do not authorize the refunding of any payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment.

(5) A borrower is eligible for a military service deferment on a Direct Consolidation Loan only if the borrower meets the conditions described in this section and all of the title IV loans included in the Consolidation Loan were first disbursed on or after July 1, 2001.

(6) As used in this section—

(i) *Active duty* means active duty as defined in 10 U.S.C. 101(d)(1) except that it does not include active duty for training or attendance at a service school;

(ii) *Military operation* means a contingency operation as defined in 10 U.S.C. 101(a)(13); and

(iii) *National emergency* means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

* * * * *

§ 685.205 [Amended]

■ 71. Section 685.205 is amended in paragraph (b)(5) by adding the words ''obtained by a parent borrower'' after the words ''Direct PLUS Loan''.

■ 72. Section 685.207 is amended by revising paragraphs (e)(2) and (3).

The revisions read as follows:

§ 685.207 Obligation to repay.

* * * * *

(e) * * *

(2) In the case of a borrower whose consolidation application was received before July 1, 2006, a borrower who obtains a Direct Subsidized Consolidation Loan during an in-school period will be subject to the repayment provisions in paragraph (b) of this section.

(3) In the case of a borrower whose consolidation application was received before July 1, 2006, a borrower who obtains a Direct Unsubsidized Consolidation Loan during an in-school period will be subject to the repayment provisions in paragraph (c) of this section.

* * * * *

■ 73. Section 685.208 is revised to read as follows:

§ 685.208 Repayment plans.

(a) *General.* (1) *Borrowers who entered repayment before July 1, 2006.* (i) A borrower may repay a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct Subsidized Consolidation Loan, or a Direct Unsubsidized Consolidation Loan under the standard repayment plan, the extended repayment plan, the graduated repayment plan, or the income contingent repayment plan, in accordance with paragraphs (b), (d), (f), and (k) of this section, respectively.

(ii) A borrower may repay a Direct PLUS Loan or a Direct PLUS Consolidation Loan under the standard repayment plan, the extended repayment plan, or the graduated repayment plan, in accordance with paragraphs (b), (d), and (f) of this section, respectively.

(2) *Borrowers entering repayment on or after July 1, 2006.* (i) A borrower may repay a Direct Subsidized Loan or a Direct Unsubsidized Loan under the standard repayment plan, the extended repayment plan, the graduated repayment plan, or the income contingent repayment plan, in accordance with paragraphs (b), (e), (g), and (k) of this section, respectively.

(ii) A borrower may repay a Direct PLUS Loan under the standard repayment plan, the extended repayment plan, or the graduated repayment plan, in accordance with paragraphs (b), (e), and (g) of this section, respectively.

(iii) A borrower may repay a Direct Consolidation Loan under the standard repayment plan, the extended repayment plan, the graduated repayment plan, or the income contingent repayment plan, in accordance with paragraphs (c), (e), (h), and (k) of this section, respectively.

(3) The Secretary may provide an alternative repayment plan in accordance with paragraph (l) of this section.

(4) All Direct Loans obtained by one borrower must be repaid together under the same repayment plan, except that—

(i) A borrower of a Direct PLUS Loan may repay the Direct PLUS Loan separately from other Direct Loans obtained by the borrower; and

(ii) A borrower of a Direct PLUS Consolidation Loan that entered repayment before July 1, 2006 may repay the Direct PLUS Consolidation Loan separately from other Direct Loans obtained by that borrower.

(5) The repayment period for any of the repayment plans described in this section does not include periods of authorized deferment or forbearance.

(b) *Standard repayment plan for all Direct Subsidized Loan, Direct Unsubsidized Loan, and Direct PLUS Loan borrowers, regardless of when they entered repayment, and for Direct Consolidation Loan borrowers who entered repayment before July 1, 2006.* (1) Under this repayment plan, a borrower must repay a loan in full within ten years from the date the loan entered repayment by making fixed monthly payments.

(2) A borrower's payments under this repayment plan are at least $50 per month, except that a borrower's final payment may be less than $50.

(3) The number of payments or the fixed monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in § 685.202(a).

(c) *Standard repayment plan for Direct Consolidation Loan borrowers entering repayment on or after July 1, 2006.*

(1) Under this repayment plan, a borrower must repay a loan in full by making fixed monthly payments over a repayment period that varies with the total amount of the borrower's student loans, as described in paragraph (j) of this section.

(2) A borrower's payments under this repayment plan are at least $50 per month, except that a borrower's final payment may be less than $50.

(d) *Extended repayment plan for all Direct Loan borrowers who entered repayment before July 1, 2006.*

(1) Under this repayment plan, a borrower must repay a loan in full by making fixed monthly payments within an extended period of time that varies with the total amount of the borrower's loans, as described in paragraph (i) of this section.

(2) A borrower makes fixed monthly payments of at least $50, except that a borrower's final payment may be less than $50.

(3) The number of payments or the fixed monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in § 685.202(a).

(e) *Extended repayment plan for all Direct Loan borrowers entering repayment on or after July 1, 2006.*

(1) Under this repayment plan, a new borrower with more than $30,000 in outstanding Direct Loans accumulated on or after October 7, 1998 must repay either a fixed annual or graduated repayment amount over a period not to exceed 25 years from the date the loan entered repayment. For this repayment plan, a new borrower is defined as an individual who has no outstanding principal or interest balance on a Direct Loan as of October 7, 1998, or on the date the borrower obtains a Direct Loan on or after October 7, 1998.

(2) A borrower's payments under this plan are at least $50 per month, and will be more if necessary to repay the loan within the required time period.

(3) The number of payments or the monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in § 685.202(a).

(f) *Graduated repayment plan for all Direct Loan borrowers who entered repayment before July 1, 2006.*

(1) Under this repayment plan, a borrower must repay a loan in full by making payments at two or more levels within a period of time that varies with the total amount of the borrower's loans, as described in paragraph (i) of this section.

(2) The number of payments or the monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in § 685.202(a).

(3) No scheduled payment under this repayment plan may be less than the amount of interest accrued on the loan between monthly payments, less than 50 percent of the payment amount that would be required under the standard repayment plan described in paragraph (b) of this section, or more than 150 percent of the payment amount that would be required under the standard repayment plan described in paragraph (b) of this section.

(g) *Graduated repayment plan for Direct Subsidized Loan, Direct Unsubsidized Loan, and Direct PLUS Loan borrowers entering repayment on or after July 1, 2006.*

(1) Under this repayment plan, a borrower must repay a loan in full by making payments at two or more levels over a period of time not to exceed ten years from the date the loan entered repayment.

(2) The number of payments or the monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in § 685.202(a).

(3) A borrower's payments under this repayment plan are at least $50 per month, except that a borrower's final payment may be less than $50. No single payment under this plan will be more than three times greater than any other payment.

(h) *Graduated repayment plan for Direct Consolidation Loan borrowers entering repayment on or after July 1, 2006.*

(1) Under this repayment plan, a borrower must repay a loan in full by making monthly payments that gradually increase in stages over the course of a repayment period that varies with the total amount of the borrower's student loans, as described in paragraph (j) of this section.

(2) A borrower's payments under this repayment plan are at least $50 per month, except that a borrower's final payment may be less than $50.

(i) *Repayment period for the extended and graduated plans described in paragraphs (d) and (f) of this section, respectively.* Under these repayment plans, if the total amount of the borrower's Direct Loans is—

(1) Less than $10,000, the borrower must repay the loans within 12 years of entering repayment;

(2) Greater than or equal to $10,000 but less than $20,000, the borrower must repay the loans within 15 years of entering repayment;

(3) Greater than or equal to $20,000 but less than $40,000, the borrower must repay the loans within 20 years of entering repayment;

(4) Greater than or equal to $40,000 but less than $60,000, the borrower must repay the loans within 25 years of entering repayment; and

(5) Greater than or equal to $60,000, the borrower must repay the loans within 30 years of entering repayment.

(j) *Repayment period for the standard and graduated repayment plans described in paragraphs (c) and (h) of this section, respectively.* Under these repayment plans, if the total amount of the Direct Consolidation Loan and the borrower's other student loans, as defined in § 685.220(i), is—

(1) Less then $7,500, the borrower must repay the Consolidation Loan within 10 years of entering repayment;

(2) Equal to or greater than $7,500 but less than $10,000, the borrower must repay the Consolidation Loan within 12 years of entering repayment;

(3) Equal to or greater than $10,000 but less than $20,000, the borrower must repay the Consolidation Loan within 15 years of entering repayment;

(4) Equal to or greater than $20,000 but less than $40,000, the borrower must repay the Consolidation Loan within 20 years of entering repayment;

(5) Equal to or greater than $40,000 but less than $60,000, the borrower must repay the Consolidation Loan within 25 years of entering repayment; and

(6) Equal to or greater than $60,000, the borrower must repay the Consolidation Loan within 30 years of entering repayment.

(k) *Income contingent repayment plan.* (1) Under the income contingent repayment plan, a borrower's monthly repayment amount is generally based on the total amount of the borrower's Direct Loans, family size, and Adjusted Gross Income (AGI) reported by the borrower for the most recent year for which the Secretary has obtained income information. The borrower's AGI includes the income of the borrower's spouse. A borrower must make payments on a loan until the loan is repaid in full or until the loan has been in repayment through the end of the income contingent repayment period.

(2) The regulations in effect at the time a borrower enters repayment and selects the income contingent repayment plan or changes into the income contingent repayment plan from another plan govern the method for determining the borrower's monthly repayment amount for all of the borrower's Direct Loans, unless—

(i) The Secretary amends the regulations relating to a borrower's

monthly repayment amount under the income contingent repayment plan; and

(ii) The borrower submits a written request that the amended regulations apply to the repayment of the borrower's Direct Loans.

(3) Provisions governing the income contingent repayment plan are in § 685.209.

(l) *Alternative repayment.* (1) The Secretary may provide an alternative repayment plan for a borrower who demonstrates to the Secretary's satisfaction that the terms and conditions of the repayment plans specified in paragraphs (b) through (h) of this section are not adequate to accommodate the borrower's exceptional circumstances.

(2) The Secretary may require a borrower to provide evidence of the borrower's exceptional circumstances before permitting the borrower to repay a loan under an alternative repayment plan.

(3) If the Secretary agrees to permit a borrower to repay a loan under an alternative repayment plan, the Secretary notifies the borrower in writing of the terms of the plan. After the borrower receives notification of the terms of the plan, the borrower may accept the plan or choose another repayment plan.

(4) A borrower must repay a loan under an alternative repayment plan within 30 years of the date the loan entered repayment, not including periods of deferment and forbearance.

(5) If the amount of a borrower's monthly payment under an alternative repayment plan is less than the accrued interest on the loan, the unpaid interest is capitalized until the outstanding principal amount is 10 percent greater than the original principal amount. After the outstanding principal amount is 10 percent greater than the original principal amount, interest continues to accrue but is not capitalized. For purposes of this paragraph, the original principal amount is the amount owed by the borrower when the borrower enters repayment.

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 74. Section 685.209 is amended by revising paragraph (c)(4)(ii) to read as follows:

§ 685.209 Income contingent repayment plan.

* * * * *

(c) * * *

(4) * * *

(ii)(A) The repayment period includes—

(*1*) Periods in which the borrower makes payments under the standard repayment plan described in § 685.208(b); and

(*2*) If the repayment period is not more than 12 years, periods in which the borrower makes payments under the extended repayment plans described in § 685.208(d) and (e), or the standard repayment plan described in § 685.208(c).

(B) The repayment period does not include—

(*1*) Periods in which the borrower makes payments under the graduated repayment plans described in § 685.208(f), § 685.208(g) and § 685.208(h);

(*2*) Periods in which the borrower makes payments under an alternative repayment plan;

(*3*) Periods of authorized deferment or forbearance; or

(*4*) Periods in which the borrower makes payments under the extended repayment plans described in § 685.208(d) and

(e) in which payments are based on a repayment period that is longer than 12 years.

* * * * *

■ 75. Section 685.211 is amended by:

■ A. Revising paragraph (d)(3)(ii).

■ B. In paragraph (e)(1) introductory text, adding the words '', has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program funds,'' after the word ''information''.

■ C. In paragraph (f)(1), in the first sentence, removing the words ''twelve consecutive, on-time,'' and adding, in their place, the words ''nine voluntary,'' and adding the words ''within 20 days of the due date during ten consecutive months'' after the word ''payments''.

■ D. Adding a new paragraph (f)(3).

The additions and revisions read as follows:

§ 685.211 Miscellaneous repayment provisions.

* * * * *

(d) * * *

(3) * * *

(ii) If a borrower defaults on a Direct Subsidized Loan, a Direct Unsubsidized Loan, or a Direct Consolidation Loan, the Secretary may designate the income contingent repayment plan for the borrower.

(f) * * *

(3) A Direct Loan obtained by fraud for which the borrower has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance may not be rehabilitated.

* * * * *

§ 685.212 [Amended]

■ 76. Section 685.212 is amended by:

■ A. In paragraph (a)(1), in the second parenthetical, adding the words ''obtained by a parent borrower'' after the words ''Direct PLUS loan''.

■ B. In paragraph (h), adding the words '', or up to $17,500,'' after the figure ''$5,000''.

■ 77. Section 685.215 is amended by:

■ A. Adding a new paragraph (a)(1)(iv).

■ B. In paragraph (c) introductory text, in the last sentence, by removing the parenthetical ''(5)'' and, in its place, adding the parenthetical ''(6)''.

■ C. Redesignating paragraphs (c)(4), (c)(5), and (c)(6) as paragraphs (c)(5), (c)(6), and (c)(7), respectively.

■ D. Adding a new paragraph (c)(4).

The additions read as follows:

§ 685.215 Discharge for false certification of student eligibility or unauthorized payment.

(a) * * *

(1) * * *

(iv) Certified the individual's eligibility for a Direct Loan as a result of the crime of identity theft committed against the individual, as that crime is defined in § 682.402(e)(14).

(c) * * *

(4) *Identity theft.* In the case of an individual whose eligibility to borrow was falsely certified because he or she was a victim of the crime of identity theft and is requesting a discharge, the individual shall—

(i) Certify that the individual did not sign the promissory note, or that any other means of identification used to obtain the loan was used without the authorization of the individual claiming relief;

(ii) Certify that the individual did not receive or benefit from the proceeds of the loan with knowledge that the loan had been made without the authorization of the individual;

(iii) Provide a copy of a local, State, or Federal court verdict or judgment that conclusively determines that the individual who is named as the borrower of the loan was the victim of a crime of identity theft; and

(iv) If the judicial determination of the crime does not expressly state that the loan was obtained as a result of the crime of identity theft, provide—

(A) Authentic specimens of the signature of the individual, as provided in paragraph (c)(2)(ii), or of other means of identification of the individual, as applicable, corresponding to the means of identification falsely used to obtain the loan; and

(B) A statement of facts that demonstrate, to the satisfaction of the Secretary, that eligibility for the loan in

question was falsely certified as a result of the crime of identity theft committed against that individual.

* * * * *

■ 78. Section 685.217 is amended by:
■ A. Revising paragraph (a).
■ B. In paragraph (b), adding, in alphabetical order, a new definition for ''Highly qualified''.
■ C. Revising paragraph (c)(1)(iii).
■ D. Revising paragraph (c)(3).
■ E. Revising paragraph (c)(4).
■ F. Redesignating paragraphs (c)(5), (c)(6), (c)(7), (c)(8), and (c)(9) as paragraphs (c)(7), (c)(8), (c)(9), (c)(10), and (c)(11), respectively.
■ G. Adding a new paragraph (c)(5).
■ H. Adding a new paragraph (c)(6).
■ I. Removing the parentheticals ''(c)(5)'' and adding, in their place, the parentheticals ''(c)(7)'' in redesignated paragraph (c)(8).
■ J. Revising paragraph (d)(1).
■ K. Revising paragraph (d)(2).

The revisions and additions read as follows:

§ 685.217 Teacher loan forgiveness program.

(a) *General.* The teacher loan forgiveness program is intended to encourage individuals to enter and continue in the teaching profession. For new borrowers, the Secretary repays the amount specified in this paragraph on the borrower's subsidized and unsubsidized Federal Stafford Loans, Direct Subsidized Loans, Direct Unsubsidized Loans, and in certain cases, Federal Consolidation Loans or Direct Consolidation Loans. The forgiveness program is only available to a borrower who has no outstanding loan balance under the FFEL Program or the Direct Loan Program on October 1, 1998 or who has no outstanding loan balance on the date he or she obtains a loan after October 1, 1998. The borrower must have been employed as a full-time teacher for five consecutive complete academic years, at least one of which was after the 1997–1998 academic year, in certain eligible elementary or secondary schools that serve low-income families. All borrowers eligible for teacher loan forgiveness may receive loan forgiveness of up to a combined total of $5,000 on the borrower's eligible FFEL and Direct Loan Program loans. If the borrower taught for five consecutive years as a highly qualified mathematics or science teacher in an eligible secondary school, or as a highly qualified special education teacher in an eligible elementary or secondary school, the borrower may receive loan forgiveness of up to a combined total of $17,500 on the borrower's eligible FFEL and Direct Loan Program loans. The loan for which the borrower is seeking forgiveness must have been made prior to the end of the borrower's fifth year of qualifying teaching service.

(b) * * *

Highly qualified means highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965, as amended.

* * * * *

(c) * * *

(1) * * *

(iii) Is listed in the *Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits.* If this directory is not available before May 1 of any year, the previous year's directory may be used. The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Affairs (BIA) or operated on Indian reservations by Indian tribal groups under contract with the BIA to qualify as schools serving low-income students.

* * * * *

(3) In the case of a borrower whose five consecutive complete years of qualifying teaching service began before October 30, 2004, the borrower—

(i) May receive up to $5,000 of loan forgiveness if the borrower—

(A) Demonstrated knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum, as certified by the chief administrative officer of the eligible elementary school in which the borrower was employed; or

(B) Taught in a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the eligible secondary school in which the borrower was employed.

(ii) May receive up to $17,500 of loan forgiveness if the borrower—

(A) Taught mathematics or science on a full-time basis in an eligible secondary school and was a highly qualified mathematics or science teacher; or

(B) Taught as a special education teacher on a full-time basis to children with disabilities in either an eligible elementary or secondary school and was a highly qualified special education teacher whose special education training corresponded to the children's disabilities and who has demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum.

(4) In the case of a borrower whose five consecutive years of qualifying teaching service began on or after October 30, 2004, the borrower—

(i) May receive up to $5,000 of loan forgiveness if the borrower taught full time in an eligible elementary or secondary school and was a highly qualified elementary or secondary school teacher.

(ii) May receive up to $17,500 of loan forgiveness if the borrower—

(A) Taught mathematics or science on a full-time basis in an eligible secondary school and was a highly qualified mathematics or science teacher; or

(B) Taught as a special education teacher on a full-time basis to children with disabilities in either an eligible elementary or secondary school and was a highly qualified special education teacher whose special education training corresponded to the children's disabilities and who has demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum.

(5) To qualify for loan forgiveness as a highly qualified teacher, the teacher must have been a highly qualified teacher for all five years of eligible teaching service.

(6) For teacher loan forgiveness applications received by the Secretary on or after July 1, 2006, a teacher in a private, non-profit elementary or secondary school who is exempt from State certification requirements unless otherwise applicable under State law may qualify for loan forgiveness under paragraphs (c)(3)(ii) or (c)(4) of this section if—

(i) The private school teacher is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in applicable grade levels and subject areas;

(ii) The competency tests are recognized by 5 or more States for the purposes of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965; and

(iii) The private school teacher achieves a score on each test that equals or exceeds the average passing score for those 5 states.

* * * * *

(d) *Forgiveness amount.* (1) A qualified borrower is eligible for forgiveness of up to $5,000, or up to $17,500 if the borrower meets the requirements of paragraphs (c)(3)(ii) or (c)(4)(ii) of this section. The forgiveness amount is deducted from the aggregate amount of the borrower's Direct Subsidized Loan or Direct Unsubsidized Loan or Direct Consolidation Loan obligation that is outstanding after the borrower completes his or her fifth consecutive complete academic year of teaching as described in paragraph (c) of this section. Only the outstanding portion of the Direct Consolidation Loan

that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan, an eligible Direct Subsidized Loan, or an eligible Direct Unsubsidized Loan qualifies for loan forgiveness under this section.

(2) A borrower may not receive more than a total of $5,000, or $17,500 if the borrower meets the requirements of paragraphs (c)(3)(ii) or (c)(4)(ii) of this section, in loan forgiveness for outstanding principal and accrued interest under both this section and under section 34 CFR 682.215.

* * * * *

■ 79. Section 685.220 is amended by:

■ A. In paragraph (a), revising the first sentence to read as set forth below.

■ B. Revising paragraphs (c) and (d).

■ C. In paragraph (e), in the first sentence, removing the words ''or borrowers'' and removing, in its entirety, the second sentence.

■ D. In paragraph (f)(1)(iii), removing the words ''and may impose reasonable limits on collection costs paid to the holder''.

■ E. Revising paragraphs (h) and (i).

■ F. In paragraph (l) introductory text, adding the words ''in accordance with the regulations that were in effect for consolidation applications received prior to July 1, 2006'' after the word ''borrowers''.

The revisions read as follows:

§ 685.220 Consolidation.

(a) *Direct Consolidation Loans.* A borrower may consolidate education loans made under certain Federal programs into a Direct Consolidation Loan. * * *

* * * * *

(c) *Subsidized, unsubsidized, and PLUS components of Direct Consolidation Loans.* (1) The portion of a Direct Consolidation Loan attributable to the loans identified in paragraphs (b)(1) through (5) of this section, and to Federal Consolidation Loans under paragraph (b)(15) of this section if they are eligible for interest benefits during a deferment period under Section 428C(b)(4)(C) of the Act, is referred to as a Direct Subsidized Consolidation Loan.

(2) Except as provided in paragraph (c)(1) of this section, the portion of a Direct Consolidation Loan attributable to the loans identified in paragraphs (b)(6) through (8) and (b)(13) through (21) of this section is referred to as a Direct Unsubsidized Consolidation Loan.

(3) The portion of a Direct Consolidation Loan attributable to the loans identified in paragraphs (b)(9) through (12) of this section is referred to as a Direct PLUS Consolidation Loan.

(d) *Eligibility for a Direct Consolidation Loan.* (1) A borrower may obtain a Direct Consolidation Loan if, at the time the borrower applies for such a loan, the borrower meets the following requirements:

(i) The borrower either—

(A) Has an outstanding balance on a Direct Loan; or

(B) Has an outstanding balance on an FFEL loan and—

(*1*) The borrower is unable to obtain a FFEL consolidation loan;

(*2*) The borrower is unable to obtain a FFEL consolidation loan with income-sensitive repayment terms acceptable to the borrower; or

(*3*) The borrower has an FFEL Consolidation Loan that has been submitted to the guaranty agency by the lender for default aversion, and the borrower wants to consolidate the FFEL Consolidation Loan into the Direct Loan Program for the purpose of obtaining an income contingent repayment plan.

(ii) On the loans being consolidated, the borrower is—

(A) In a six-month grace period;

(B) In a repayment period but not in default;

(C) In default but has made satisfactory repayment arrangements, as defined in applicable program regulations, on the defaulted loan; or

(D) Except as provided in paragraph (d)(4) of this section, in default but agrees to repay the consolidation loan under the income contingent repayment plan described in § 685.208(k) and signs the consent form described in § 685.209(d)(5).

(E) Not subject to a judgment secured through litigation, unless the judgment has been vacated; or

(F) Not subject to an order for wage garnishment under section 488A of the Act, unless the order has been lifted.

(iii) The borrower certifies that no other application to consolidate any of the borrower's loans listed in paragraph (b) of this section is pending with any other lender.

(iv) The borrower agrees to notify the Secretary of any change in address.

(2) A borrower may not consolidate a Direct Consolidation Loan into a new consolidation loan under this section or under § 682.201(c) unless at least one additional eligible loan is included in the consolidation.

(3) Eligible loans received before or after the date a Direct Consolidation Loan is made may be added to a subsequent Direct Consolidation Loan.

(4) A borrower may not consolidate a defaulted Direct Consolidation Loan.

* * * * *

(h) *Repayment plans.* A borrower may choose a repayment plan for a Direct Consolidation Loan in accordance with § 685.208, except that a borrower who became eligible to consolidate a defaulted loan under paragraph (d)(1)(ii)(D) of this section must repay the consolidation loan under the income contingent repayment plan unless—

(1) The borrower was required to and did make a payment under the income contingent repayment plan in each of the prior three (3) months; or

(2) The borrower was not required to make payments but made three reasonable and affordable payments in each of the prior three (3) months; and

(3) The borrower makes and the Secretary approves a request to change plans.

(i) *Repayment period.* (1) Except as noted in paragraph (i)(4) of this section, the repayment period for a Direct Consolidation Loan begins on the day the loan is disbursed.

(2)(i) *Borrowers who entered repayment before July 1, 2006.* The Secretary determines the repayment period under § 685.208(i) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraphs (i)(3)(i), (ii), and (iii) of this section.

(ii) Borrowers entering repayment on or after July 1, 2006. The Secretary determines the repayment period under § 685.208(j) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraphs (i)(3)(i) and (ii) of this section.

(3)(i) The total amount of outstanding balances on the other education loans used to determine the repayment period under §§ 685.208(i) and (j) may not exceed the amount of the Direct Consolidation Loan.

(ii) The borrower may not be in default on the other education loan unless the borrower has made satisfactory repayment arrangements with the holder of the loan.

(iii) The lender of the other educational loan may not be an individual.

(4) Borrowers whose consolidation application was received before July 1, 2006. A Direct Consolidation Loan receives a grace period if it includes a Direct Loan or FFEL Program loan for which the borrower is in an in-school period at the time of consolidation. The repayment period begins the day after the grace period ends.

* * * * *

■ 80. Section 682.301 is amended by revising paragraph (b)(8)(ii) to read as follows:

§ 685.301 Origination of a loan by a Direct Loan Program school.

* * * * *

(b) * * *

(8) * * *

(ii) Paragraphs (b)(8)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in paragraph (A) or (B), as applicable.

* * * * *

■ 81. Section 685.303 is amended by:

■ A. In paragraph (b)(2)(i), by adding the words ''obtained by a parent borrower'' after the words ''PLUS loan''.

■ B. By revising paragraph (b)(4)(ii).

The revisions read as follows:

§ 685.303 Processing loan proceeds.

* * * * *

(b) * * *

(4) * * *

(ii) Paragraphs (b)(4)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in paragraph (A) or (B), as applicable.

* * * * *

[FR Doc. 06–6696 Filed 8–8–06; 8:45 am]

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Part IV

Environmental Protection Agency

40 CFR Parts 9 and 155
Pesticides; Procedural Regulations for Registration Review; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 155

[EPA–HQ–OPP–2004–0404; FRL–8080–4]

RIN 2070–AD29

Pesticides; Procedural Regulations for Registration Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes procedures for conducting the pesticide registration review program mandated by the Federal Insecticide, Fungicide, and Rodenticide Act. Under this rule, EPA will review existing pesticide registrations to determine whether they continue to meet the statutory standard for registration. The registration review program will begin in the fall of 2006. This rule provides for the establishment of pesticide cases for review, the scheduling of reviews, the initiation, completion and documentation of reviews, and associated public participation procedures. The registration review program established by this regulation is intended to ensure that all pesticide registrations are systematically reviewed in a manner that is based on sound science and provides for public participation, transparency and efficiency to protect public health and the environment. In addition, in order to display the OMB control number for the information collection requirements contained in this final rule, EPA is amending the table of OMB approval numbers for EPA regulations.

DATES: This final rule is effective on October 10, 2006.

ADDRESSES: EPA has established a docket for this action under Docket identification (ID) number EPA–HQ–OPP–2004–0404. All documents in the docket are listed in the docket index at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 Office of Pesticide Programs (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: Vivian Prunier, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–308–9341; fax number: 703–305–5884; e-mail address: *prunier.vivian@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you hold pesticide registrations. Pesticide users or other persons interested in the regulation of the sale, distribution or use of pesticides may also be interested in this procedural regulation. Potentially affected entities may include, but are not limited to:

- Producers of pesticide products (NAICS code 32532).
- Producers of antifoulant paints (NAICS code 32551).
- Producers of antimicrobial pesticides (NAICS code 32561).
- Producers of nitrogen stabilizer products (NAICS code 32531).
- Producers of wood preservatives (NAICS code 32519).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 155.40 of the rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using *http://www.regulations.gov* to access this document and other related information in the electronic docket, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

II. Overview of this Document

In this document, EPA presents its response to comments on the proposed rule to establish procedural regulations for the registration review of pesticides. In response to comments, EPA is modifying some aspects of the rule relating to procedures for public participation in the registration review process. The differences between the proposed rule and the final rule are described in Units VI. and X.

In this document, the Agency describes:

- Statutory authority.
- History of this rulemaking.
- Response to comments on the rule.
- Response to comments on the operation and implementation of the program.
- Results of reviews required by statutes or executive orders.
- Changes to the rule.
- Procedural regulations for the registration review of pesticides.

III. Authority

A. EPA's Authority to License Pesticides

FIFRA section 3(a) generally requires a person to register a pesticide product with the EPA before the pesticide product may be lawfully distributed or sold in the U.S. A pesticide registration is a license that allows a pesticide product to be distributed or sold for specific uses under specified terms and conditions. A pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5), as follows:

> (A) its composition is such as to warrant the proposed claims for it;
>
> (B) its labeling and other material required to be submitted comply with the requirements of this Act;
>
> (C) it will perform its intended function without unreasonable adverse effects on the environment; and
>
> (D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

FIFRA 2(bb) defines ''unreasonable adverse effects on the environment'' as

> (1) any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or (2) a human dietary risk from residues that result from a use of a pesticide in or on any food inconsistent with the standard under section 408 of the Federal Food, Drug, and Cosmetic Act.

The burden to demonstrate that a pesticide product satisfies the criteria for registration is at all times on the

proponents of initial or continued registration. (*Industrial Union Dept.* v. *American Petroleum Institute*, 448 U.S. 607, 653 n. 61 (1980); *Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297, 1302 (D.C. Cir. 1975).

B. EPA's Authority for Registration Review

The Food Quality Protection Act (FQPA) of 1996 amended FIFRA to add, among other things, section 3(g), ''REGISTRATION REVIEW,'' as follows:

(1)(A) GENERAL RULE. - The registrations of pesticides are to be periodically reviewed. The Administrator shall by regulation establish a procedure for accomplishing the periodic review of registrations. The goal of these regulations shall be a review of a pesticide's registration every 15 years. No registration shall be canceled as a result of the registration review process unless the Administrator follows the procedures and substantive requirements of section 6.

(B) LIMITATION. - Nothing in this subsection shall prohibit the Administrator from undertaking any other review of a pesticide pursuant to this Act.

(2)(A) DATA. - The Administrator shall use the authority in subsection (c)(2)(B) to require the submission of data when such data are necessary for a registration review.

(B) DATA SUBMISSION, COMPENSATION, AND EXEMPTION. - For purposes of this subsection, the provisions of subsections (c)(1), (c)(2)(B), and (c)(2)(D) shall be utilized for and be applicable to any data required for registration review.

IV. Notice of Proposed Rulemaking

EPA published proposed procedures for the registration review of pesticides on July 13, 2005 (70 FR 40251) (FRL–7718–4). A copy of the proposed rule may be found in Docket EPA–HQ–OPP–2004–0404, which can be accessed electronically at: *http://www.regulations.gov*. The 90–day comment period for this proposed rule ended on October 11, 2005.

The preamble to the proposed rule discussed:

- Statutory authority and legislative history.
- The Agency's goals for the registration review program.
- Evaluating approaches to registration review.
- Factors considered in designing the registration review program.
- Design options considered for the registration review program.
- Testing the proposed registration review decision process.
- Proposed procedures for registration review.
- Relationship of registration review to other FIFRA activities.
- Phase-in of the registration review program.
- Results of reviews required by statutes and executive orders.

V. Overview of Comments

EPA received 23 comments on the proposed rule, as follows:

- One individual.
- Two consultants.
- One public interest group.
- Four registrants.
- One State Pesticide Safety Coordinator.
- Three State Lead Agencies for pesticides.
- Five California water sanitation agencies.
- Six trade associations.

The Agency's analysis of these comments showed that the comments can be organized into three broad topic areas:

- Requests for changes in the procedural regulations. These comments and the Agency's response are discussed in this preamble.
- Operation and implementation of the registration review program. These comments and the Agency's response are discussed in this preamble.
- Issues concerning the licensing of pesticides in general are described in the response to comments document that the Agency has placed in the docket for this rulemaking.

In general, comments on the proposed rule resulted in minimal revisions in the final rule. Early implementation will continue to be discussed with the Pesticide Program Dialogue Committee, a stakeholder advisory committee established under the Federal Advisory Committee Act. EPA may issue additional guidance on the registration review program as it gains experience with these procedures.

VI. Comments on the Procedural Regulations

A. § 155.40--General

This section describes the purpose of the regulations in Subpart C--Registration Review Procedures and states that the goal of these procedures is a review of each pesticide's registration every 15 years. This section also specifies that the regulations apply to pesticides registered under section 3 or section 24(c) of FIFRA, states that the Agency may undertake any other review under FIFRA at any time and that the Agency will use FIFRA section 3(c)(2)(B) to require new data or information that are necessary for a pesticide's registration review.

1. *Authority to establish procedures for registration review.* A trade association questioned EPA's authority to establish the proposed procedures for registration review. They asserted that in the absence of specific procedures in FIFRA for the administration of registration review, EPA must use procedures in FIFRA section 3(c)(8) which specifies procedures for conducting interim administrative review to develop a risk-benefit evaluation of a pesticide. Procedures for implementing FIFRA section 3(c)(8) are described in 40 CFR part 154.

The Agency does not agree with this comment. FIFRA section 3(g)(1)(A), which mandates a periodic review of the registration of pesticides, requires the Agency to establish procedures for conducting such reviews. This provision means that, except for limitations specified in FIFRA section 3(g)(1)(B) and FIFRA 3(g)(2), EPA has the authority to develop procedures for the conduct of this new program. Accordingly, EPA is not required to use procedures in FIFRA section 3(c)(8) to conduct the review mandated in FIFRA section 3(g).

2. *Registration review of pesticides covered under FIFRA section 25(b).* An industry comment asked EPA to assure that products exempted from FIFRA regulation under section 25(b) of FIFRA are reviewed adequately, especially with regards to health claims.

Pesticides that are exempt from FIFRA requirements under FIFRA section 25(b) are identified in 40 CFR 152.20, Exemptions for pesticides regulated by another Federal agency, and 40 CFR 152.25, Exemptions for pesticides of a character not requiring FIFRA regulation. Pesticides covered by FIFRA section 25(b) are not subject to registration review. However, some products that are exempt under FIFRA section 25(b) could be affected by actions taken in registration review. For example, pesticide-treated articles or substances described in § 152.25(a) could be affected if issues arise during the registration review of a pesticide used to treat an article or substance. If the pesticide product or its use on treated articles or substances were canceled, the treated article or substance would no longer meet the requirements of § 152.25(a), which specifies that the pesticide used to treat an article or substance must be registered for that use.

B. § 155.42--Baseline Dates for Registration Review Cases

In § 155.42(d), EPA proposed to establish a baseline date for each registration review case. In general, the baseline date would be the date of initial registration of the oldest product in the registration review case or the date of reregistration, whichever is later.

The date of reregistration would be the date on which either a Reregistration Eligibility Decision (RED) or an Interim Reregistration Eligibility Decision (IRED) was signed, whichever date the Agency determines to be most appropriate.

An industry comment suggested that to avoid duplication of effort, the Agency should amend § 155.42 to use the date of approval of significant new uses as the baseline date for the registration review case.

The Agency intended the baseline date to be the date of the last *comprehensive* review. A review of a new use may not be comprehensive--previously approved uses may not be included in the evaluation of the new use. Generally, when conducting a registration review of a pesticide for which a significant new use was recently approved, EPA would not redo the recent review but would incorporate the risk assessment for the new use into the registration review.

Another commenter asserted that baseline dates should be either the initial registration of a pesticide or the completion of the RED. The commenter stated that the IRED should not be used because it does not include an assessment of cumulative risk that is required for pesticides that have a common mechanism of toxicity with other substances. For such pesticides, the Agency should use the date of the RED (as opposed to IRED) to establish a common baseline date for all the pesticides included in the cumulative risk assessment.

The Agency agrees that the RED would update the comprehensive IRED regarding cumulative risk or other issues but the RED itself may not be a comprehensive review. For cases where there is both an IRED and a RED, the Agency needs the flexibility to decide which document represents a comprehensive review. Accordingly, this final rule allows the Agency to use the date of either document as the baseline date.

C. § 155.44--Establishing and Announcing Schedules for Registration Review

1. *Chronological* vs. *risk-based criteria as basis for establishing schedules for registration review*. In § 155.44, EPA proposed that schedules would be based on the baseline date of the registration review case or on the date of the last registration review of the registration review case. The rule allows the Agency to take into account other factors, such as achieving process efficiencies, when setting schedules. The preamble of the proposal described other factors that the Agency might consider. In July 2006, EPA released draft schedules that were developed using procedures in the proposed rule. Under the draft schedules, EPA would review chemically related registration review cases together.

While most commenters supported the proposed chronological approach, public interest groups and water treatment authorities advocated risk-based approaches for scheduling. Several industry groups did not like the chemical groupings in the Agency's draft schedules, preferring that cases be scheduled for registration review in a strictly chronological order. They argued that grouping cases together undermines the chronological order of the schedule and that the order of groups in the schedule would be based on risk concerns. One industry group asked the Agency to include in the rule criteria for deviating from a chronologically based schedule and to consult registrants regarding the selection of new dates.

While the Agency appreciates that there is a range of views as to how to set schedules for the registration review program, the establishment of schedules is within the Agency's discretion. EPA believes that reviewing similar cases together facilitates decision making for pesticides with similar scientific or regulatory issues and would be an efficient use of resources. Registrants or other stakeholders may notify the Agency regarding particular issues that could impact the schedule. The Agency would consider such issues as appropriate.

2. *Considerations that could change the registration review schedule*. The Agency may consider factors other than the baseline date of the registration review case when developing schedules for registration review. As discussed in Unit IX.E. of the preamble of the proposed rule and as shown on the draft schedule released in July 2005, the Agency plans to cluster identified cases belonging to the same chemical class or group to promote efficiency of review for the Agency and provide a ''level playing field'' for industry. Additionally, because the Agency's economic analysis of this regulation suggested that a small business (i.e., a business that meets criteria established by the Small Business Administration) might face high data generation costs if it holds registrations in two or more registration review cases that are scheduled to undergo registration review in the same year, the Agency may schedule these cases out of chronological order.

The Agency has a continuing obligation to respond to emerging risk concerns (discussed in Unit XI.B. of the preamble of the proposed rule). At any time, the Agency may receive new information that suggests that the Agency should reevaluate a previous decision to register a pesticide. After the registration review program begins, the Agency will continue to address emerging risk concerns. If a pesticide presents an urgent potential risk of concern, the Agency may opt to review all other aspects of the pesticide's registration at that time, rather than only looking at the risk of concern. In such cases, the Agency may update the registration review schedule by announcing the new date of the registration review of this case.

In general, the Agency may consider these and other factors, including issues raised by the public or the registrant when reviewing a posted schedule, to schedule a pesticide registration review, or to modify the schedule of a pesticide registration review as appropriate.

3. *Three-year schedules*. Although the preamble of the proposed rule contemplated maintaining a 3–year schedule, the proposed rule did not specify a timeframe. In response to comments requesting this change, the Agency has modified § 155.44 to specify that the schedules would cover the current year and at least two subsequent years.

D. § 155.46--Deciding that a Registration Review is Complete and Additional Review is Not Needed

Under § 155.46, the Agency may propose that no additional review of a pesticide is needed in order to determine whether the pesticide continues to meet FIFRA requirements for registration. The Agency would announce the availability of such proposals and take comment on them. In response to comments on a proposal made under § 155.46, EPA may reconsider its proposal and schedule a registration review of the pesticide.

The Agency received one comment asking the Agency to clarify the purpose of this provision. The purpose of this provision is to give the Agency flexibility to not schedule a pesticide for registration review if the pesticide has such low toxicity, exposure or risk that another review would not change the Agency's position and would not be an effective use of resources. The Agency may also use this provision for a pesticide that has recently undergone a comprehensive review. In proposed decisions issued under § 155.46, the Agency generally would explain why it believes that no additional review is

necessary and reference, as appropriate, publicly available documentation to support the Agency's position.

To clarify the procedures it will use in § 155.46, EPA is modifying the second sentence to read, ''In such cases, instead of establishing a pesticide registration review case docket as described in § 155.50, the Agency may propose that, based on its determination that a pesticide meets the FIFRA standard for registration, no further review will be necessary.'' EPA is clarifying the status of pesticides subject to this section by adding the sentence, ''The date of the final notice of availability would be used as the date of the latest registration review for the purpose of scheduling subsequent registration reviews.''

E. § 155.48--Data Call-In

Section 155.48 provides that, as required by FIFRA section 3(g), EPA will use procedures in FIFRA section 3(c)(2)(B) to require submission of data that are needed to conduct a pesticide's registration review. This paragraph stipulates that the data protection provisions of FIFRA 3(c)(1), (c)(2)(B), and (c)(2)(D) apply to the submission, compensation and exemption of data required to conduct a registration review.

1. *Data Call-In procedures*. One comment asked why the proposed rule does not impose any requirements under FIFRA 3(c)(2)(B). The commenter suggested that additional data collection authorities are needed and procedures to ensure all necessary data must be included in this rule.

The Agency finds that it is not necessary to develop new procedures for calling in data for registration review because FIFRA section 3(g) requires the Agency to use section 3(c)(2)(B) to collect the data, and that section provides EPA with sufficient authority to obtain any necessary data.

2. *Data compensation for ''voluntarily'' submitted data*. Industry comments asked that the proposed rule clarify the data compensation status of information voluntarily submitted in response to registration review. Some comments suggested that the rule specify the mechanisms for requesting and obtaining a Data Call-In notice (DCI) before the data are submitted in order to protect data compensation rights. Other comments suggested that studies used in the registration review decision, particularly studies generated under revisions to the data requirements in 40 CFR part 158, be presented in the decision document. Registrants asked that in addition to determining whether a pesticide meets the FIFRA risk/benefit standard, EPA should assure that the registrant of the pesticide is entitled to use data supporting the risk/benefit determination for the pesticide.

The Agency acknowledges the importance of this issue and agrees that this concern should be addressed in the conduct of the registration review program. FIFRA section 3(g)(2)(A) directs the Agency to utilize section 3(c)(2)(B) to require the submission of data when such data are necessary for a registration review. Similarly, FIFRA section 3(g) requires that the data compensation provisions, including those set forth in sections 3(c)(1), 3(c)(2)(B), and 3(c)(2)(D) ''be utilized for and applicable to any data required for registration review.'' Hence, to the extent the Agency requires any data for registration review, such data are eligible for the data protections provided by the statute.

If a company submits data or information to the docket voluntarily (as opposed to providing these data or information in response to a DCI), such data are not ''required'' data eligible for protection under the statute. However, the Agency may evaluate these data or information and find that it must rely on this information to support the continued registration of pesticide products. If the Agency makes such a finding in the course of a pesticide's registration review, this finding would be a determination that the voluntarily submitted data or information are now required. This would be a ''compensable event'' and would trigger the requirement for compensation to be addressed. The competitors to the original submitter would be required to submit their own data or offer data compensation to the data submitter for use of the study. A ''compensable event'' would also arise should the Agency issue a Data Call-In Notice for the same data as were previously submitted voluntarily, but a Data Call-In Notice is not necessary to trigger compensability should the Agency determine and announce as part of its registration review decision that the particular data were required to support the registrations in question.

The Agency's registration review decision document may identify such data or information and the registration review decision document may establish a deadline for registrants whose registrations depend on such data to offer compensation to the owners of the data or submit their own data. The Agency may cancel the product registration of registrants who fail to adequately support a registration.

F. § 155.50--Initiate a Pesticide's Registration Review

EPA proposed to establish a docket for each registration review case, except for cases covered under § 155.46. The docket would describe information that the Agency may consider in the course of a pesticide's registration review and describe information that the Agency does not have that might be useful in the review. The public would be invited to review information in the docket and submit, within 60 days, any other information that they believe should be considered in the pesticide's review. A pesticide's registration review begins when EPA opens the docket for registration review case.

1. *Timeframe for submitting comments*. As originally proposed, the timeframe for submitting comments in response to a notice issued under § 155.50(b) would be ''60 calendar days.'' In response to comments that this time frame would not be long enough, the Agency is modifying this paragraph to specify that the time frame for such comment periods will be ''at least 60 calendar days.''

2. *Late submissions*. Comments from industry and others asked the Agency to clarify its position regarding data or information submitted after the due date established in the notice announcing the opening of the pesticide registration review case docket.

Under § 155.50(c)(1), the Agency will consider late submissions if the Agency believes that the new data or information are critical for the regulatory decision, such as health effects or ecological effects data or exposure data that the EPA could use to refine a risk assessment.

If a person has data or information that he/she believes that Agency should consider during the pesticide's registration review, but the data or information will not become available before the expiration of the comment period, he/she may either request an extension of the comment period, or in accordance with § 155.52, consult with the Agency regarding a submission date for these materials.

3. *Information submitted under § 155.50(c)*. Comments from industry asked the Agency to modify § 155.50(c) to specify the types of information that might be submitted under this paragraph and to reference quality and scientific criteria for data that might be submitted as comments during a pesticide's registration review.

In the preamble of the proposed rule, EPA described the kinds of information that, based on its experience in the pesticide reregistration program, might

be useful in registration review. As the Agency and its stakeholders gain experience in the registration review process, it may become clear what types of information are most useful. EPA could then develop appropriate guidance. In accordance with the Data Quality Act, EPA has already issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at EPA's website at: *http://www.epa.gov/quality/informationguidelines/*. The Agency will use this guidance in the registration review of pesticides.

G. § 155.52--Stakeholder Engagement

Under § 155.52, the Agency may meet with registrants or other stakeholders during a pesticide's registration review or to prepare for a forthcoming review. This section explains the procedure for releasing minutes or other material relating to such meetings.

Comments from industry asked that the rule provide an acceptable framework for activities in the pre-initiation stage. Other commenters remarked that non-registrants should have more access to the registration review process and that the public should be able to view all information, including reports from consumers about adverse effects. Additionally, they asserted that EPA should announce consultation opportunities in the **Federal Register**. Other comments from industry emphasized their concern that EPA not release confidential business information.

In this document, the Agency is establishing procedures that provide the public with the opportunity to participate in the review process and to review materials that the Agency uses as the basis of proposed registration review decisions.

The Agency generally does not announce in the **Federal Register** meetings with registrants or other stakeholders because it needs the flexibility to hold such meetings when the need arises. EPA may meet privately with industry to discuss proprietary or other confidential business information. Under § 155.52(a) and (b), EPA will place in the docket minutes of meetings with registrants or other stakeholders. EPA's protection of information claimed to be confidential business information is governed by section 10 of FIFRA and the Agency's regulations in 40 CFR part 2.

H. § 155.53--Conduct of a Pesticide's Registration Review

This section describes how the Agency will assess the significance of changes in statutes and regulations, risk assessment procedures or methods, or data requirements and any new information about the pesticide to determine whether additional review of the pesticide is warranted. If a new review of the pesticide active ingredients or individual products in a registration review case is needed, the Agency will determine whether additional information is necessary to conduct the review. This section also provides for public review and comment during the review process. Under the proposed procedures, the Agency would generally establish comment periods of ''at least 60 calendar days,'' except in § 155.53(c) where the comment period is ''at least 30 calendar days.''

1. *Agency's approach for conducting registration review*. The Agency received several comments that disagreed with the Agency's proposed approach for conducting a pesticide's registration review. An industry trade association reiterated comments made in response to the April 2000 Advance Notice of Proposed Rulemaking (65 FR 24585, April 26, 2000) (FRL–6488–9) that the Agency should use a checklist or decision tree for deciding whether a pesticide continues to meet the requirements for registration. Other stakeholders expressed concern that the proposed approach was not sufficiently rigorous and would lead to relaxed standards.

In the preamble of the proposed rule, the Agency described alternative approaches for conducting a pesticide's registration review and explained why it selected the proposed approach. The comments do not raise issues or concerns that would alter EPA's choice of approach. It is important to note, however, that although the Agency has not chosen to use a pure checklist approach, it is using a decision paradigm that ensures that the process will be transparent while still providing sufficient flexibility to allow for the scope and depth of a particular review to be tailored to the circumstances of the particular registration review case.

2. *Review of individual product registrations*. Some registrants expressed their belief that the Agency should conduct a comprehensive review of individual product registrations to assure adequacy of product labels, product-specific data, and any claims for generic data exemption under FIFRA section 3(c)(2)(D).

As explained in the preamble of the proposed rule, during the comment period on the initial registration review case docket, the public may comment on the need for a new review of individual product registrations. The Agency will continue to comply with its data protection obligations under FIFRA section 3(c)(2)(D).

3. *Public participation procedures*. Several commenters noted that under the Agency's procedures for public participation in the reregistration and tolerance reassessment programs, the Agency may announce the availability of a revised risk assessment and may invite the public to suggest approaches for mitigating the risks identified in the revised risk assessment. The proposed procedures for registration review did not provide this opportunity.

In response to this comment, the Agency is revising § 155.53(c) so that it may provide the public an opportunity to comment on possible risk mitigation when a revised risk assessment shows risks of concern. However, if immediate action is warranted, the Agency may initiate cancellation or suspension procedures under FIFRA section 6. In this event, the Agency would not provide the opportunities for public comment described in § 155.53(c) but would follow procedures in FIFRA section 6, as appropriate.

4. *Length of comment periods*. Several commenters asserted that the comment periods provided in the proposed regulation were not long enough.

Generally, where EPA publishes a document for comment, the Agency considers requests for extension if a reasonable basis for extension is provided. It is not necessary to modify these regulations to provide for extending comment periods.

I. § 155.57--Registration Review Decision

This section states that a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration under FIFRA.

1. *Goal of registration review*. The California Stormwater Quality Association asserted that the goal of registration review should be to protect water quality and minimize the need to mitigate pesticide impacts through Clean Water Act (CWA) mechanisms.

The Agency believes that the goal of registration review is set forth in FIFRA section 3(g) and reiterated in § 155.40. Registration review is a determination whether a pesticide continues to meet the FIFRA standard for registration, including, among other things, that the pesticide does not cause unreasonable effects on the environment. As part of this review, EPA will assess the effects of pesticides on water quality. However, while meeting CWA standards is important, it is not the only goal of registration review.

2. *FIFRA standard for registration*. (a) Comments from industry strongly oppose EPA's intention to consider a pesticide's benefits during registration review. The comments referred to a discussion in the preamble of the proposed rule where EPA explained that it would evaluate information about the benefits of a pesticide with known high risks during registration review if a new and safer alternative to a pesticide has become available. The comments asserted that it is inappropriate for the Agency to base continued registration of a pesticide on a comparative benefits assessment with other pesticides. The comments cited FIFRA section 3(c)(5) to support their assertion that when pesticides meet the registration criteria of FIFRA, the Agency should not be allowed to make marketplace decisions of one product over another. FIFRA section 3(c)(5) states, ''The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirement of this paragraph, one should not be registered in preference to the other.''

EPA believes the commenter misapprehends the nature of FIFRA's risk-benefit balancing standard. A determination that a pesticide meets the registration standard under FIFRA at one time does not necessarily mean that the same pesticide will meet the standard at all times in the future, even if the science associated with the risks posed by the pesticide does not change. Significant changes in the benefits picture, such as the development of pest resistance or new alternatives, can also affect whether a pesticide continues to meet the FIFRA registration standard. EPA does not intend to compare benefits of two or more pesticides that do not pose risks of concern. As the commenters noted, EPA may not make a determination of essentiality when two pesticides meet the FIFRA requirements for registration. However, when there are risks of concern for a pesticide, FIFRA requires EPA to weigh those risks against the benefits of that pesticide to determine whether the risks are unreasonable. Benefits are the advantages that accrue to the pesticide users or society in general, such as increased production, decreased production costs, pest-free homes, or disease-vector control. The magnitude of those benefits often depends on the availability of alternative pest control measures, whether chemical, biological or cultural. Benefits are, in general, expected to be higher when there are no viable alternatives.

During registration review, EPA may reassess a pesticide that has remained registered even though high risks are associated with the use of the pesticide. In its earlier review, the Agency may have found that the pesticide did not pose unreasonable risk because of the high benefits of the pesticide. In registration review, EPA may find that existing risk assessments that identify these risks of concern are still valid. EPA would then determine whether the pesticide continues to provide sufficient benefits to justify maintaining the registration. The benefits finding could depend on whether new, safer alternatives have been registered since EPA's earlier decision. EPA conducted similar analyses in the reregistration program.

If EPA's review of a pesticide's registration appears to show that the pesticide does not meet the FIFRA standard for registration, EPA would follow procedures in FIFRA section 6 to change, cancel or suspend the pesticide's registration. This section sets out where it requires EPA to assess the benefits of the pesticide and provides opportunities for public hearings on whether the pesticide's registration should be changed, canceled, or suspended. The Agency would not analyze benefits when a registrant responds to the Agency's registration review finding by agreeing to the cancellation of a pesticide or termination of one or more of its uses under FIFRA section 6(f). However, FIFRA provides the public an opportunity to comment on the proposed action.

(b) Another registrant asserted that the registration review regulations should contain language that specifically reaffirms the standard of imminent hazard and substantial risk as the basis for cancelling pesticide registrations. He cited a specific product example to illustrate his belief that the Agency employed a ''zero tolerance agenda'' during reregistration.

The standard of ''imminent hazard'' referred to by the commenter applies to suspensions and emergency suspensions under FIFRA section 6(c). This section sets forth the standard for a suspension or an emergency suspension. This is not the standard that the Agency will use in making registration review decisions. The Agency interprets registration review to be a determination that a pesticide continues to meet the standard for registration in FIFRA section 3(c)(5), or, where appropriate, section 3(c)(7). This standard specifies, among other things, that a pesticide may not pose unreasonable risk to man or the environment.

When a pesticide poses risks of concern to humans or the environment, the Agency must address these risks. The options for addressing such risks include risk mitigation, determining that the risks are justified in light of the benefits of the pesticide, or initiating regulatory options to modify or cancel the registration. EPA generally consults with registrants and other stakeholders when deciding how to mitigate a risk. In addition, EPA has modified the proposed public participation procedures for registration review to generally add a public comment period when a pesticide poses risks of concerns so members of the public can provide suggestions for reducing the risk. This procedure provides registrants and other stakeholders an opportunity to provide input on the Agency's risk management decisions.

J. § 155.58--Procedures for Issuing a Decision on a Registration Review Case

In this section, EPA explains that it will issue proposed registration review decision documents for public review and comment. In comments on the proposed rule, various stakeholders advised the Agency of their expectations and needs regarding the documentation of registration review decisions and suggested how this documentation might be presented. EPA appreciates these suggestions. The Agency has consulted the Pesticide Program Dialogue Committee and has considered their recommendations together with comments submitted on the proposed procedural regulations. Nothing in the comments indicates the need to modify the regulation to specify the format of the registration decision document.

VII. Comments on the Operation of the Registration Review Program

A. Scope of the Registration Review Program

1. *Is registration review a safety net*? In the preamble of the proposed rule, the Agency described how it intended to use registration review as the framework for managing the regulatory status of existing pesticides.

Industry trade associations did not agree with this approach. In their comments, they asserted that EPA should not expand registration review beyond the intent of Congress because to do so risks repeating the Agency's experience with reregistration which began as a 5–year program in 1972 and still has not been completed. They asserted that registration review should not be a catch-all for other programs and actions. For example, special review, actions under FIFRA section 3(c)(8),

FIFRA section 6 or the Pesticide Registration Improvement Act (PRIA) should not be included in the registration review program. They believe that new programs such as endocrine disruptor screening and testing should be conducted independently of registration review. The industry comments advocate that, as far as possible, registration review should be a safety net.

EPA does agree that registration review is not the only mechanism for addressing pesticide registration issues, and will continue to use other provisions of FIFRA to address particular registration issues. However, EPA does not agree with the comment that registration review should function solely as a safety net to discover and resolve issues missed or overlooked in registration, tolerance reassessment, or reregistration activities. While EPA expects that it will occasionally discover issues that were overlooked in previous reviews, the purpose of registration review is to consider the pesticide in light of new knowledge that was not available for previous reviews.

EPA interprets the Congressional mandate for registration review to be a periodic assessment whether a pesticide continues to meet the FIFRA standard for registration in light of new knowledge. Therefore, the scope of a pesticide's registration review includes all aspects of a pesticide's registration specified in section 3(c)(5) of FIFRA with respect to product composition, labeling and other required material, and risks and benefits. Registration of new pesticides or new uses of pesticides under PRIA is a separate program from registration review. However, in evaluating a new use under PRIA, the Agency would consider all relevant information, including information that it might consider during the pesticide's registration review.

2. *Incorporating evolving or new programs into registration review*. As explained in the preamble of the proposed rule, EPA intends to incorporate new requirements, such as endocrine disruptor screening and testing or endangered species assessments into the registration review program as these aspects of risk assessment mature into routine evaluations for pesticides.

Industry commenters advised the Agency to avoid using registration review as the sole process for handling new issues. They asserted that attaching all these assessments (endangered species assessments, endocrine disruptor screening and testing, review of substitutes, etc.) to a program intended to accomplish periodic review of all pesticides will undermine the timeliness of the review process for a great many pesticides. Commenters believe that this may result in an ever-changing schedule that will deprive registrants and users of predictability and lead to significant inefficiencies within the Agency.

Again, EPA does not intend to use registration review as the only mechanism for addressing pesticide registration issues. However, EPA believes it is appropriate to use registration review as the framework for managing its responsibilities regarding existing pesticides. In making a FIFRA section 3(c)(5) decision as required under FIFRA section 3(g), EPA must consider all information that pertains to that decision. EPA regards endangered species assessments required under the Endangered Species Act or endocrine disruptor screening and testing required under the Federal Food, Drug, and Cosmetic Act as part of the risk characterization of the pesticide that is intrinsic to the FIFRA risk/benefit decision. If knowledge exists on these or other scientific issues at the time of a pesticide's registration review, the Agency believes it must consider them when it makes its FIFRA (3)(c)(5) finding.

3. *Managing emerging issues*. In the preamble of the proposed rule, the Agency explained that it will continue to give priority to emerging risk concerns. While reviewing the new risk concern, the Agency may find that it would be more efficient to review all other aspects of the pesticide's registration at the same time. The procedural regulations for registration review provide flexibility to amend the schedule to advance the registration review of a pesticide in this circumstance. The Agency would provide as much advance notice as possible regarding such changes in the schedule.

Commenters took exception to EPA's approach for managing emerging issues arguing that newly discovered risks of potential concern should be dealt with outside of registration review if the risks are urgent. The commenters believe that registration reviews should not be rescheduled under this circumstance.

The Agency does not agree that it should reassess the approach described in the preamble of the proposed rule. EPA fully explained its reasoning in the proposed rule and the comments do not persuade it otherwise. This is not to say that the Agency will not address urgent risks of concern outside the registration review process if the Agency determines that to be the appropriate course of action.

4. *Assessing risks of substitute pesticides*. In the preamble of the proposed rule, EPA explained that it might advance the registration review of pesticides that are potential substitutes for a pesticide or some uses of the pesticide that are being canceled under FIFRA section 6 because of risk concerns.

Industry commenters expressed concern that EPA would even consider using the registration review program to address reviews that might be the outgrowth of cancellation proceedings.

EPA generally would assess risks of substitute pesticides as part of the cancellation process in FIFRA section 6. In the rare event that it is necessary to perform a comprehensive review of a substitute pesticide, such a review might be tantamount to conducting the registration review of that pesticide. In such cases, EPA might find that it would be more efficient to conduct the registration review of the pesticide at the same time.

5. *Review of inert ingredients*. In the preamble of the proposed rule, EPA explained that it would handle inert ingredients in a process that is separate from registration review.

Some commenters agree with EPA's approach of dealing with inert ingredients. However, others question the need to review inert ingredients at all. A public interest group expressed concern that having separate review processes for active ingredients and inert ingredients could result in missing or ignoring synergistic effects of mixtures of ingredients.

The Agency intends to follow the procedures outlined in the preamble of the proposed rule. The Agency recognizes that there may be interactions among the various chemicals in pesticide products. Currently, the Agency requires acute toxicity data for end-use products, i.e., formulations containing active and inert ingredients. These studies address, albeit to a limited extent, potential synergistic effects of mixtures of active and inert ingredients in a pesticide product. However, to test and review all of the potential combinations of ingredients would require significant resources. The Agency will consider new scientific methodologies to identify potential interactions among chemicals, should they become available.

B. Data and Information Collection in the Registration Review Program

In the preamble of the proposed rule, the Agency described strategies for acquiring information to support a pesticide's registration review including issuing Data Call-In notices to require

data necessary to conduct a review and searching the published literature for pertinent information about a pesticide. The Agency explained that early acquisition of data or information that could be useful in refining a pesticide's risk assessment would reduce the time and effort needed to complete the review of a pesticide. As explained in the preamble, EPA might be able to identify data or information needs when it publishes the schedule for a pesticide's registration review. In some cases, data or information needs might become apparent when the Agency assembles the initial docket for the registration review case. In this event, the docket for the registration review case would identify data or information needs. In other cases, the Agency might not be able to identify data or information needs until it evaluates the information in the initial docket.

1. *Identification of information that may be used to refine risk assessments.* An industry trade group acknowledged EPA's concern about redoing risk assessments when, in response to a preliminary risk assessment, a registrant or other stakeholder submits new data or information to refine the preliminary risk assessment. However, they believe that such iteration is inevitable. When registrants conduct their own risk assessments, they may use different assumptions or interpretations of data than the Agency uses in its risk assessments. When the Agency's risk assessment shows higher risks than the registrants found in their own assessments, they must either develop data or information to refine the risk assessment or cancel uses.

EPA agrees that some iteration may be inevitable. However, the Agency publishes its risk assessment methods, including its approach for interpreting data. So it may be possible for registrants to anticipate the Agency's information or data needs in a forthcoming registration review and to reduce the degree of iteration in the risk assessment process.

2. *Information developed under the Clean Water Act.* In public discussions about the proposed rule, EPA received a suggestion from water treatment authorities that the Agency might consider information developed under section 303(d) of the Clean Water Act, which identifies impaired water bodies.

In comments, States raised the concern that they do not have the resources to assemble such data. Registrants expressed their concern that these data not be taken at face value because the criteria and process used to develop these data might affect the reliability of this information.

EPA believes that information on water quality may be useful in registration review and will make efforts to obtain State data for CWA section 303(d) listings due to pesticides. When evaluating such data, EPA will take into account the procedures used to develop the data to assess the quality and usefulness of the data.

C. Work-Sharing

The preamble of the proposed rule described the Agency's intention to develop work-sharing agreements with its partners in the Organization for Economic Cooperation and Development (OECD) or the North American Free Trade Agreement (NAFTA). In comments on the proposed rule, industry trade associations expressed concern that conducting reviews jointly with EPA's NAFTA or OECD partners might cause delays.

EPA continues to believe that harmonization and work-sharing will result in process efficiencies and superior decisions. Since EPA's partners also have programs for reassessing pesticides, all parties could benefit by coordinating their efforts. EPA and its Canadian counterpart have begun discussions for work-sharing during registration review with the expectation that they will develop a work-sharing plan by the December 2006 meeting of the NAFTA Technical Working Group on Pesticides.

EPA gave a presentation on the registration review program at the February 2006 meeting of the OECD Working Group on Pesticides. EPA intends to continue encouraging the OECD community to participate in work-sharing efforts.

EPA may adjust its schedule slightly to take advantage of these potential opportunities for work-sharing.

D. Adequacy of EPA's Methods for Assessing Potential Risk to Water Quality

California water-treatment authorities questioned the adequacy of EPA's assessment of risks with regard to water quality considerations including: Use of aquatic toxicity testing, surface water quality studies, and urban uses of pesticides, particularly when these uses result in pesticide residues in receiving waters for storm sewers or sewage treatment plants. The commenters reported that in some cases, pesticide residues in water released by a sewage treatment plant may exceed its NPDES permit, which would be a violation of the Clean Water Act. They also noted that residues from agricultural uses of pesticides, e.g., rice pesticides and pesticide degradates have been found in drinking water supplies.

The Office of Pesticide Programs (OPP) will manage water-related issues within the framework of the registration review of pesticides. OPP expects that its capacity for characterizing risk will continue to improve as it works with the Office of Water to refine its models for estimating exposures and as more monitoring data become available.

E. Achieving Label Improvement through the Registration Review Program

Several commenters see the registration review program as an opportunity to improve the quality of labels on individual pesticide products. One aspect of label improvement would be to minimize the number of different labels for the same product. According to comments, this situation arises because many States require State registration and impose their own labeling requirements.

The Agency is committed to improving the consistency of labels. EPA already works with States on labeling issues. However, the Agency notes that section 24(b) of FIFRA prohibits States from establishing or maintaining labeling requirements. The Agency agrees that label improvement is a worthwhile goal for the registration review program.

VIII. Implementation Issues

A. Coordination of the Registration Review Rule with the Data Requirements Rule

Industry comments asserted that EPA should delay implementing registration review until the recently proposed revisions to the data requirements in 40 CFR part 158 have been finalized. They stated their belief that EPA cannot make registration review decisions until it has completed revising the data requirements for the registration of pesticides. Industry is concerned that if registration review is initiated before a final rule on data requirements, different standards will apply to cases reviewed early in the program, negating one of the benefits of the review: to reduce market barriers.

The Agency does not believe it is appropriate to delay implementation of the registration review program as suggested in the comments. In the absence of updated part 158 rules, the Agency makes case-by-case data determinations as a standard program practice. Registrants are familiar with this practice. While the Part 158 Data Requirements Rules and registration review decisions are related, they are

not inextricably linked. The revisions to part 158 have benefits but they are not a condition precedent to making registration review decisions.

The part 158 updates may include provisions to codify current practices. The purpose of the part 158 rule is to capture with clarity and transparency changes in data requirements or application of data requirements that the Agency has made on a case-by-case document since it published its data requirements in 1984. This good-government goal will amplify understanding and further enhance consistency. However, the registration review program can operate effectively, as the registration, reregistration, and tolerance reassessment programs have, in the absence of these enhancements. Final promulgation of the part 158 rules will simply improve on that sound foundation.

Science will continue to evolve even after the Agency has completed the current revision of the data requirements in 40 CFR part 158. The Agency expects that it will change its data requirements to reflect this new knowledge. Because one of the goals of registration review is to incorporate evolving science, the Agency fully expects that it might apply new and different risk assessment tools to pesticides reviewed later in the 15–year cycle than it used when it reviewed pesticides early in the 15–year cycle.

The Agency appreciates the commenter's concern about market barriers that might arise if the Agency uses different risk assessment tools when reviewing pesticides later in the 15–cycle than it used earlier in the cycle. Market barriers can be reduced if similar pesticides are reviewed at the same time. This is one of the benefits of the Agency's plan to group chemically related cases for review.

B. Transition from Reregistration to Registration Review

Industry comments asserted that EPA must clarify when the registration review program will begin. EPA should address how it will handle the work of registration actions, reregistration actions, and other mandated regulatory actions before it commits to initiating the registration review program. EPA should clarify the transition process between the reregistration and registration review programs.

The Agency has announced that the registration review program officially begins when these regulations go into effect. The Agency's first actions under the new program will be to issue schedules and to begin to open registration review case dockets. As noted in the comment, some pesticides will still be undergoing reregistration when the registration review program begins. The Agency recognizes that, to avoid confusion during the transition between the reregistration and registration review programs, it must clearly communicate whether action on an existing pesticide is taken under reregistration (FIFRA section 4) or registration review under FIFRA section 3(g).

C. Unresolved Problems from Reregistration Will Affect the Agency's Capacity to Conduct Registration Review

Industry commented that EPA should not implement registration review of end-use products until it fixes the problems with the review of end-use products in reregistration. The review processes in registration review and reregistration are likely to be similar and registration review might duplicate the effort of reregistration, especially when a product may undergo product-specific review several times (e.g., a product that contains two or more active ingredients may belong in two or more registration review cases). The commenters are concerned that if EPA does not achieve efficiencies in the review of end-use products, the 15–year review will extend to 40 years.

EPA expects reregistration to satisfy most product-specific data requirements and achieve many label improvements for end-use products. Although the Agency does not expect it will routinely require product-specific data during registration review, it expects that registration review will be an important vehicle for the continuing update of labels. The Agency agrees that the review of end-use product labels could benefit from process improvements. The Agency believes that registrants and other stakeholders can help develop approaches to make this process more efficient.

IX. Program Costs

A. Impacts on Small Businesses

Registrants commented that EPA has not accurately characterized the effects of registration review on small business. They suggested that per-company costs of $750,000 and 2% gross sales are not insignificant even for large entities and will have a direct adverse effect on small businesses. They believe that the cost projections are misleading because they do not include all costs incurred by a registrant such as existing reporting, recordkeeping, and financial burdens imposed by the Agency's many other on-going programs. Commenters suggested that EPA should re-evaluate the impacts on small business and reduce economic burden on them.

EPA believes it has accurately characterized the impacts of the registration review procedures on the regulated community, including small businesses. The procedures in this rule establish what EPA will do to review a pesticide registration. They do not obligate a registrant to take any action.

As part of the rulemaking process, EPA is required to estimate the economic impacts, including effects on small business, that occur as a consequence of the rule. Because costs resulting from existing reporting or recordkeeping requirements or costs from other Agency programs are not imposed by this rule, these costs are not included in the Agency's assessment of the impacts of this rule.

The regulations do not impose new data requirements. They establish the process by which EPA will decide if additional data are necessary to determine whether a pesticide continues to meet FIFRA standards. That is, data generation costs are only indirectly a result of registration review procedures. It is important to realize that the per-company costs of $750,000 are primarily the cost of data generation; that is, they are not a direct cost imposed by this rule.

The Agency has determined that this rule will not have a significant adverse impact on a substantial number of small businesses. Nonetheless, the Agency recognizes that, from the perspective of a small business whose product is undergoing registration review, the costs of data generation in registration review could be significant. Accordingly, the Agency is willing to work on a case-by-case basis with a small business for whom the requirements for data generation in registration review are burdensome. Data Call-In notices issued under FIFRA section 3(c)(2)(B) allow a registrant to request a data waiver that is based on economic factors. In lieu of a new study, the Agency is generally willing to consider whether substitute data or bridging data would be adequate. If a new study is required, the Agency may consider time extensions so that a registrant can spread the costs of data generation over a longer period of time. The Agency has made these options available to small businesses in the registration and reregistration programs and expects to continue to make them available for registration review.

B. Cost of Product-Specific Data

Industry comments asserted that the economic assessment was incomplete

because it did not include the costs of generating product-specific data, in particular, the costs of repeating efficacy tests for public health pesticides. At public meetings on the proposed rule, the Agency said that it would require new product efficacy tests.

These comments accurately describe the scope of the feasibility study. The purpose of the feasibility study was to test the validity of the registration review decision paradigm and to develop data for estimating the costs of the program. The Agency did not review individual product registrations in the feasibility study to determine whether new product-specific data, including efficacy data, would be required because the Agency believes that, to a great degree, these product-specific data requirements have been satisfied through the registration and reregistration programs and such data would generally not be needed to support a pesticide's registration review.

During the registration review of a public health pesticide, the Agency would determine whether to continue to base the product's registration on existing product efficacy data. The Agency may ask for new product efficacy data if the product's composition has changed so that existing data no longer support the current composition of the product, or the test method is no longer valid, or there is information suggesting that the formulation might not be efficacious as claimed. The Agency did not review product chemistry data in the feasibility study to make case-by-case determinations whether existing product efficacy tests are appropriate for the composition of the product. The Agency has not revised antimicrobial efficacy test methods, so, for purposes of the feasibility study, the existing efficacy tests were considered to be valid. (If the Agency had information suggesting that a product in the feasibility study was not efficacious as claimed, the Agency would not wait until registration review to ask for new efficacy data. The Agency would have issued a DCI or initiated other action under FIFRA, as appropriate.) The Agency believes that the costs of replacing product efficacy data for a few products in a registration review case will be much lower than the costs of generating new generic data to support the active ingredient(s) in a registration review case. In any case, any costs for generating new product-specific efficacy data would not be a direct cost imposed by this procedural regulation.

X. Technical Changes to the Rule

In addition to the changes made in response to comments, the final rule reflects that the Agency made the following technical changes to what was proposed:

1. In § 155.42(d), the Agency added clarifying phrases (indicated in italics) to the second and third sentences, as follows: ''In general, the baseline date will be the date of initial registration *of the oldest product in the case* or the date of reregistration, whichever is later. The date of reregistration is the date on which the Registration Eligibility Decision or Interim Reregistration Eligibility Decision was signed, whichever date the Agency determines to be more appropriate *based on the comprehensiveness of the review*.''

2. In § 155.44, EPA is deleting the sentence, ''As indicated in § 155.40, the Agency may change the schedule of a pesticide's registration review if circumstances warrant,'' because it is not a correct reference.

3. In § 155.48, EPA is deleting the phrase ''before, during or after a registration review'' because it is redundant.

4. The Agency is modifying § 155.50 as follows:

- In the first sentence add the phrase ''except for cases covered under § 155.46.'' The sentence now reads, ''The Agency will initiate a pesticide's registration review by establishing a docket for each registration review case, except for cases covered under § 155.46, and opening it for public review.''
- Change the paragraph heading of § 155.50(a) to ''Contents of the registration review case docket.'' The Agency has deleted the first sentence of this paragraph and modified the last sentence to read, ''The Agency will consider including, but not limited to, the following information: . . .'' The Agency is making these changes to make clear that this paragraph describes the contents of the initial docket.
- Change § 155.50(c) by adding ''during the comment period'' to the paragraph heading and by changing the first sentence in paragraph (c)(1) to read as follows: ''In order to ensure that the Agency will consider data or information in the conduct of a registration review, interested persons must submit the data or information during the comment period established in the notice described in paragraph (b) of this section.'' These changes are for clarity.
- Add paragraph § 155.50(d) as follows, ''For the purposes of this subpart, the provisions of subpart B do not apply.'' EPA is making this change to eliminate any possible confusion as to whether docketing procedures in part 155 subpart B apply to registration review activities. Subpart B describes docketing and public participation procedures for the registration standard program that the Agency conducted before it began the reregistration process mandated in the 1988 amendments to FIFRA. The Agency will eventually issue a housekeeping rule to delete this subpart.

5. In § 155.52, the Agency is making editorial changes for clarity, as follows:

- Substitute ''other persons'' for ''public interest groups'' in the third sentence so that it reads, ''The Agency may consult with registrants, pesticide users, or other persons during a pesticide's registration review . . .''
- Add the phrase ''Minutes of'' to the paragraph heading of § 155.52(a) so that it reads, ''Minutes of meetings with persons outside of government.''

6. In § 155.53, the Agency is making several editorial changes for clarity, as follows:

- Add the preposition ''of'' to the section heading of § 155.53 so that it reads, ''Conduct of a pesticide's registration review.''
- In the first sentence of this section, replace the reference to ''§ 155.51,'' which doesn't exist, with ''§ 155.50(a), (b), and (c).''
- In the first sentence of § 155.53(c)(1), replace the phrase ''ask for'' with the verb ''request.''

7. In § 155.58, the Agency is making an editorial change in paragraph (b)(3) by deleting the phrase ''precede, accompany or follow'' from the second sentence and replacing it with the phrase ''may be issued in conjunction with.''

XI. FIFRA Review Requirements

In accordance with FIFRA section 25(a) and 25(d), this rule was submitted to the FIFRA Science Advisory Panel (SAP), the Secretary of Agriculture (USDA), and appropriate Congressional Committees.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

Pursuant to Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has designated this rule as a ''significant regulatory action'' under section 3(f) of the Executive Order because it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive

Order. This action was therefore submitted to OMB for review under this Executive Order, and any changes to this document made at the suggestion of OMB have been documented in the public docket for this rulemaking.

EPA has prepared an economic analysis of the potential impacts of the registration review procedures. In addition to analyzing the requirements contained in this rule, the Agency analyzed other potential actions that could occur during a registration review using other existing authorities that are not changed in this rule. The Agency's analysis, therefore, considers the potential impact of the registration review process, which includes the costs of a registrant's participation in the public review components of the process described in this rule and other potential requirements imposed by existing authorities such as data generation under FIFRA section 3(c)(2)(B). This analysis is contained in a document entitled *Economic Analysis of the Procedural Regulations for the Registration Review of Pesticides*. EPA placed a copy of this Economic Analysis in the public docket for this action when it published the proposed rule. Comments on the Economic Analysis did not warrant revision of this document and the Agency will rely on this document to support the final rule. The Economic Analysis is briefly summarized here.

The rule does not require registrants to take specific action as part of the review of a pesticide registration, however, the Agency's analysis assumes that registrants will engage in their own evaluation of information provided by the Agency and other stakeholders, and participate in the public process described in this rule. The Agency estimates such industry costs to be around $1.2 million annually.

The Agency recognizes that under other existing authorities a registrant may also need to submit data that they have or generate data as necessary to support the registration. As such, the analysis also considers the potential cost to industry from other anticipated activities under existing authorities that may occur during the registration review process, although such activities are not requirements in this rulemaking. These activities include potential data submission or generation activities related to DCIs, including the paperwork burden, and other activities that might occur under other existing authorities.

Considering these other potential activities, the analysis shows an estimated total annual cost to industry of about $50 million, with the estimates for potential data generation activities accounting for approximately 70% of these costs. The Agency estimates about 68 companies will be impacted each year; thus, per-company costs for the entire registration review process are likely to average less than $750,000 each year, even though some companies may have multiple chemicals under review during the year. Out of the universe of 2,000 small businesses estimated to hold pesticide registrations, the Agency estimates that each year about 30 small businesses that have responsibility for providing data to support the registration of a pesticide would be involved in a registration review. Assuming the same level of participation and potential need to generate data, the estimated average cost of the registration review process is estimated to be less than 2% of the gross sales for small businesses involved in a registration review.

B. Paperwork Reduction Act (PRA)

The information collection activities associated with the registration review program are already approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. That Information Collection Request (ICR) document has been assigned EPA ICR number 0922.07, and OMB control number 2070–0057. Although this action does not impose any new information collection requirements that would require additional approval by OMB, the Agency expects the approved burden estimate to increase with the full implementation of the registration review process. A copy of the OMB approved ICR has been placed in the public docket for this rule, and the Agency's estimated burden increase is presented in the economic analysis that has been prepared for this rule.

As detailed in the Economic Analysis prepared for this rule, the annual respondent burden for information collection activities associated with the registration review program is estimated to average 120,000 hours, with an estimated total annual respondent cost of $10,800,000. The July 13, 2005, proposed rule invited comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques. No comments were received. Therefore, the Agency has submitted an information correction worksheet request to OMB to amend its existing ICR covering the information collection activities associated with the registration review program so that it reflects the burden estimates in the Economic Analysis.

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations codified in Chapter 40 of the CFR, after appearing in the preamble of the final rule, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9. For the ICR activity contained in this final rule, in addition to displaying the applicable OMB control number in this unit, the Agency is amending the table in 40 CFR 9.1 to list the OMB control number assigned to this ICR activity. Due to the technical nature of the table, EPA finds that further notice and comment about amending the table is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedures Act (APA), 5 U.S.C. 553(b)(B), to amend this table without further notice and comment.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, the Agency hereby certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule defines the procedures that EPA will follow to implement the statutory registration review provision. It does not impose any new requirements on the regulated community. As such, this rule does not have direct adverse impacts on small businesses, small non-profit

organizations, or small local governments.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201, which for the pesticide industry consists of businesses with fewer than 500 to 1,000 employees (range is based on NAICS sector variations); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The regulated community does not include any small not-for-profit organizations. Small local government organizations, such as counties, may register a pesticide under FIFRA section 24(c). However, such registrants generally do not manufacture, distribute or sell pesticides and generally would not be responsible for generating data to support the registration of pesticides. Accordingly, the Agency finds that this rule does not have a direct adverse effect on small local governments.

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. As described in Unit XIII.A., this rule is not expected to result in such expenditures. In addition, this action will not impact small governments, or local or tribal governments. Accordingly, this rule is not subject to the requirements of sections 202, 203, 204, and 205 of UMRA.

E. Executive Order 13132

Pursuant to Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), EPA has determined that this rule does not have ''federalism implications,'' because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175

As required by Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), EPA has determined that this rule does not have tribal implications because it will not have any affect on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in the Order. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13211

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Disribution, or Use* (66 FR 28355, May 22, 2001) because it is not designated as an ''economically significant'' regulatory action as defined by Executive Order 12866 (see Unit XIII.A.), nor is it likely to have any significant adverse effect on the supply, distribution, or use of energy.

H. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997) does not apply to this rule because this action is not designated as an ''economically significant'' regulatory action as defined by Executive Order 12866, (see Unit XIII.A.), nor does it establish an environmental standard, or otherwise have a disproportionate effect on children.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ((NTTAA), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures) that are developed or adopted by voluntary consensus standards bodies. This rule does not impose any technical standards that would require EPA to consider any voluntary consensus standards.

J. Executive Order 12898

This rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency does not need to consider environmental justice-related issues.

XIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

List of Subjects in 40 CFR Part 155

Environmental protection, Administrative practice and procedure, Pesticides and pests.

Dated: August 1, 2006.

Stephen L. Johnson,

Administrator.

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

■ 1. Part 9 is amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671, 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ b. In § 9.1, the table is amended by revising the existing heading for ''Registration Standards''; removing the entry under that heading; and adding a new entry to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control no.
* * * * * .	
Registration Standards and Registration Review	
* * * * *	
Part 155	2070–0057

* * * * *

■ 2. Part 155 is amended as follows:

PART 155–REGISTRATION STANDARDS AND REGISTRATION REVIEW

■ a. The authority citation for part 155 continues to read as follows:

Authority: 7 U.S.C. 1361.

■ b. By revising the heading of part 155 to read as set forth above.
■ c. By adding a new subpart C to read as follows:

Subpart C—Registration Review Procedures

Sec.

Subpart C—Registration Review Procedures

§ 155.40 General.

(a) *Purpose.* These regulations establish procedures for the registration review program required in FIFRA 3(g). Registration review is the periodic review of a pesticide's registration to ensure that each pesticide registration continues to satisfy the FIFRA standard for registration. The goal of the registration review procedures is review of each pesticide's registration every 15 years.

(1) Among other things, FIFRA requires that a pesticide generally will not cause unreasonable adverse effects on the environment. Registration review is intended to ensure that each pesticide's registration is based on current scientific and other knowledge regarding the pesticide, including its effects on human health and the environment.

(2) If a product fails to satisfy the FIFRA standard for registration, the product's registration may be subject to cancellation or other remedies under FIFRA.

(b) *Applicability.* This subpart applies to every pesticide product registered under FIFRA section 3 as well as all pesticide products registered under FIFRA section 24(c). It does not apply to products whose sale or distribution is authorized under FIFRA section 5 or section 18.

(c) *Limitations.* (1) At any time, the Agency may undertake any other review of a pesticide under FIFRA, irrespective of the pesticide's past, ongoing, scheduled, or not yet scheduled registration review.

(2) When the Agency determines that new data or information are necessary for a pesticide's registration review, it will require such data under FIFRA section 3(c)(2)(B).

§ 155.42 Registration review cases.

(a) *Establishing registration review cases.* A registration review case will be composed of one or more active ingredients and all the products containing such ingredient(s). The Agency may group related active ingredients into a registration review case when the active ingredients are so closely related in chemical structure and toxicological profile as to allow common use of some or all required data for hazard assessment.

(1) Existing pesticides. The Agency will assign each pesticide registered on or before the effective date of this regulation to a registration review case.

(2) New pesticides. The Agency will assign each pesticide registered after the effective date of this regulation to an existing registration review case or to a new registration review case.

(3) A pesticide product that contains multiple active ingredients will belong to the registration review cases for each of its active ingredients.

(b) *Modifying registration review cases.* New data or information may suggest that a registration review case should be modified. The Agency may modify a registration review case in the following ways:

(1) Add a new active ingredient to a registration review case. The Agency may determine that a new active ingredient is chemically and toxicologically similar to active ingredients in an existing registration review case and should be grouped with the ingredients in the existing registration review case.

(2) Split a registration review case into two or more registration review cases. For example, new data or information may suggest that active ingredients in a registration review case are not as similar as previously believed and that they belong in two or more separate registration review cases.

(3) Move an ingredient from one registration review case to another. For example, new data or information might suggest that an ingredient should not be grouped with the other ingredients in the registration review case and that it belongs in a different registration review case.

(4) Merge two or more registration review cases into a single registration review case. For example, new data or information might suggest that the active ingredients in two or more registration review cases should be grouped together for registration review.

(5) Delete an active ingredient from a registration review case. For example, the Agency will remove the ingredient from the case if the registrations of all products containing an active ingredient in a registration review case are canceled.

(c) *Closing a registration review case.* The Agency will close a registration review case if all products in the case are canceled.

(d) *Establishing a baseline date for a registration review case.* For the purpose of scheduling registration reviews, the Agency will establish a baseline date for each registration review case. In general, the baseline date will be the date of initial registration of the oldest pesticide product in the case or the date of reregistration, whichever is later. For the purpose of these procedures, the date of reregistration is the date on which the Reregistration Eligibility Decision or Interim Reregistration Decision was signed, whichever date the Agency determines to be more appropriate based on the comprehensiveness of the review.

(1) The Agency generally will not change the baseline date for a registration review case when it modifies a case by adding or deleting ingredients or products.

(2) When the Agency splits a registration review case into two or more cases, the new case(s) generally will have the baseline date of the original registration review case.

(3) When the Agency merges two or more registration review cases into a single case, the Agency generally will use the earliest baseline date as the baseline date for the new case.

(e) *Announcing registration review cases and baseline dates.* The Agency will maintain a list of registration review cases, including baseline dates, on its website.

§ 155.44 Establish schedules for registration review.

The Agency will develop schedules for registration review that are generally based on the baseline date of the registration review case or on the date of the latest registration review of the registration review case. The Agency may also take into account other factors, such as achieving process efficiencies by reviewing related cases together, when developing schedules for registration review. The Agency will maintain schedules for the current year and at least two subsequent years on its website.

§ 155.46 Deciding that a registration review is complete and additional review is not needed.

The Agency may determine that there is no need to reconsider a previous decision that a pesticide satisfies the standard of registration in FIFRA. In such cases, instead of establishing a pesticide registration review case docket as described in § 155.50, the Agency may propose that, based on its determination that a pesticide meets the FIFRA standard for registration, no further review will be necessary. In such circumstances, the Agency will publish a notice in the **Federal Register** announcing the availability of the proposed decision and provide a comment period of at least 60 calendar days. The Agency will publish a notice in the **Federal Register** announcing the availability of a final version of the decision, an explanation of any changes to the proposed decision and its response to any comments. The date of the final notice of availability would be used as the date of the latest registration review for the purpose of scheduling subsequent registration reviews.

§ 155.48 Data Call-In.

The Agency may issue a Data Call-In notice under FIFRA section 3(c)(2)(B) at any time if the Agency believes that the data are needed to conduct the registration review. The provisions in FIFRA section 3(c)(1), (c)(2)(B), and (c)(2)(D) apply to the submission, compensation, and exemption of data required to conduct a registration review.

§ 155.50 Initiate a pesticide's registration review.

The Agency will initiate a pesticide's registration review by establishing a docket for each registration review case, except for cases covered under § 155.46, and opening it for public review.

(a) *Contents of the registration review case docket.* The Agency will place in this docket information that will assist the public in understanding the types of information and issues that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

(1) An overview of registration review case status;

(2) A list of current registrations and registrants, any **Federal Register** notices regarding pending registration actions, and current or pending tolerances;

(3) Risk assessment documents;

(4) Bibliographies concerning current registrations;

(5) Summaries of incident data; and

(6) Any other pertinent data or information.

(b) *Public review of the registration review case docket.* The Agency will publish a notice in the **Federal Register** announcing the availability for public review of the information described in paragraph (a) of this section and establishing a comment period of at least 60 days. During this comment period, interested persons may identify any additional information they believe the Agency should consider in the course of the registration review.

(c) *Submission of data and other information during the comment period.* The Agency may identify, either in the notice published under paragraph (b) of this section, or at any other time, data or information that it does not have but which may be useful, if available, for consideration in the registration review. Any person may submit data or information in response to such identification. In order to be considered during a pesticide's registration review, the submitted data or information must meet the requirements listed below.

(1) In order to ensure that the Agency will consider data or information in the conduct of a registration review, interested persons must submit the data or information during the comment period established in the notice described in paragraph (b) of this section. The Agency may, at its discretion, consider data or information submitted at a later date.

(2) The data or information must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

(3) Submitters must clearly identify the source of any submitted data or information.

(4) Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

(d) For the purposes of this subpart, the provisions of subpart B do not apply.

§ 155.52 Stakeholder engagement.

In addition to the public participation opportunities described in § 155.50 and § 155.53(c), the Agency may meet with stakeholders regarding a forthcoming or ongoing registration review. For example, before conducting a pesticide's registration review, the Agency may consult with registrants or pesticide users regarding the use and usage of the pesticide. The Agency may consult with registrants, pesticide users, or other persons during a pesticide's registration review with regard to developing risk management options for a pesticide. The Agency may informally consult with officials of Federal, State or Tribal agencies regarding a forthcoming or ongoing registration review.

(a) *Minutes of meetings with persons outside of government.* The Agency will place in the docket minutes of meetings with persons outside of government where the primary purpose of the meeting is to discuss a forthcoming or ongoing registration review. The Agency will place minutes of such meetings in the docket when it takes action under § 155.58. At its discretion, the Agency may place minutes of such meetings in the docket sooner.

(b) *Exchange of documents or other written material.* In the course of a meeting with a person outside of government, the Agency or that person may provide the other with a copy of a document or other written material that has not yet been released to the public. The Agency will place a copy of any such document or other written material in the docket along with the minutes of the meeting where the materials were exchanged.

(c) *Confidential business information.* The Agency will not place confidential business information in the docket.

§ 155.53 Conduct of a pesticide's registration review.

The Agency will review data and information described in § 155.50(a), (b), and (c) or submitted in response to a Data Call-In notice that it believes should be considered in the pesticide's registration review.

(a) *Assess changes since a pesticide's last review.* The Agency will assess any changes that may have occurred since the Agency's last registration decision in order to determine the significance of

such changes and whether the pesticide still satisfies the FIFRA standard for registration. The Agency will consider whether to conduct a new risk assessment to take into account, among other things, any changes in statutes or regulations, policy, risk assessment procedures or methods, or data requirements. The Agency will consider whether any new data or information on the pesticide, including any data or information submitted under § 155.50 or in response to a Data Call-In notice, warrant conducting a new risk assessment or a new risk/benefit assessment. The Agency will also consider whether any new data or information regarding an individual pesticide product, including any data or information submitted under § 155.50 or in response to a Data Call-In notice, such as data or information about an inert ingredient in the pesticide product or other information or data relating to the composition, labeling or use of the pesticide product, warrant additional review of a pesticide product's registration.

(b) *Conduct new assessments as needed.* (1) Active ingredient(s) in the registration review case. If the Agency finds that a new assessment of the pesticide is needed, it will determine whether it can base the new assessment on available data or information, including data or information submitted under § 155.50 or in response to a Data Call-In notice. If sufficient data or information are available, the Agency will conduct the new risk assessment or risk/benefit assessment. If the Agency determines that additional data or information are needed to conduct the review, the Agency will issue a Data Call-In notice under FIFRA section 3(c)(2)(B).

(2) Individual product registrations. If the Agency finds that additional review of an individual product's registration is needed, it will review the pesticide product label, confidential statement of formula, product-specific data, or other pertinent data or information, as appropriate, to determine whether the registration of the individual product meets the FIFRA standard for registration. If the Agency determines that additional data or information are needed to conduct the review, the Agency will issue a Data Call-In notice under FIFRA section 3(c)(2)(B).

(c) *Public participation during a pesticide's registration review.* The Agency will generally make available for public review and comment a draft risk assessment for a pesticide if a new risk assessment has been conducted. The Agency will publish a notice in the **Federal Register** announcing the availability of the draft risk assessment and provide a comment period of at least 30 calendar days. The Agency will publish a notice in the **Federal Register** announcing the availability of a revised risk assessment, an explanation of any changes to the proposed document, and its response to comments. If the revised risk assessment indicates risks of concern, the Agency may, in the notice announcing the availability of the revised risk assessment, provide a comment period of at least 30 calendar days for the public to submit suggestions for mitigating the risk identified in the revised risk assessment.

(1) The Agency might not request comments on a draft risk assessment in cases where the Agency's initial screening of a pesticide indicates that it has low use/usage, affects few if any stakeholders or members of the public, poses low risk, and/or requires little or no risk mitigation. In such cases, the Agency will make a draft risk assessment available for public review and comment when it issues a proposed decision on the registration review case.

(2) If the Agency finds that it is not necessary to conduct a new risk assessment, it will issue a proposed decision on the registration review case as described in § 155.58.

§ 155.56 Interim registration review decision.

The Agency may issue, when it determines it to be appropriate, an interim registration review decision before completing a registration review. Among other things, the interim registration review decision may require new risk mitigation measures, impose interim risk mitigation measures, identify data or information required to complete the review, and include schedules for submitting the required data, conducting the new risk assessment and completing the registration review. A FIFRA 3(c)(2)(B) notice requiring the needed data or information may precede, accompany, or follow issuance of the interim registration review decision. The Agency will follow procedures in § 155.58 when issuing an interim registration review decision.

§ 155.57 Registration review decision.

A registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA.

§ 155.58 Procedures for issuing a decision on a registration review case.

(a) The Agency will publish a notice in the **Federal Register** announcing the availability of a proposed registration review decision or a proposed interim registration review decision. At that time, the Agency will place in the pesticide's registration review docket the Agency's proposed decision and the bases for the decision. There will be a comment period of at least 60 calendar days on the proposed decision.

(b) In its proposed decision, the Agency will, among other things:

(1) State its proposed findings with respect to the FIFRA standard for registration and describe the basis for such proposed findings.

(2) Identify proposed risk mitigation measures or other remedies as needed and describe the basis for such proposed requirements.

(3) State whether it believes that additional data are needed and, if so, describe what is needed. A FIFRA 3(c)(2)(B) notice requiring such data may be issued in conjunction with a proposed or final decision on the registration review case or a proposed or final interim decision on a registration review case.

(4) Specify proposed labeling changes; and

(5) Identify deadlines that it intends to set for completing any required actions.

(c) After considering any comments on the proposed decision, the Agency will issue a registration review decision or interim registration review decision. This decision will include an explanation of any changes to the proposed decision and the Agency's response to significant comments. The Agency will publish a notice in the **Federal Register** announcing the availability of a registration review decision or interim registration review decision. The registration review case docket will remain open until all actions required in the final decision on the registration review case have been completed.

(d) If the registrant fails to take the action required in a registration review decision or interim registration review decision, the Agency may take appropriate action under FIFRA.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4456/P.L. 109–258

To designate the facility of the United States Postal Service located at 2404 Race Street in Jonesboro, Arkansas, as the ''Hattie W. Caraway Station''. (Aug. 2, 2006; 120 Stat. 661)

H.R. 4561/P.L. 109–259

To designate the facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, as the ''Francisco 'Pancho' Medrano Post Office Building''. (Aug. 2, 2006; 120 Stat. 662)

H.R. 4688/P.L. 109–260

To designate the facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, as the ''Mayor John Thompson 'Tom' Garrison Memorial Post Office''. (Aug. 2, 2006; 120 Stat. 663)

H.R. 4786/P.L. 109–261

To designate the facility of the United States Postal Service located at 535 Wood Street in Bethlehem, Pennsylvania, as the ''H. Gordon Payrow Post Office Building''. (Aug. 2, 2006; 120 Stat. 664)

H.R. 4995/P.L. 109–262

To designate the facility of the United States Postal Service located at 7 Columbus Avenue in Tuckahoe, New York, as the ''Ronald Bucca Post Office''. (Aug. 2, 2006; 120 Stat. 665)

H.R. 5245/P.L. 109–263

To designate the facility of the United States Postal Service located at 1 Marble Street in Fair Haven, Vermont, as the ''Matthew Lyon Post Office Building''. (Aug. 2, 2006; 120 Stat. 666)

H.R. 4019/P.L. 109–264

To amend title 4 of the United States Code to clarify the treatment of self-employment for purposes of the limitation on State taxation of retirement income. (Aug. 3, 2006; 120 Stat. 667)

S. 310/P.L. 109–265

Newlands Project Headquarters and

Maintenance Yard Facility Transfer Act (Aug. 3, 2006; 120 Stat. 668)

S. 1496/P.L. 109–266

Electronic Duck Stamp Act of 2005 (Aug. 3, 2006; 120 Stat. 670)

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