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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23807; Directorate Identifier 2005–NE–51–AD; Amendment 39–14763; AD 2006–19–06]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Turboprop Engines

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 Pratt & Whitney Canada (P&WC) Models PW118, PW118A, PW118B, PW119C, PW120, PW120A, PW121, PW121A, PW123, PW123B, PW123C, PW123D, PW123E, PW124B, PW125B, PW127, and PW127E turboprop engines with certain propeller shafts installed. This AD requires before further flight, replacing certain serial-numbered propeller shafts, and performing initial and repetitive visual inspections on others. This AD results from two reports of through-cracks in the propeller shaft. We are issuing this AD to detect through-cracks in the propeller shaft. Through-cracks at the No. 19 bearing area of the propeller shaft could result in uncontained engine failure and damage to the airplane.

DATES: Effective September 29, 2006. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of September 29, 2006.

We must receive any comments on this AD by November 13, 2006.

ADDRESSES: Use one of the following addresses to comment 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 20590–0001.
- 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.

Contact Pratt & Whitney Canada Corp., 1000, Marie-Victorin, Longueuil, Québec, Canada J4G 1A1; telephone 450–677–9411, for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, recently notified us that an unsafe condition may exist on certain P&WC turboprop engines. Transport Canada advises that they have received two reports of through-cracks in the No. 19 bearing area of the propeller shaft. Investigation determined the cracks result from hydrogen embrittlement caused by an improper nickel-plating repair process at two different overhaul facilities. A persistent external oil leak in the propeller shaft area, where the crack extended past the oil seal runner, led to finding both events. P&WC has identified the population of propeller shafts with improper nickel-plating repair process. This condition, if not corrected could result in an uncontained engine failure and damage to the airplane.

Relevant Service Information

We have reviewed and approved the technical contents of P&WC Service Bulletin (SB) No. PW100–72–21714, Revision 2, dated May 20, 2005. That SB describes procedures for:

- Inspecting the propeller shaft seal area for leaks,
- Fluorescent-penetrant inspecting the internal areas of the propeller shaft, and
- Replacing the propeller shaft.

Transport Canada issued AD CF–2005–29, dated September 12, 2005, to ensure the airworthiness of these P&WC engines in Canada.

Bilateral Airworthiness Agreement

These engine models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Under this bilateral airworthiness agreement, Transport Canada kept the FAA informed of the situation described above. We have examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other P&WC Models PW118, PW118A, PW118B, PW119C, PW120, PW120A, PW121, PW121A, PW123, PW123B, PW123C, PW123D, PW123E, PW124B, PW125B, PW127, and PW127E turboprop engines of the same type design. We are issuing this AD to detect through-cracks in the propeller shaft. Through-cracks in the No. 19 bearing area of the propeller shaft could result in an uncontained engine failure and damage to the airplane. This AD requires:

- Before further flight, replacing any propeller shaft that has a serial number (SN) listed in Table 1, Table 2, or Table 3 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005, and
- Within two days after the effective date of this AD, performing an initial visual inspection of any propeller shaft that has a SN listed in Table 4 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005, and
- Thereafter, performing a repetitive visual inspection at an interval not to exceed 7 days since last inspection, and
- Within 250 hours time-in-service, but not to exceed three months after the

effective date of this AD, performing a fluorescent penetrant inspection on the internal surface of any propeller shaft that has a SN listed in Table 4 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005, and

• Removing any propeller shaft that has a SN listed in Table 4 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005, before December 31, 2007.

You must use the service information described previously to perform the actions required by this AD.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. FAA–2006–23807; Directorate Identifier 2005–NE–51–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule 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 the DMS 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.).

Examining the AD Docket

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

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 summary of the costs to comply with this AD 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 No. FAA–2006–23807; Directorate Identifier 2005–E–51–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006 19–06 Pratt & Whitney Canada: Amendment 39–14763. Docket No. FAA–2006–23807; Directorate Identifier 2005–NE–51–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 29, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pratt & Whitney Canada (P&WC) Models PW118, PW118A, PW118B, PW119C, PW120, PW120A, PW121, PW121A, PW123, PW123B, PW123C, PW123D, PW123E, PW124B, PW125B, PW127, and PW127E turboprop engines with certain propeller shafts installed. These engines are installed on, but not limited to, Aerospatiale ATR 42 and ATR 72 series, Bombardier DHC–8–100, –200, and –300 series, Dornier 328–120 series, Embraer EMB 120 series, and Fokker 50 airplanes.

Unsafe Condition

(d) This AD results from two reports of through-cracks in the propeller shaft. We are issuing this AD to detect through-cracks in the propeller shaft. Through-cracks at the No. 19 bearing area of the propeller shaft could result in uncontained engine failure and damage to 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.

Remove Propeller Shafts From Service

(f) Before further flight, remove from service any propeller shaft that has a serial number (SN) listed in Table 1, Table 2, or Table 3 of P&WC Service Bulletin (SB) No. PW100–72–21714, Revision 2, dated May 20, 2005.

(g) After the effective date of this AD, do not install any propeller shaft that has a SN listed in Table 1, Table 2, or Table 3 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005.

Visual Inspection

(h) For all propeller shafts that have a SN listed in Table 4 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005, do the following within two days after the effective date of this AD:

(1) Perform a visual inspection for leaks. Use 3.A.(1) through 3.A.(2) of the Accomplishment Instructions of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005.

(2) If you find a leak that you cannot fix without removing the propeller, perform an internal fluorescent penetrant inspection for cracks. Use 3.B.(1) through 3.B.(11)(h) of the Accomplishment Instructions of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005.

(3) If you find a crack, replace the propeller shaft before further flight.

Repetitive Visual Inspection

(i) Thereafter, repeat the inspections of paragraphs (h)(1) through (h)(2) of this AD at not greater than 7 days between inspections.

Internal Fluorescent Penetrant Inspection

(j) For all propeller shafts that have a SN listed in Table 4 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005, do the following within 250 hours time-in-service or 3 months, whichever is earlier, after the effective date of this AD:

(1) Perform an internal fluorescent penetrant inspection for cracks on all propeller shafts that have a SN listed in Table 4 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005. Use 3.B.(1) through 3.B.(11)(h) of the Accomplishment Instructions of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005.

(2) If you find a crack, replace the propeller shaft before further flight.

Terminating Actions

(k) Replace any propeller shaft that has a SN listed in Table 4 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005, by December 31, 2007.

(l) Replacing a propeller shaft with a propeller shaft that doesn't have a SN listed in Table 4 of P&WC SB No. PW100–72–21714, Revision 2, dated May 20, 2005, terminates the repetitive inspection requirements in paragraph (i) of this AD.

Alternative Methods of Compliance

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

Related Information

(n) Transport Canada airworthiness directive No. CF–2005–29, dated August 3, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(o) You must use Pratt & Whitney Canada Service Bulletin No. PW100–72–21714, Revision 2, dated May 20, 2005 to perform the actions required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Pratt & Whitney Canada Corp., 1000, Marie-Victorin, Longueuil, Québec, Canada J4G 1A1; telephone 450–677–9411, for a copy of this service information. You may review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Burlington, Massachusetts, on September 6, 2006.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E6–15139 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 103

[CBP Dec. 06–24]

RIN 1651–AA47

Confidentiality of Commercial Information

AGENCY: Customs and Border Protection, Homeland Security.

ACTION: Final rule.

SUMMARY: This document finalizes, without change, the interim rule published on August 11, 2003, as CBP Decision 03–02, adopting for Customs and Border Protection (CBP), as a component of the Department of Homeland Security, the disclosure procedures that CBP had historically followed as the Customs Service in the Department of the Treasury regarding commercial information that was provided to the agency by a business submitter.

EFFECTIVE DATE: October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Gregory R. Vilders, Office of Regulations and Rulings, (202) 572–8772.

SUPPLEMENTARY INFORMATION:

Background

The CBP regulations regarding information requested pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, are set forth in Part 103 of title 19 of the Code of Federal Regulations (19 CFR Part 103). These regulations were the regulations of the former U.S. Customs Service (Customs). As a component of Treasury, Customs supplemented its regulations with the Treasury regulations (found at 31 CFR Part 1) regarding public access to records. Section 1.6 of the Treasury regulations (31 CFR 1.6) concerns the treatment of information denominated as ''business information.'' This section provides that such information provided to the Treasury by a ''business submitter'' shall not be disclosed pursuant to a FOIA request except in accordance with the provisions of the section. Part 103 of the CBP regulations did not have a similar provision, and Customs had followed Treasury's disclosure procedure set forth in 31 CFR 1.6 since it was promulgated in 1987.

Pursuant to the Treasury regulation, Customs did not require business submitters to designate information as protected from disclosure as privileged or confidential under exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) in order for the agency to not disclose such ''commercial information,'' defined as trade secrets or commercial or financial information obtained from a person and privileged or confidential. For example, Customs routinely considered commercial information appearing on entry documents as confidential and privileged under exemption 4, and did not require business submitters to respond to a notice from Customs with a written detailed statement specifying the reasons for the claim of confidentiality.

On March 1, 2003, Customs was transferred from Treasury to the Department of Homeland Security (DHS). Pub. L. 107–296, 6 U.S.C. 133, 116 Stat. 2135. DHS published its disclosure of information procedures in an interim rule published in the **Federal Register** (68 FR 4055) on January 27, 2003. Under this rule, established at 6 CFR, Chapter I, Part 5, the DHS FOIA provisions apply to all Treasury components transferred to DHS, except to the extent that such component has adopted separate guidance under the FOIA (6 CFR 5.1(a)(2)).

The DHS FOIA regulation at 6 CFR 5.8(c) provides that a submitter of business information will use good faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under exemption 4 of the FOIA. The regulations also state that, before business information will be released, notice will be provided to business submitters whenever (1) a FOIA request is made that seeks the business information that has been designated in good-faith as confidential, or (2) the DHS component agency has a reason to believe that the information may be protected from disclosure. When notice is provided by the agency, the submitter is required to submit a detailed written statement specifying the grounds for

withholding any portion of the information and show why the information is a trade secret or commercial or financial information that is privileged or confidential.

Because CBP wished to continue its practice of not requiring business submitters of commercial information to designate such information as protected from disclosure, it published an interim rule in the **Federal Register** (68 FR 47453) on August 11, 2003, as CBP Decision 03–02 that amended Part 103 of the CBP regulations by adding a new § 103.35 to subpart C. New § 103.35 adopted Treasury's established disclosure procedure that had been followed by Customs since 1987 to assure the trading community that the transfer of Customs from Treasury to DHS would not affect the treatment of commercial information that business submitters provide to CBP.

The comment period for the interim regulations closed on October 10, 2003. No comments were received from the public in response to the interim rule, and CBP is now adopting the interim rule as a final rule without change.

Signing Authority

This final rule is being issued in accordance with 19 CFR 0.2(a) pertaining to the authority of the Secretary of the Department of Homeland Security, or his or her designee, to issue Customs regulations that are not related to customs revenue functions.

Regulatory Flexibility Act and Executive Order 12866

As discussed above, these regulations were published as an interim rule on August 11, 2003. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Further, this document does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

List of Subjects in 19 CFR Part 103

Administrative practice and procedure, Confidential commercial information, Freedom of Information, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ For the reasons set forth above, the interim rule amending part 103 of title 19 of the Code of Federal Regulations (19 CFR part 103), which was published in the **Federal Register** at 68 FR 47453 on August 11, 2003, is adopted as a final rule without change.

Dated: September 8, 2006.

Deborah J. Spero,

Acting Commissioner, Customs and Border Protection.

[FR Doc. E6–15225 Filed 9–13–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1271

[Docket No. 2006N–0051]

Health Resources and Services Administration

42 CFR Part 121

Blood Vessels Recovered With Organs and Intended for Use in Organ Transplantation; Withdrawal

AGENCIES: Food and Drug Administration, Health Resources and Services Administration, HHS.

ACTION: Direct final rule; withdrawal.

SUMMARY: The Health Resources and Services Administration (HRSA) and the Food and Drug Administration (FDA) published in the **Federal Register** of May 12, 2006 (71 FR 27606), a direct final rule to amend the regulations to consider as part of an organ those blood vessels recovered with the organ that are intended for use in organ transplantation; and to exclude such blood vessels from the definition of human cells, tissues, and cellular and tissue-based products. The comment period closed July 26, 2006. HRSA and FDA are withdrawing the direct final rule because FDA received significant adverse comment. The agencies will consider the comments received under our usual procedures for notice and comment in connection with the notice of proposed rulemaking that was published as a companion to the direct final rule (71 FR 27649).

DATES: The direct final rule published on May 12, 2006 (71 FR 27606), is withdrawn effective September 14, 2006.

FOR FURTHER INFORMATION CONTACT:

For information regarding FDA's rule: Pamela Pope, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

For information regarding HRSA's rule: Jim Burdick, Division of Transplantation, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, room 12C–06, Rockville, MD 20857, 301–443–7577.

SUPPLEMENTARY INFORMATION: HRSA and FDA published a direct final rule in the **Federal Register** of May 12, 2006 (71 FR 27606), to amend the regulations to consider as part of an organ those blood vessels recovered with the organ that are intended for use in organ transplantation (HRSA regulation); and to exclude such blood vessels from the definition of human cells, tissues, and cellular and tissue-based products (FDA regulation).

HRSA and FDA received significant adverse comment in response to the direct final rule. Therefore, the direct final rule is being withdrawn. HRSA and FDA intend to finalize the proposed rule after considering comments.

Authority: Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs and to the Administrator, Health Resources and Services Administration, the direct final rule published on May 12, 2006 (71 FR 27606), is withdrawn.

Dated: September 6, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 06–7644 Filed 9–13–06; 8:45 am]

BILLING CODE 4160–01–S

POSTAL SERVICE

39 CFR Parts 111 and 958

Post Office Box and Caller Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule transfers responsibility for final agency decisions in connection with Post Office™ box termination, caller service termination, and denial of service appeals from the Judicial Officer Department to the vice president and Consumer Advocate.

DATES: *Effective Date:* September 1, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony F. Alverno, Chief Counsel, Customer Programs, 202–268–2997.

SUPPLEMENTARY INFORMATION: At present, if a postmaster denies a customer's application for Post Office box or caller service or terminates a customer's Post Office box or caller service, the postmaster must issue a written letter explaining his or her decision and include a copy of the

relevant regulations relating to the customer's appeal rights. If the customer appeals, his or her appeal letter is forwarded to the Judicial Officer Department. In the event of an appeal, a Postal Service™ attorney must consult with the postmaster or Post Office box clerk and prepare an answer to the customer's petition. In most cases, the Postal Service counsel files a summary judgment motion with the answer. The summary judgment motion often includes a declaration from the postmaster. After the answer summary judgment motion is filed, the customer is given a chance to reply. Thereafter, the administrative law judge (ALJ) renders a decision on the motion. If the ALJ decides that summary judgment is not warranted, a hearing is scheduled. After the hearing, the ALJ decides the matter on the merits. If the ALJ grants summary judgment, the customer is given the opportunity to appeal to the judicial officer. In the event of an appeal to that level, the law department prepares a written response to the appeal. Alternatively, if the ALJ decides in favor of the customer, the law department may file an appeal.

Considerable resources can be spent on a single case. Many of these costs can be avoided if the appeals process is changed. Also, the appeal process should move more swiftly if handled by postal management.

The Postal Service is transferring responsibility for adjudication of appeals from the Judicial Officer Department to a Postal Service management level official. There is no statutory requirement that Post Office box or caller service termination decisions or application denials be subject to a formal administrative hearing before an ALJ. Moreover, past decisions by the Judicial Officer Department have held there is no right to a Post Office box.

The legal basis for changing procedures is grounded in the *Postal Reorganization Act*, which provides that the Postal Service is authorized to adopt, amend, and repeal such rules and regulations as it deems necessary. Further, the responsibilities of the judicial officer do not require review of any particular controversy. Rather, the act provides that [t]he judicial officer shall perform such quasi-judicial duties * * * as the Postmaster General may designate'' (39 U.S.C. 204).

In lieu of granting a right of appeal to the Judicial Officer Department, the vice president and Consumer Advocate will be given decision-making power to review and decide Post Office box and caller service appeals. This will be more efficient, give the consumer expeditious resolution, and save the Postal Service considerable professional and labor time and travel expense. The Consumer Advocate is a neutral and impartial arbiter of consumer claims and is already the final arbiter for appeals of domestic and international indemnity claims for loss or damage (*Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) 609.6 and *International Mail Manual* 931.3) and for appeals of local handling of complaints and inquiries about postal products, services or employees (DMM 608.6.1).

Any pending actions filed with the recorder's office before the effective date will be handled under the regulations in effect on the date the appeal was received.

List of Subjects in 39 CFR Parts 111 and 958

Administrative practice and procedure.

■ For the reasons set out in this document, the Postal Service removes 39 CFR part 958 and adopts the following amendments to the DMM, which is incorporated by reference in the CFR. See 39 CFR 111.1.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 958—[REMOVED AND RESERVED]

■ 2. Remove and reserve Part 958.

■ 3. Revise the following sections of Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual

* * * * *

500 Additional Mailing Services

* * * * *

508 Recipient Services

* * * * *

4.0 Post Office Box Service

* * * * *

4.9 Service Refusal or Termination

* * * * *

4.9.3 Customer Appeal

The applicant or box customer may file a petition appealing the postmaster's determination to refuse or terminate service within 20 calendar days after notice as specified in the postmaster's determination. The filing of a petition prevents the postmaster's determination from taking effect and transfers the case to the USPS Consumer Advocate. The Consumer Advocate's decision constitutes the final agency decision.

* * * * *

5.0 Caller Service

* * * * *

5.7 Service Refusal or Termination

* * * * *

5.7.3 Customer Appeal

The applicant or caller may file a petition opposing the postmaster's determination to refuse or terminate service within 20 calendar days after notice, as specified in the postmaster's determination. The filing of a petition prevents the postmaster's determination from taking effect and transfers the case to the USPS Consumer Advocate. The Consumer Advocate's decision constitutes the final agency decision.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E6–15111 Filed 9–13–06; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2560

[WO–350–1410–00–24 1A]

RIN 1004–AD60

Alaska Native Veteran Allotments

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is amending its regulations governing Alaska Native veteran allotments. The existing regulations allowed certain Alaska Native veterans another opportunity to apply for a Native allotment under the repealed Native Allotment Act of 1906. This final rule will remove the requirement that veteran applicants must have posted the land by marking all corners on the ground with their name and address prior to filing an application with BLM. This change to the regulations will make the processing of Alaska Native veteran allotments more like that of allotments adjudicated under the 1906 act.

DATES: *Effective Date:* This final rule is effective October 16, 2003.

FOR FURTHER INFORMATION CONTACT: Linda Resseguie, Division of Conveyance Management, Bureau of Land Management, 222 West 7th Avenue, #13, Anchorage, Alaska 99513; telephone (907) 271–5422; or Kelly Odom, Bureau of Land Management, Regulatory Affairs Group, Mail Stop 401, 1620 L Street, NW., Washington, DC 20036; telephone (202) 452–5028. Persons who use a telecommunications device for the deaf (TDD) may contact these persons through the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week.

SUPPLEMENTARY INFORMATION:

I. Background
II. Final Rule as Adopted and Response to Comment
III. Procedural Matters

I. Background

BLM published the proposed rule to remove the posting requirement in the Federal Register on October 7, 2005 (70 FR 58654), for a 60-day comment period ending on December 6, 2005. The Alaska Native Veterans Allotment Act of 1998 (Act), (Section 432 of Pub. L. 105–276), as amended, authorized allotments for certain Alaska Native veterans who served in the U.S. military during the Vietnam era. The Act provided an opportunity to file allotment applications for veterans who may have missed their chance to file under the 1906 Native Allotment Act as a direct result of their military service. The Act provided an 18-month application period, which began on July 31, 2000, and ended on January 31, 2002. Regulations promulgated to implement the Act included a requirement for applicants to post the corners of their claims before filing their applications with BLM. BLM issued the regulations requiring posting before filing because we believed that physical markings on the land would facilitate the processing of the veteran applications and help finalize state and Native conveyance entitlements.

II. Final Rule as Adopted and Response to Comment

One set of comments from a private individual was received during the comment period. The comments oppose the removal of the posting requirement for three primary reasons. First, the comments assert that the Alaska Native Veterans Allotment Act made posting a statutory requirement that could not be removed from the regulations regardless of equitable considerations. The Alaska Native veteran statute allows qualified applicants to ''be eligible for an allotment * * * under the Act of May 17, 1906, as such Act was in effect before December 18, 1971.'' The comments assert that the regulations implementing the statute on the date of repeal required posting and that the emphasized language adopts all existing rules in effect on December 18, 1971.

We do not believe this comment is legally correct. The Alaska Native veteran statute does not say ''as such Act and its implanting regulations were in effect before December 18, 1971.'' It only says such Act. So Congress did not wholesale lock those regulations existing in 1971 into the new law. While regulations implementing the Act did indeed include the posting requirement, the posting requirement itself is entirely a creature of the regulations and not the 1906 Act. So before December 18, 1971, BLM could have amended the regulations through notice and comment rule making to eliminate the posting requirement without violating the Act. This means that BLM may do the same now. While most of the 1906 regulations were applied to veteran allotments, the 1906 regulations only apply to the extent they are not inconsistent with more specific Alaska veteran allotment regulations. 43 CFR 2568.21.

Second, the comments also state that there never was a proper or effective waiver of the posting requirements in the regulations implementing the 1906 Act. The only posting requirement in the 1906 regulations was for the Bureau of Indian Affairs to certify that the allotment was posted. In 1972, the Assistant Secretary, Land and Water Resources, waived enforcement of the posting certification, and BLM has processed allotment applications without that certification since that time. The comments reference a June 6, 1973, memorandum from the Assistant Secretary, Land and Water Resources, which the comment claims shows that the posting certification was still required. However, the June 6, 1973, instructions were superseded by an October 18, 1973, directive by the same Assistant Secretary that made no reference to the posting requirement and only required BIA to certify that the applicant was an Alaska Native. In any event, the Department is not proposing to waive a regulation but is properly removing a regulatory provision pursuant to the Administrative Procedures Act.

Third, the comment asserts that removing the posting requirement will have adverse practical consequences. BLM assessed the practical implications of its policy decision and determined that no significant practical problems will ensue from removing the posting requirement at this time. The requirement was to post prior to application so its initial purpose has passed. Mapping and technology development since December 1971 closing of the original 1906 application period enable applicants and BLM to plat and locate the claimed allotments more accurately than was possible during the original allotment application period. Removing the regulatory posting requirement is legal, and will put Alaska Native veteran allotment applicants on the same footing as the rest of Alaska Native allotment applicants.

Lastly, the comment questions the constitutionality of the Alaska Native Veterans Allotment Act. This matter is beyond the authority of this rule to determine.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action. OMB makes the final determination under Executive Order 12866.

a. This rule will not have annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor does this rule raise novel legal or policy issues. Eliminating the posting requirements would have a positive effect on the limited number of individual Alaska Native veteran applicants, as well as the Interior bureaus, contractors, and compacters assisting them, because the applicant's failure to meet the posting requirements would otherwise cause their applications to be rejected and generate administrative appeals.

b. This rule will not create inconsistencies with other agencies' actions. The effect of this rule will be on a limited number of individuals who are qualified to apply for allotments and the Interior Department agencies responsible for administering the allotment program. The allotment application period was limited by law to 18 months and has passed; the existing staff of responsible agencies will process applications following most of the same rules that are currently in effect for allotment applications under the 1906 Native Allotment Act.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Eliminating the posting requirement would affect a limited number of individual Alaska Native veteran applicants, Interior agencies, and tribal offices that are assisting applicants. It will have not effect on budgetary entitlements, grants, user fees, or loan programs.

d. This rule will not raise novel legal or policy issues. This rule will impose the same requirements on Alaska Native veteran applicants as those imposed on applicants who filed under the initial 1906 Native Allotment Act.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This rule will only apply to certain Alaska Native veterans and specific classes of heirs of Alaskan Native veterans who are eligible to apply for allotments. Therefore, the Department of the Interior certifies that this document will not have any significant impacts on a substantial number of small entities under the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

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

This rule:

a. Does not have an annual effect on the economy of $100 million or more. This rule would result in some costs saving to allotment applicants because under this rule they would no longer be required to post the corners of the lands in their applications. The Department of the Interior will have to implement the allotment program over the next several years, but these costs will be far below $100 million per year. Enforcing the posting requirement would cost the Department more than eliminating the posting requirements, which we have determined to be unnecessary.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will result in some costs saving to allotment applicants.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Eliminating the posting requirement would have a positive impact on a limited number of individual Alaska Native veterans, Interior agencies, and tribal offices who are helping the applicants. No additional applications will be filed because of this revised rule. The original regulations provided for the filing of applications after all corners were marked on the ground and posted with the applicant's name and address.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Eliminating the posting requirement will potentially result in minimal savings to tribal governments assisting veteran applicants.

b. This rule will not produce a Federal mandate of $100 million or greater in any year because it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

In accordance with Executive Order 12630, we find that the rule does not have significant takings implications. A taking implication assessment is not required. This rule does not represent a government action capable of interfering with constitutionally protected property rights. Eliminating the posting requirement will have no effect on the use or value of protected property rights. Therefore, the Department of the Interior determines that this rule will not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

In accordance with Executive Order 13132, we find that the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule would not have 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. Eliminating the posting requirement would have a neutral effect on the State of Alaska. Therefore, in accordance with Executive Order 13132, the BLM has determined that this proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that the final rule would not unduly burden the judicial system and that these regulations meet the requirements of sections (3)(a) and 3(b)(2) of the Order. We have reviewed these regulations to eliminate drafting errors and ambiguity. They have been written to minimize litigation, provide clear legal standards for affected conduct rather than general standards, and promote simplification. Drafting the regulations in clear language and working closely with legal counsel assisted in all of these areas.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, this regulation does not have a significant effect on the nation's energy supply, distribution, or use, or cause a shortfall in supply or price increase. This rule is not a significant energy action. It will not have an adverse effect on energy supplies. This rule will apply only to Alaska Native veterans and to a specific class of Alaskan Native veterans' heirs who are eligible to apply for allotments.

Paperwork Reduction Act

The BLM has determined this rule does not contain any new information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*).

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. An environmental assessment is not required. Section 910 of the Alaska National Interest Lands Conservation Act (ANILCA) of December 2, 1980, 43 U.S.C. 1638, made conveyances, regulations, and other actions which lead to the issuance of conveyances to Natives under Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 *et seq.*) exempt from NEPA compliance requirements. Since the Alaska Veterans Allotment Act is part of ANCSA, NEPA does not apply.

Author

The principal author of this rule is Linda Resseguie, Division of

Conveyance Management, Bureau of Land Management, Alaska State Office, Anchorage, Alaska; assisted by Kelly Odom of the Regulatory Affairs Group, Bureau of Land Management, Washington, DC.

List of Subjects in 43 CFR Part 2560

Alaska, Homesteads, Indian lands, Public lands, Public lands—sale, and Reporting and recordkeeping requirements, Alaska Native allotments for certain veterans.

Dated: August 31, 2006.

Julie Jacobson,

Deputy Assistant Secretary, Land and Minerals Management.

■ For the reasons set forth in the preamble and under the authority of the Alaska Native Veterans Allotment Act of 1998 (Section 432, Pub. L. 105–276), part 2560 of Title 43 of the Code of Federal Regulations is amended as set forth below:

PART 2560—ALASKA OCCUPANCY AND USE

■ 1. Revise the authority citation for part 2560 to read as follows:

* * * * *

Authority: 43 U.S.C. 1629g(e).

■ 2. Revise paragraph (d) of § 2568.74 to read as follows:

§ 2568.74 What else must I file with my application?

* * * * *

(d) A legal description of the land for which you are applying. If there is a discrepancy between the map and the legal description, the map will control. The map must be sufficient to allow BLM to locate the parcel on the ground. You must also estimate the number of acres in each parcel.

§ 2568.77 [Reserved]

■ 3. Remove and reserve § 2568.77.

[FR Doc. 06–7661 Filed 9–13–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7943]

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 II				
New Jersey:				
Berkeley Heights, Township of, Union County.	340459	December 30, 1971, Emerg; March 1, 1978, Reg; September 20, 2006, Susp.	Sept. 20, 2006 ..	Sept. 20, 2006.
Clark, Township of, Union County	345290	July 10, 1970, Emerg; December 23, 1971, Reg; September 20, 2006, Susp.	.....do*	Do.
Cranford, Township of, Union County ...	345291	June 19, 1970, Emerg; June 25, 1971, Reg; September 20, 2006, Susp.	.....do	Do.
Elizabeth, City of, Union County	345523	May 22, 1970, Emerg; May 7, 1971, Reg; September 20, 2006, Susp.	.....do	Do.
Fanwood, Borough of, Union County	340463	June 16, 1972, Emerg; October 28, 1977, Reg; September 20, 2006, Susp.	.....do	Do.
Garwood, Borough of, Union County	340464	June 23, 1972, Emerg; February 1, 1977, Reg; September 20, 2006, Susp.	.....do	Do.
Hillside, Township of, Union County	340465	December 3, 1971, Emerg; September 14, 1979, Reg; September 20, 2006, Susp.	.....do	Do.
Kenilworth, Borough, Union County	340466	February 9, 1973, Emerg; March 2, 1983, Reg; September 20, 2006, Susp.	.....do	Do.
Linden, City of, Union County	340467	November 20, 1970, Emerg; November 24, 1976, Reg; September 20, 2006, Susp.	.....do	Do.
Mountainside, Borough of, Union County.	340468	June 9, 1972, Emerg; February 16, 1977, Reg; September 20, 2006, Susp.	.....do	Do.
New Providence, Borough of, Union County.	345306	July 16, 1971, Emerg; November 23, 1973, Reg; September 20, 2006, Susp.	.....do	Do.
Plainfield, City of, Union County	345312	June 19, 1970, Emerg; June 25, 1971, Reg; September 20, 2006, Susp.	.....do	Do.
Rahway, City of, Union County	345314	June 30, 1970, Emerg; December 17, 1971, Reg; September 20, 2006, Susp.	.....do	Do.
Roselle Park, Borough of, Union County.	340473	April 25, 1973, Emerg; June 4, 1980, Emerg; September 20, 2006, Susp.	.....do	Do.
Roselle, Borough of, Union County	340472	December 17, 1971, Emerg; July 17, 1978, Emerg; September 20, 2006, Susp.	.....do	Do.
Scotch Plains, Township of, Union County.	340474	August 18, 1972, Emerg; September 30, 1977, Emerg; September 20, 2006, Susp.	.....do	Do.
Springfield, Township of, Union County	345321	August 7, 1970, Emerg; October 1, 1971, Reg; September 20, 2006, Susp.	.....do	Do.
Summit, City of, Union County	340476	November 24, 1972, Emerg; February 2, 1977, Reg; September 20, 2006, Susp.	.....do	Do.
Union, Township of, Union County	340477	June 2, 1972, Emerg; August 1, 1978, Reg; September 20, 2006, Susp.	.....do	Do.
Westfield, Town of, Union County	340478	September 24, 1974, Emerg; December 18, 1979, Reg; September 20, 2006, Susp.	.....do	Do.
Region IV				
North Carolina:				
Dare County, Unincorporated Areas	375348	April 9, 1971, Emerg; October 6, 1978, Reg; September 20, 2006, Susp.	.....do	Do.
Duck, Town of, Dare County	370632	November 6, 2003, Emerg; November 6, 2003, Reg; September 20, 2006, Susp.	.....do	Do.
Kill Devil Hills, Town of, Dare County ...	375353	February 4, 1972, Emerg; May 4, 1973, Reg; September 20, 2006, Susp.	.....do	Do.
Kitty Hawk, Town of, Dare County	370439	April 9, 1971, Emerg; October 6, 1978, Reg; September 20, 2006, Susp.	.....do	Do.

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
Manteo, Town of, Dare County	375355	March 17, 1972, Emerg; January 5, 1973, Reg; September 20, 2006, Susp.	.....do	Do.
Nags Head, Town of, Dare County	375356	December 17, 1971, Emerg; November 10, 1972, Reg; September 20, 2006, Susp.	.....do	Do.
Southern Shores, Town of, Dare County.	370430	April 8, 1971, Emerg; May 13, 1972, Reg; September 20, 2006, Susp.	.....do	Do.
Kentucky: Oldham County, Unincorporated Areas.	210185	March 10, 1972, Emerg; August 19, 1987, Reg; September 20, 2006, Susp.	.....do	Do.
Tennessee:				
Gallatin, City of, Sumner County	470185	May 27, 1975, Emerg; August 3, 1981, Reg; September 20, 2006, Susp.	.....do	Do.
Goodlettsville, City of, Davidson and Sumner Counties.	470287	April 21, 1975, Emerg; June 15, 1981, Reg; September 20, 2006, Susp.	.....do	Do.
Hendersonville, City of, Sumner County	470186	May 28, 1974, Emerg; November 4, 1981,0 September 20, 2006, Susp.	.....do	Do.
Millersville, City of, Sumner County	470388	August 30, 1982, Emerg; June 15, 1984, Reg; September 20, 2006, Susp.	.....do	Do.
Portland, City of, Sumner County	470187	February 14, 1975, Emerg; August 4, 1987, Reg; September 20, 2006, Susp.	.....do	Do.
Sumner County, Unincorporated Areas	470349	August 5, 1975, Emerg; June 19, 1985, Reg; September 20, 2006, Susp.	.....do	Do.
Region V				
Illinois: Dwight, Village of, Livingston County.	170423	August 9, 1974, Emerg; November 1, 1990, Reg; September 20, 2006, Susp.	.....do	Do.
Ohio: Findlay, City of, Hancock County	390244	January 15, 1975, Emerg; December 4, 1984, Reg; September 20, 2006, Susp.	.....do	Do.
Region VIII				
Montana:				
Blaine County, Unincorporated Areas ...	300144	March 7, 1978, Emerg; May 19, 1987, Reg; September 20, 2006, Susp.	.....do	Do.
Chinook, City of, Blaine County	300003	May 6, 1974, Emerg; May 19, 1987, Reg; September 20, 2006, Susp.	.....do	Do.
Fort Belknap Indian Reservation, Blaine and Phillips Counties.	300180	April 25, 1978, Emerg; December 17, 1987, Reg; September 20, 2006, Susp.	.....do	Do.

*.....do and Do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp—Suspension.

Dated: September 5, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–15260 Filed 9–13–06; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GEN Docket No. 86–285; FCC 06–131]

Schedule of Application Fees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission has amended its Schedule of Application Fees to adjust the fees for processing applications and other filings. Section 8(b) of the Communications Act requires the Commission to adjust its application fees every two years after October 1, 1991 to reflect the net change in the Consumer Price Index for all Urban Consumers (CPI–U). The increased fees reflect the net change in the CPI–U of 7.7 percent, calculated from October 2003 to October 2005.

DATES: Effective October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Yvette Barrett, Office of the Managing Director at (202) 418–0603.

SUPPLEMENTARY INFORMATION: In the Matter of the Schedule of Application Fees Set Forth in §§ 1.1102 through 1.1107 of the Commission's Rules.

Adopted: August 30, 2006.

Released: September 1, 2006.

By this action, the Commission amends its Schedule of Application Fees, 47 CFR 1.1102 *et seq.*, to adjust the fees for processing applications and other filings. Section 8(b) of the Communications Act, as amended, requires that the Commission review and adjust its application fees every two years after October 1, 1991. 47 U.S.C. 158(b). The adjusted or increased fees reflect the net change in the Consumer Price Index for all Urban Consumers (CPI–U) of 58 percent, calculated from December 1989 to October 2005. The adjustments made to the fee schedule comport with the statutory formula set forth in section 8(b).

List of Subjects in 47 CFR Part 1

Practice and procedures.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citations for part 1 continue to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303, and 309, unless otherwise noted.

■ 2. Section 1.1102 is revised to read as follows:

§ 1.1102 Schedule of charges for applications and other filings in the wireless telecommunications services.

Those services designated with an asterisk in the payment type code column have associated regulatory fees that must be paid at the same time the application fee is paid. Please refer to § 1.1152 for the appropriate regulatory fee that must be paid for this service.

Service	FCC form No.	Fee amount	Payment type code	Address
1. Marine Coast:				
a. New; Renewal/Modification	601 & 159	$115.00	PBMR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
b. Modification; Public Coast CMRS; Non-Profit.	601 & 159	115.00	PBMM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
c. Assignment of Authorization	603 & 159	115.00	PBMM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Transfer of Control Spectrum Leasing for Public Coast	603 & 159 603–T/608 ** & 159	60.00	PATM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
e. Duplicate License	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
f. Special Temporary Authority	601 & 159	160.00	PCMM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
g. Renewal Only	601 & 159	115.00	PBMR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
h. Renewal (Electronic Filing)	601 & 159	115.00	PBMR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Renewal Only (Non-Profit; CMRS)	601 & 159	115.00	PBMM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
j. Renewal (Electronic Filing) Non-profit, CMRS.	601 & 159	115.00	PBMM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
k. Rule Waiver	601, 603 or 603–T/ 608 ** & 159.	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
l. Modification for Spectrum Leasing for Public Coast Stations.	608 ** & 159	115.00	PBMM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
2. Aviation Ground:				
a. New; Renewal/Modification	601 & 159	115.00	PBVR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.

Service	FCC form No.	Fee amount	Payment type code	Address
b. Modification; Non-Profit	601 & 159	115.00	PBVM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
c. Assignment of Authorization	603 & 159	115.00	PBVM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Transfer of Control	603 & 159	60.00	PATM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
e. Duplicate License	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
f. Special Temporary Authority	601 & 159	160.00	PCVM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
g. Renewal Only	601 & 159	115.00	PBVR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
h. Renewal (Electronic Filing)	601 & 159	115.00	PBVR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Renewal Only Non-Profit	601 & 159	115.00	PBVM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
j. Renewal Non-Profit (Electronic Filing)	601 & 159	115.00	PBVM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
k. Rule Waiver	601 or 603 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
3. Ship:				
a. New; Renewal/Modification; Renewal Only.	605 & 159	60.00	PASR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification; Renewal Only (Electronic Filing).	605 & 159	60.00	PASR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Renewal Only Non-profit	605 & 159	60.00	PASM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Renewal Only Non-profit (Electronic Filing).	605 & 159	60.00	PASM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
e. Modification; Non-profit	605 & 159	60.00	PASM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
f. Modification; Non-profit (Electronic Filing).	605 & 159	60.00	PASM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Duplicate License	605 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
h. Duplicate License (Electronic Filing)	605 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Exemption from Ship Station Requirements.	605 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
j. Rule Waiver	605 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
k. Exemption from Ship Station Requirements (Electronic Filing).	605 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
l. Rule Waiver (Electronic Filing)	605 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
4. Aircraft: a. New; Commission Renewal/Modification	605 & 159	60.00	PAAR *	Federal Communications Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification (Electronic Filing).	605 & 159	60.00	PAAR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Modification; Non-Profit	605 & 159	60.00	PAAM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Modification Non-Profit (Electronic Filing).	605 & 159	60.00	PAAM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
e. Renewal Only	605 & 159	60.00	PAAR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
f. Renewal (Electronic Filing)	605 & 159	60.00	PAAR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
g. Renewal Only Non-Profit	605 & 159	60.00	PAAM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
h. Renewal; Renewal/Modification Non-Profit (Electronic Filing).	605 & 159	60.00	PAAM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Duplicate License	605 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
j. Duplicate License (Electronic Filing)	605 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
k. Rule Waiver	605 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
l. Rule Waiver (Electronic Filing)	605 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
5. Private Operational Fixed Microwave and Private DEMS:				
a. New; Renewal/Modification	601 & 159	245.00	PEOR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification (Electronic Filing).	601 & 159	245.00	PEOR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Modification; Consolidate Call Signs; Non-Profit.	601 & 159	245.00	PEOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Modification; Consolidate Call Signs; Non-Profit (Electronic Filing).	601 & 159	245.00	PEOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
e. Renewal Only	601 & 159	245.00	PEOR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
f. Renewal (Electronic Filing)	601 & 159	245.00	PEOR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Renewal Only Non-Profit	601 & 159	245.00	PEOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
h. Renewal Non-Profit (Electronic Filing)	601 & 159	245.00	PEOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
i. Assignment	603 & 159	245.00	PEOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
j. Assignment (Electronic Filing)	603 & 159	245.00	PEOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
k. Transfer of Control; Spectrum Leasing	603 & 159 603–T/608 ** & 159	60.00	PATM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
l. Transfer of Control; Spectrum Leasing (Electronic Filing).	603 & 159 603–T/608 ** & 159	60.00	PATM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
m. Duplicate License	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
n. Duplicate License (Electronic Filing)	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
o. Special Temporary Authority	601 & 159	60.00	PAOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
p. Special Temporary Authority (Electronic Filing).	601 & 159	60.00	PAOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
q. Rule Waiver	601, 603 or 603–T/ 608 ** & 159.	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
r. Rule Waiver (Electronic Filing)	601, 603 or 603–T/ 608 ** & 159.	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
s. Modification for Spectrum Leasing	608 ** & 159	245.00	PEOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
t. Modification for Spectrum Leasing (Electronic Filing).	608 ** & 159	245.00	PEOM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
6. Land Mobile PMRS; Intelligent Transportation Service: a. New or Renewal/Modification (Frequencies below 470 MHz (except 220 MHz) 902–928 MHz & RS).	601 & 159	60.00	PALR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification (Frequencies below 470 MHz (except 220 MHz)) (Electronic Filing).	601 & 159	60.00	PALR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
c. New; Renewal/Modification (Frequencies 470 MHz and above and 220 MHz Local).	601 & 159	60.00	PALS *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. New; Renewal/Modification (Frequencies 470 MHz and above and 220 MHz Local) (Electronic Filing).	601 & 159	60.00	PALS *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
e. New; Renewal/Modification (220 MHz Nationwide).	601 & 159	60.00	PALT *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
f. New; Renewal/Modification (220 MHz Nationwide) (Electronic Filing).	601 & 159	60.00	PALT *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS.	601 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
h. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS (Electronic Filing).	601 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Renewal Only	601 & 159	60.00 60.00 60.00	PALR * PALS * PALT *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
j. Renewal (Electronic Filing)	601 & 159	60.00 60.00 60.00	PALR * PALS * PALT *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
k. Renewal Only (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety).	601 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
l. Renewal (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety) (Electronic Filing).	601 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
m. Assignment of Authorization (PMRS & CMRS).	603 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
n. Assignment of Authorization (PMRS & CMRS) (Electronic Filing).	603 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
o. Transfer of Control (PMRS & CMRS); Spectrum Leasing	603 & 159 603–T/608 ** & 159	60.00 60.00	PATM PATM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
p. Transfer of Control (PMRS & CMRS); Spectrum Leasing (Electronic Filing)	603 & 159 603–T/608 ** & 159	60.00 60.00	PATM PATM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
q. Duplicate License	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
r. Duplicate License (Electronic Filing)	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
s. Special Temporary Authority	601 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
t. Special Temporary Authority (Electronic Filing).	601 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
u. Rule Waiver	601, 603 or 603–T/ 608** & 159.	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
v. Rule Waiver (Electronic Filing)	601, 603 or 603–T/608** & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
w. Consolidate Call Signs	601 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
x. Consolidate Call Signs (Electronic Filing).	601 & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
y. Modification for Spectrum Leasing	608** & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
z. Modification for Spectrum Leasing (Electronic Filing).	608** & 159	60.00	PALM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
7. 218–219 MHz (previously IVDS):				
a. New; Renewal/Modification	601 & 159	60.00	PAIR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification (Electronic Filing).	601 & 159	60.00	PAIR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Modification; Non-Profit	601 & 159	60.00	PAIM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Modification; Non-Profit (Electronic Filing).	601 & 159	60.00	PAIM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
e. Renewal Only	601 & 159	60.00	PAIR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245
f. Renewal (Electronic Filing)	601 & 159	60.00	PAIR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Assignment of Authorization	603 & 159	60.00	PAIM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
h. Assignment of Authorization (Electronic Filing).	603 & 159	60.00	PAIM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Transfer of Control Spectrum Leasing (Electronic Filing)	603 & 159 603–T/608** & 159	60.00 60.00	PATM PATM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
j. Transfer of Control Spectrum Leasing (Electronic Filing)	603 & 159 603–T/608** & 159	60.00 60.00	PATM PATM	Federal Communication Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
k. Duplicate License	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
l. Duplicate License (Electronic Filing)	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
m. Special Temporary Authority	601 & 159	60.00	PAIM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
n. Special Temporary Authority (Electronic Filing).	601 & 159	60.00	PAIM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
o. Modification for Spectrum Leasing	608** & 159	60.00	PAIM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
p. Modification for Spectrum Leasing (Electronic Filing).	608** & 159	60.00	PAIM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
8. General Mobile Radio (GMRS): a. New; Renewal/Modification	605 & 159	60.00	PAZR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification (Electronic Filing).	605 & 159	60.00	PAZR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
c. Modification	605 & 159	60.00	PAZM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Modification (Electronic Filing)	601 & 159	60.00	PAZM	Federal Communications Non-Profit Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
e. Renewal Only	601 & 159	60.00	PAZR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburg, PA 15251–5245.
f. Renewal (Electronic Filing)	605 & 159	60.00	PAZR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Duplicate License	605 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
h. Duplicate License (Electronic Filing)	605 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Special Temporary Authority	605& 159	60.00	PAZM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
j. Special Temporary Authority (Electronic Filing).	605 & 159	60.00	PAZM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
k. Rule Waiver	605 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
l. Rule Waiver (Electronic Filing)	605 & 159	170.00	PDWM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
9. Restricted Radiotelephone:				
a. New (Lifetime Permit) New (Limited Use)	605 & 159 605 & 159	60.00	PARR	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
b. Duplicate/Replacement Permit Duplicate/Replacement Permit (Limited Use).	605 & 159 605 & 159	60.00 60.00	PADM PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
10. Commercial Radio Operator:				
a. Renewal Only; Renewal/Modification	605 & 159	60.00	PACS	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
b. Duplicate	605 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.

Service	FCC form No.	Fee amount	Payment type code	Address
11. Hearing	Corres & 159	10,680.00	PFHM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
12. Common Carrier Microwave: (Pt. To Pt., Local TV Trans. & Millimeter Wave Service): a. New; Renewal/Modification (Electronic Filing Required).	601 & 159	245.00	CJPR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
b. Major Modification; Consolidate Call Signs (Electronic Filing Required).	601 & 159	245.00	CJPM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Renewal (Electronic Filing Required)	601 & 159	245.00	CJPR*	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
d. Assignment of Authorization; Transfer of Control: Spectrum Leasing Additional Stations (Electronic Filing Required).	603 & 159 603–T/608 ** & 159 603 or 603–T/608 ** & 159.	90.00 90.00 60.00	CCPM CCPM CAPM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
e. Duplicate License (Electronic Filing Required).	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
f. Extension of Construction Authority (Electronic Filing Required).	601 & 159	90.00	CCPM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Special Temporary Authority	601 & 159	115.00	CEPM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
h. Special Temporary Authority (Electronic Filing).	601 & 159	115.00	CEPM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Major Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	245.00	CJPM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
13. Common Carrier Microwave (DEMS): a. New; Renewal/Modification (Electronic Filing Required).	601 & 159	245.00	CJLR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
b. Major Modification; Consolidate Call Signs (Electronic Filing Required).	601 & 159	245.00	CJLM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Renewal (Electronic Filing Required)	601 & 159	245.00	CJLR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
d. Assignment of Authorization; Transfer of Control;	603 & 159	90.00	CCLM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
Spectrum Leasing	603–T/608 ** & 159	90.00	CCLM	
Additional Stations (Electronic Filing Required).	603 or 603–T/608 ** & 159.	60.00	CALM	
e. Duplicate License (Electronic Filing Required).	601 & 159	60.00	PADM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
f. Extension of Construction Authority (Electronic Filing Required).	601 & 159	90.00	CCLM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Special Temporary Authority	601 & 159	115.00	CELM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
h. Special Temporary Authority (Electronic Filing).	601 & 159	115.00	CELM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Major Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	90.00	CJLM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
14. Broadcast Auxiliary (Aural and TV Microwave): a. New; Modification; Renewal/Modification.	601 & 159	135.00	MEA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
b. New; Modification; Renewal/Modification (Electronic Filing).	601 & 159	135.00	MEA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Special Temporary Authority	601 & 159	160.00	MGA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Special Temporary Authority (Electronic Filing).	601 & 159	160.00	MGA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
e. Renewal Only	601 & 159	60.00	MAA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
f. Renewal (Electronic Filing)	601 & 159	60.00	MAA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
15. Broadcast Auxiliary (Remote and Low Power): a. New; Modification; Renewal/Modification.	601 & 159	135.00	MEA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.

Service	FCC form No.	Fee amount	Payment type code	Address
b. New; Modification; Renewal/Modification (Electronic Filing).	601 & 159	135.00	MEA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Renewal Only	601 & 159	60.00	MAA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358245 Pittsburgh, PA 15251–5245.
d. Renewal (Electronic Commission Filing)	601 & 159	60.00	MAA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
e. Special Temporary Authority	601 & 159	160.00	MGA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
f. Special Temporary Authority (Electronic Filing).	601 & 159	160.00	MGA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
16. Pt 22 Paging & Radiotelephone: a. New; Major Mod; Additional Facility; Major Amendment; Major Renewal/Mod; Fill in Transmitter (Per Transmitter) (Electronic Filing Required).	601 & 159	365.00	CMD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
b. Minor Mod; Renewal; Minor Renewal/Mod; (Per Call Sign) 900 MHz Nationwide Renewal Net Organ; New Operator (Per Operator/Per City) Notice of Completion of Construction or Extension of Time to Construct (Per Application) (Electronic Filing Required).	601 & 159	60.00	CAD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Auxiliary Test (Per Transmitter); Consolidate Call Signs (Per Call Sign) (Electronic Filing Required).	601 & 159	320.00	CLD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
d. Special Temporary Authority (Per Location/Per Frequency).	601 & 159	320.00	CLD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
e. Special Temporary Authority (Per Location/Per Frequency) (Electronic Filing).	601 & 159	320.00	CLD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
f. Assignment of License or Transfer of Control; Spectrum Leasing (Full or Partial) (Per First Call Sign); Additional Call Signs (Per Call Signs) (Electronic Filing Required).	603 & 159 603–T/608** & 159 603 or 603–T/608** & 159.	365.00 365.00 60.00	CMD CMD CAD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Subsidiary Comm. Service (Per Request) (Electronic Filing Required).	601 & 159	160.00	CFD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
h. Major Modification for Spectrum Leasing (Electronic Filing Required).	608** & 159	365.00	CMD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
i. Minor Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	60.00	CAD	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
17. Cellular: a. New; Major Mod; Additional Facility; Major Renewal/Mod (Per Call Sign) (Electronic Filing Required).	601 & 159	365.00	CMC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
b. Minor Modification; Minor Renewal/Mod (Per Call Sign) (Electronic Filing Required).	601 & 159	95.00	CDC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Assignment of License; Transfer of Control (Full or Partial) (Per Call Sign). Spectrum Leasing (Electronic Filing Rquired).	603 & 159 ..... 603–T/608 ** & 159	365.00	CMC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
d. Notice of Extension of Time to Complete Construction; (Per Request) Renewal (Per Call Sign) (Electronic Filing Required).	601 & 159	60.00	CAC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
e. Special Temporary Authority (Per Request).	601 & 159	320.00	CLC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
f. Special Temporary Authority (Per Request) (Electronic Filing).	601 & 159	320.00	CLC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Combining Cellular Geographic Areas (Per Area) (Electronic Filing Required).	601 & 159	80.00	CBC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
h. Major Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	365.00	CMC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Minor Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	95.00	CDC	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
18. Rural Radio: a. New; Major Renew/Mod; Additional Facility (Per Transmitter) (Electronic Filing Required).	601 & 159	170.00	CGRR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
b. Major Mod; Major Amendment (Per Transmitter) (Electronic Filing Required).	601 & 159	170.00	CGRM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Minor Modification; (Per Transmitter) (Electronic Filing Required).	601 & 159	60.00	CARM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
d. Assignment of License; Transfer of Control (Full or Partial) (Per Call Sign). Spectrum Leasing ..... Additional Calls (Per Call Sign) (Electronic Filing Required).	603 & 159 ..... 603–T/608 ** & 159 ..... 603 or 603–T/608 ** & 159.	170.00 170.00 60.00	CGRM CGRM CARM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
e. Renewal (Per Call Sign); Minor Renewal/Mod (Per Transmitter) (Electronic Filing Required).	601 & 159	60.00	CARR *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
f. Notice of Completion of Construction Extension of Time to Construct (Per Application) (Electronic Filing Required).	601 & 159	60.00	CARM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
g. Special Temporary Authority (Per Transmitter).	601 & 159	320.00	CLRM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
h. Special Temporary Authority (Per Transmitter) (Electronic Filing).	601 & 159	320.00	CLRM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
i. Combining Call Signs (Per Call Sign) (Electronic Filing Required).	601 & 159	320.00	CLRM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
j. Auxiliary Test Station (Per Transmitter) (Electronic Filing Required).	601 & 159	320.00	CLRM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
k. Major Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	170.00	CGRM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
l. Minor Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	60.00	CARM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
19. Offshore Radio:				
a. New; Major Mod; Additional Facility; Major Amendment; Major Renew/Mod; Fill in Transmitters (Per Transmitter) (Electronic Filing Required).	601 & 159	170.00	CGF	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
b. Consolidate Call Signs (Per Call Sign); Auxiliary Test (Per Transmitter) (Electronic Filing Required).	601 & 159	320.00	CLF	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
c. Minor Modification; Minor Renewal/Modification (Per Transmitter); Notice of Completion of Construction or Extension of Time to Construct (Per Application); Renewal (Per Call Sign) (Electronic Filing Required).	601 & 159	60.00	CAF	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
d. Assignment of License; Transfer of Control (Full or Partial).	603 & 159	170.00	CGF	Federal Communications Commission. Wireless Bureau Applications
Spectrum Leasing	603–T/608 ** & 159	170.00	CGF	P.O. Box 358994
Additional Calls (Electronic Filing Required).	603 or 603–T/608 ** & 159.	60.00	CAF	Pittsburgh, PA 15251–5994.
e. Special Temporary Authority (Per Transmitter).	601 & 159	320.00	CLF	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.
f. Special Temporary Authority (Per Transmitter) (Electronic Filing).	601 & 159	320.00	CLF	Federal Communications Commission Wireless Bureau Applications P.O. Box 3548994 Pittsburgh, PA 15251–5994.

Service	FCC form No.	Fee amount	Payment type code	Address
g. Major Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	170.00	CGF	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
h. Minor Modification for Spectrum Leasing (Electronic Filing Required).	608 ** & 159	60.00	CAF	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5994.
20. Broadband Radio Service (Previously Multipoint Distribution Service):				
a. New station (Electronic Filing Required)	601 & 159	245.00	CJM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5130.
b. Major Modification of Licenses (Electronic Filing Required).	601 & 159	245.00	CJM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5130.
c. Certification of Completion of Construction (Electronic Filing Required).	601 & 159	720.00	CPM *	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5130.
d. License Renewal (Electronic Filing Required).	601 & 159	245.00	CJM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5130.
e. Assignment of Authorization; Transfer of Control (first station) (Electronic Filing Required).	603 & 159	90.00	CCM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994
Spectrum Leasing (first station)	603–T/608 ** & 159	90.00	CCM	Pittsburgh, PA 15251–5130.
Additional Station	603–T/608 ** & 159	60.00	CAM	
f. Extension of Construction Authorization (Electronic Filing Required).	601 & 159	210.00	CHM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5130.
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (Electronic Filing).	601 & 159	115.00	CEM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5130.
h. Special Temporary Authority	601 & 159	115.00	CEM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5130.
i. Major Modification for Spectrum Leasing (Electronic Filing Required).	608** & 159	245.00	CJM	Federal Communications Commission Wireless Bureau Applications P.O. Box 358994 Pittsburgh, PA 15251–5130.
21. Communication Assistance for Law Enforcement (CALEA) Petitions:	Corres & 159	5,605.00	CALA	Federal Communications Commission Wireless Bureau Applications P.O. Box 358130 Pittsburgh, PA 15251–5130.

** FCC Form 608, which is pending OMB approval, will upon its effective date replace FCC Form 603–T, as noted in § 1.1102, above.

■ 3. Section 1.1103 is revised to read as follows:

§ 1.1103 Schedule of charges for equipment approval, experimental radio services, and international telecommunications settlement services.

Service	FCC form No.	Fee amount	Payment type code	Address
1. Certification:				
a. Receivers (except TV and FM) (Electronic Filing Only).	731 & 159	455.00	EEC	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
b. Devices Under Parts 11, 15 & 18 (except receivers) (Electronic Filing Only).	731 & 159	1,165.00	EGC	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
c. All Other Devices (Electronic Filing Only).	731 & 159	585.00	EFT	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
d. Modifications and Class II Permissive Changes (Electronic Filing Only).	731 & 159	60.00	EAC	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
e. Request for Confidentiality under Certification (Electronic Filing Only).	731 & 159	170.00	EBC	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
f. Class III Permissive Changes (Electronic Filing Only).	731 & 159	585.00	ECC	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
2. Advance Approval of Subscription TV Systems:	Corres & 159	3,565.00	EIS	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
a. Request for Confidentiality For Advance Approval of Subscription TV Systems.	Corres & 159	170.00	EBS	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
3. Assignment of Grantee Code:				
a. For all Application Types, except Subscription TV (Electronic Filing Only—Optional Electronic Payment).	Electronic Assignment & Form 159 or Optional Electronic Payment.	60.00	EAG	Federal Communications Commission Equipment Approval Services P.O. Box 358315 Pittsburgh, PA 15251–5315.
4. Experimental Radio Service:				
a. New Station Authorization	442 & 159	60.00	EAE	Federal Communications Commission Equipment Radio Services P.O. Box 358320 Pittsburg, PA 15251–5320.
b. Modification of Authorization	442 & 159	60.00	EAE	Federal Communications Commission Equipment Radio Services P.O. Box 358320 Pittsburg, PA 15251–5320.
c. Renewal of Station Authorization	405 & 159	60.00	EAE	Federal Communications Commission Equipment Radio Services P.O. Box 358320 Pittsburg, PA 15251–5320.
d. Assignment of Transfer of Control	702 & 159 or 703 & 159	60.00	EAE	Federal Communications Commission Equipment Radio Services P.O. Box 358320 Pittsburg, PA 15251–5320.
e. Special Temporary Authority	Corres & 159	60.00	EAE	Federal Communications Commission Equipment Radio Services P.O. Box 358320 Pittsburg, PA 15251–5320.

Service	FCC form No.	Fee amount	Payment type code	Address
f. Additional fee required for any of the above applications that request withholding from public inspection.	Corres & 159	60.00	EAE	Federal Communications Commission Equipment Radio Services P.O. Box 358320 Pittsburg, PA 15251–5320.
5. International Telecommunications	99 & 159	2.00	IAT	Federal Communications Commission International Telecommunications Settlements P.O. Box 358001 Pittsburgh, PA 15251–5001.

■ 4. Section 1.1104 is revised to read as follows:

§ 1.1104 Schedule of charges for applications and other filings for media services.

Those services designated with an asterisk in the Payment Type Code column accept multiples if filing in the same post office box.

Service	FCC form No.	Fee amount	Payment type code	Address
1. Commercial TV Services:				
a. New and Major Change Construction Permits (per application) (Electronic Filing).	301 & 159	$4,005.00	MVT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
b. Minor Change (per application) (Electronic Filing).	301 & 159	895.00	MPT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
c. Main Studio Request	Corres & 159	895.00	MPT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
d. New License (per application) (Electronic Filing).	302–TV & 159 ..... 302–DTV & 159	270.00	MJT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
e. License Renewal (per application) (Electronic Filing).	303–S & 159	160.00	MGT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
f. License Assignment.				
(i) Long Form (Electronic Filing)	314 & 159	895.00	MPT*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDT*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
g. Transfer of Control.				
(i) Long Form (Electronic Filing)	315 & 159	895.00	MPT*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDT*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.

Service	FCC form No.	Fee amount	Payment type code	Address
h. Call Sign (Electronic Filing)	380 & 159	90.00	MBT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
i. Special Temporary Authority	Corres & 159	160.00	MGT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
j. Petition for Rulemaking for New Community of License (Electronic Filing).	301 & 159 302–TV & 159	2,475.00	MRT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
k. Ownership Report (Electronic Filing)	323 & 159 Corres & 159	60.00	MAT*	Federal Communications Commission Media Services P.O. Box 358180 Pittsburgh, PA 15251–5180.
2. Commercial AM Radio Stations: a. New or Major Change Construction Permit (Electronic Filing).	301 & 159	3,565.00	MUR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
b. Minor Change (per application) (Electronic Filing).	301 & 159	895.00	MPR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
c. Main Studio Request (per request)	Corres & 159	895.00	MPR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
d. New License (per application) (Electronic Filing).	302–AM & 159	585.00	MMR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
e. AM Directional Antenna (per application) (Electronic Filing).	302–AM & 159	675.00	MOR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
f. AM Remote Control (per application) (Electronic Filing).	301 & 159	60.00	MAR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
g. License Renewal (per application) (Electronic Filing).	303–S & 159	160.00	MGR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
h. License Assignment (i) Long Form (Electronic Filing)	314 & 159	895.00	MPR*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDR*	Federal Communications Commission Mass Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
i. Transfer of Control (i) Long Form (Electronic Filing)	315 & 159	895.00	MPR*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.

Service	FCC form No.	Fee amount	Payment type code	Address
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDR*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
j. Call Sign (Electronic Filing)	380 & 159	90.00	MBR	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
k. Special Temporary Authority	Corres & 159	160.00	MGR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
l. Ownership Report (Electronic Filing)	323 & 159 or Corres & 159.	60.00	MAR	Federal Communications Commission Media Services P.O. Box 358180 Pittsburgh, PA 15251–5180.
3. Commercial FM Radio Stations:				
a. New or Major Change Construction Permit (Electronic Filing).	301 & 159	3,210.00	MTR	Federal Communications Commission Media Services P.O. Box 358195 Pittsburgh, PA 15251–5195.
b. Minor Change (Electronic Filing)	301 & 159	895.00	MPR	Federal Communications Commission Mass Media Services P.O. Box 358195 Pittsburgh, PA 15251–5195.
c. Main Studio Request (per request)	Corres & 159	895.00	MPR	Federal Communications Commission Media Services P.O. Box 358195 Pittsburgh, PA 15251–5195.
d. New License (Electronic Filing)	302–FM & 159	185.00	MHR	Federal Communications Commission Media Services P.O. Box 358195 Pittsburgh, PA 15251–5195.
e. FM Directional Antenna (Electronic Filing).	302–FM & 159	565.00	MLR	Federal Communications Commission Media Services P.O. Box 358195 Pittsburgh, PA 15251–5195.
f. License Renewal (per application) (Electronic Filing).	303–S & 159	160.00	MGR	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
g. License Assignment				
(i) Long Form (Electronic Filing)	314 & 159	895.00	MPR*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDR*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
h. Transfer of Control				
(i) Long Form (Electronic Filing)	315 & 159	895.00	MPR*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDR*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.

Service	FCC form No.	Fee amount	Payment type code	Address
i. Call Sign (Electronic Filing)	380 & 159	90.00	MBR	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
j. Special Temporary Authority	Corres & 159	160.00	MGR	Federal Communications Commission Media Services P.O. Box 358195 Pittsburgh, PA 15251–5195.
k. Petition for Rulemaking for New Community of License or Higher Class Channel (Electronic Filing).	301 & 159 or 302–FM & 159.	2,475.00	MRR	Federal Communications Commission Media Services P.O. Box 358195 Pittsburgh, PA 15251–5195.
l. Ownership Report (Electronic Filing)	323 & 159 or Corres & 159.	60.00	MAR	Federal Communications Commission Media Services P.O. Box 358180 Pittsburgh, PA 15251–5180.
4. FM Translators:				
a. New or Major Change Construction Permit (Electronic Filing).	349 & 159	675.00	MOF	Federal Communications Commission Media Services P.O. Box 358200 Pittsburgh, PA 15251–5200.
b. New License (Electronic Filing)	350 & 159	135.00	MEF	Federal Communications Commission Media Services P.O. Box 358200 Pittsburgh, PA 15251–5200.
c. License Renewal (Electronic Filing)	303–S & 159	60.00	MAF	Federal Communications Commission Media Services P.O. Box 358190 Pittsburgh, PA 15251–5190.
d. Special Temporary Authority	Corres & 159	160.00	MGF	Federal Communications Commission Media Services P.O. Box 358200 Pittsburgh, PA 15251–5200.
e. License Assignment (Electronic Filing)	345 & 159 314 & 159 316 & 159	130.00	MDF*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
f. Transfer of Control (Electronic Filing)	345 & 159 315 & 159 316 & 159	130.00	MDF*	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
5. TV Translators and LPTV Stations:				
a. New or Major Change Construction Permit (per application) (Electronic Filing).	346 & 159	675.00	MOL	Federal Communications Commission Media Services P.O. Box 358185 Pittsburgh, PA 15251–5185.
b. New License (per application) (Electronic Filing).	347 & 159	135.00	MEL	Federal Communications Commission Media Services P.O. Box 358185 Pittsburgh, PA 15251–5185.
c. License Renewal (Electronic Filing)	303–S & 159	60.00	MAL*	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
d. Special Temporary Authority	Corres & 159	160.00	MGL	Federal Communications Commission Media Services P.O. Box 358185 Pittsburgh, PA 15251–5185.

Service	FCC form No.	Fee amount	Payment type code	Address
e. License Assignment (Electronic Filing)	345 & 159 314 & 159 316 & 159	130.00	MDL *	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
f. Transfer of Control (Electronic Filing)	345 & 159 315 & 159 316 & 159	130.00	MDL *	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
g. Call Sign (Electronic Filing)	380 & 159	90.00	MBT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
6. FM Booster Stations: a. New or Major Change Construction Permit (Electronic Filing).	349 & 159	675.00	MOF	Federal Communications Commission Media Services P.O. Box 358200 Pittsburgh, PA 15251–5200.
b. New License (Electronic Filing)	350 & 159	135.00	MEF	Federal Communications Commission Media Services P.O. Box 358200 Pittsburgh, PA 15251–5200.
c. Special Temporary Authority	Corres & 159	160.00	MGF	Federal Communications Commission Media Services P.O. Box 358200 Pittsburgh, PA 15251–5200.
7. TV Booster Stations: a. New or Major Change (Electronic Filing).	346 & 159	675.00	MOF	Federal Communications Commission Media Services P.O. Box 358185 Pittsburgh, PA 15251–5185.
b. New License (Electronic Filing)	347 & 159	135.00	MEF	Federal Communications Commission Media Services P.O. Box 358185 Pittsburgh, PA 15251–5185.
c. Special Temporary Authority	Corres & 159	160.00	MGF	Federal Communications Commission Media Services P.O. Box 358185 Pittsburgh, PA 15251–5185.
8. Class A TV Services: a. New and Major Change Construction Permits (per application) (Electronic Filing).	301–CA & 159	4,005.00	MVT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
b. New License (per application) (Electronic Filing).	302–CA & 159	270.00	MJT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
c. License Renewal (per application) (Electronic Filing).	303–S & 159	160.00	MGT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
d. Special Temporary Authority	Corres & 159	160.00	MGT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
e. License Assignment				

Service	FCC form No.	Fee amount	Payment type code	Address
(i) Long Form (Electronic Filing)	314 & 159	895.00	MPT *	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDT *	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
f. Transfer of Control (i) Long Form (Electronic Filing)	315 & 159	895.00	MPT *	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDT *	Federal Communications Commission Media Services P.O. Box 358350 Pittsburgh, PA 15251–5350.
g. Main Studio Request	Corres & 159	895.00	MPT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
h. Call Sign (Electronic Filing)	380 & 159	90.00	MBT	Federal Communications Commission Media Services P.O. Box 358165 Pittsburgh, PA 15251–5165.
9. Cable Television Services: a. CARS License	327 & 159	245.00	TIC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.
b. CARS Modifications	327 & 159	245.00	TIC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.
c. CARS License Renewal	327 & 159	245.00	TIC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.
d. CARS License Assignment	327 & 159	245.00	TIC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.
e. CARS Transfer of Control	327 & 159	245.00	TIC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.
f. Special Temporary Authority	Corres & 159	160.00	TGC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.
g. Cable Special Relief Petition	Corres & 159	1,250.00	TQC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.
h. Cable Community Registration (Electronic Filing).	321 & 159	60.00	TAC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.

Service	FCC form No.	Fee amount	Payment type code	Address
i. Aeronautical Frequency Usage Notifications (Electronic Filing).	321 & 159	60.00	TAC	Federal Communications Commission Media Services P.O. Box 358205 Pittsburgh, PA 15215–5205.

■ 5. Section 1.1105 is revised to read as follows:

§ 1.1105 Schedule of charges for applications and other filings for the wireline competition services.

Service	FCC form No.	Fee amount	Payment type code	Address
1. Communication Assistance for Law Enforcement (CALEA): Petitions	Corres & 159	$5,605.00	CLEA	Federal Communications Commission Wireline Competition Bureau—IA&TD CALEA P.O. Box 358140 Pittsburgh, PA 15251–5140.
2. Domestic 214 Applications: a. Domestic Cable Construction	Corres & 159	$965.00	CUT	Federal Communications Commission Wireline Competition Bureau—CPD—214 Appls. P.O. Box 358145 Pittsburgh, PA 15251–5145.
b. Other	Corres & 159	$965.00	CUT	Federal Communications Commission Wireline Competition Bureau—CPD—214 Appls. P.O. Box 358145 Pittsburgh, PA 15251–5145.
3. Tariff Filings: a. Filing Fees (per transmittal or cover letter).	Corres & 159	$775.00	CQK	Federal Communications Commission Wireline Competition Bureau—PPD Tariffs Filings P.O. Box 358150 Pittsburgh, PA 15251–5150.
b. Application for Special Permission Filing (request for waiver of any rule in Part 61 of the Commission's Rules) (per request).	Corres & 159	$775.00	CQK	Federal Communications Commission Wireline Competition Bureau—PPD Tariffs Filings P.O. Box 358150 Pittsburgh, PA 15251–5150.
c. Waiver of Part 69 Tariff Rules (per request).	Corres & 159	$775.00	CQK	Federal Communications Commission Wireline Competition Bureau—PPD Tariffs Filings P.O. Box 358150 Pittsburgh, PA 15251–5150.
4. Accounting: a. Review of Depreciation Update Study (single state).	Corres & 159	$32,680.00	BKA	Federal Communications Commission Wireline Competition Bureau—PPD—Accounting Rule Depreciation P.O. Box 358140 Pittsburgh, PA 15251–5140.
(i) Each Additional State	Corres & 159	$1,075.00	CVA	Federal Communications Commission Wireline Competition Bureau—PPD—Accounting Rule Depreciation P.O. Box 358140 Pittsburgh, PA 15251–5140.
b. Petition for Waiver (per petition). Waiver of Part 69 Accounting Rules & Part 32 Accounting Rules, Part 36 Separation Rules, Part 43 Reporting Requirements, Part 64 Allocation of Costs Rules, Part 65 Rate of Return & Rate Base Rules.	Corres & 159	$7,365.00	BEA	Federal Communications Commission Wireline Competition Services—PPD Tariffs Accounting Rule Waiver P.O. Box 358140 Pittsburgh, PA 15251–5140.

■ 6. Section 1.1106 is revised to read as follows:

§ 1.1106 Schedule of charges for applications and other filings for the enforcement services.

Service	FCC form No.	Fee amount	Payment type code	Address
1. Formal Complaints:	Corres & 159	$190.00	CIZ	Federal Communications Commission Enforcement P.O. Box 358120 Pittsburgh, PA 15251–5120.
2. Accounting and Audits:				
a. Field Audit	N/A	$98,400.00	BMA	Carriers will be billed.
b. Review of Attest Audit	N/A	$53,710.00	BLA	Carriers will be billed.
3. Development and Review of Agreed upon—Procedures Engagement:	Corres & 159	$53,710.00	BLA	Federal Communications Commission Enforcement P.O. Box 358125 Pittsburgh, PA 15251–5125.
4. Pole Attachment Complaint:	Corres & 159	$240.00	TPC	Federal Communications Commission Enforcement P.O .Box 358110 Pittsburgh, PA 15215–5110.

■ 7. Section 1.1107 is revised to read as follows:

§ 1.1107 Schedule of charges for applications and other filings for the international services.

Service	FCC form No.	Fee amount	Payment type code	Address
1. International Fixed Public Radio (Public & Control Stations):				
a. Initial Construction Permit (per station)	407 & 159	$810.00	CSN	Federal Communications Commission International Bureau—Fixed Public Radio P.O. Box 358160 Pittsburgh, PA 15251–5160.
b. Assignment or Transfer (per Application).	702 & 159 or 704 & 159.	810.00	CSN	Federal Communications Commission International Bureau—Fixed Public Radio P.O. Box 358160 Pittsburgh, PA 15251–5160.
c. Renewal (per license)	405 & 159	585.00	CON	Federal Communications Commission International Bureau—Fixed Public Radio P.O. Box 358160 Pittsburgh, PA 15251–5160.
d. Modification (per station)	403 & 159	585.00	CON	Federal Communications Commission International Bureau—Fixed Public Radio P.O. Box 358160 Pittsburgh, PA 15251–5160.
e. Extension of Construction Authorization (per station).	701 & 159	295.00	CKN	Federal Communications Commission International Bureau—Fixed Public Radio P.O. Box 358160 Pittsburgh, PA 15251–5160.
f. Special Temporary Authority or request for Waiver (per request).	Corres & 159	295.00	CKN	Federal Communications Commission International Bureau—Fixed Public Radio P.O. Box 358160 Pittsburgh, PA 15251–5160.
2. Section 214 Applications:				

Service	FCC form No.	Fee amount	Payment type code	Address
a. Overseas Cable Construction	Corres & 159	14, 415.00	BIT	Federal Communications Commission International Bureau—Policy P.O. Box 358115 Pittsburgh, PA 15251–5115.
b. Cable Landing License				
(i) Common Carrier	Corres & 159	1,620.00	CXT	Federal Communications Commission International Bureau—Policy P.O. Box 358115 Pittsburgh, PA 15251–5115.
(ii) Non-Common Carrier	Corres & 159	16,035.00	BJT	Federal Communications Commission International Bureau—Policy P.O. Box 358115 Pittsburgh, PA 15251–5115.
c. All other International 214 Applications	Corres & 159	965.00	CUT	Federal Communications Commission International Bureau—Policy P.O. Box 358115 Pittsburgh, PA 15251–5115.
d. Special Temporary Authority (all services).	Corres & 159	965.00	CUT	Federal Communications Commission International Bureau—Policy P.O. Box 358115 Pittsburgh, PA 15251–5115.
e. Assignments or transfers (all services)	Corres & 159	965.00	CUT	Federal Communications Commission International Bureau—Policy P.O. Box 358115 Pittsburgh, PA 15251–5115.
3. Fixed Satellite Transmit/Receive Earth Stations:				
a. Initial Application (per station)	312 Main & Schedule B & 159.	2,410.00	BAX	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
b. Modification of License (per station)	312 Main & Schedule B & 159.	170.00	CGX	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
c. Assignment or Transfer				
(i) First station	312 Main & Schedule A & 159.	475.00	CNX	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
(ii) Each Additional Station	Attachment to 312—Schedule A.	160.00	CFX	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
d. Renewal of License (per station)	312–R & 159	170.00	CGX	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
e. Special Temporary Authority (per request).	312 Main & Corres & 159.	170.00	CGX	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
f. Amendment of Pending Application (per station).	312 Main & Schedule B & 159.	170.00	CGX	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.

Service	FCC form No.	Fee amount	Payment type code	Address
g. Extension of Construction Permit (modification) (per station).	312 Main & 159	170.00	CGX	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
4. Fixed Satellite transmit/receive Earth Stations (2 meters or less operating in the 4/6 GHz frequency band): a. Lead Application	312 Main & Schedule B & 159.	5,340.00	BDS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
b. Routine Application (per station)	312 Main & Schedule B & 159.	60.00	CAS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
c. Modification of License (per station)	312 Main & Schedule B & 159.	170.00	CGS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
d. Assignment or Transfer (i) First Station	312 Main & Schedule A & 159.	475.00	CNS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
(ii) Each Additional Station	Attachment to 312—Schedule A.	60.00	CAS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
e. Renewal of License (per station)	312–R & 159	170.00	CGS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
f. Special Temporary Authority (per request).	312 Main & 159	170.00	CGS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
g. Amendment of Pending Application (per station).	312 Main & Schedule A or B & 159.	170.00	CGS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
h. Extension of Construction Permit (modification) (per station).	312 & 159	170.00	CGS	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
5. Receive Only Earth Stations: a. Initial Applications for Registration or License (per station).	312 Main & Schedule B & 159.	365.00	CMO	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
b. Modification of License or Registration (per station).	312 Main & Schedule B & 159.	170.00	CGO	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
c. Assignment or Transfer (i) First Station	312 Main & Schedule A & 159.	475.00	CNO	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.

Service	FCC form No.	Fee amount	Payment type code	Address
(ii) Each Additional Station	Attachment to 312—Schedule A.	160.00	CFO	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
d. Renewal of License (per station)	312–R & 159	170.00	CGO	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
e. Amendment of Pending Application (per station).	312 Main & Schedule A or B & 159.	170.00	CGO	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
f. Extension of Construction Permit (modification) (per station).	312 Main & 159	170.00	CGO	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
g. Waivers (per request)	Corres & 159	170.00	CGO	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
6. Fixed Satellite Very Small Aperture Terminal (VSAT) Systems:				
a. Initial Application (per station)	312 Main & Schedule B & 159.	8,895.00	BGV	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
b. Modification of License (per system)	312 Main & Schedule B & 159.	170.00	CGV	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
c. Assignment or Transfer of System	312 Main & Schedule A & 159.	2,380.00	CZV	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
d. Renewal of License (per system)	312–R & 159	170.00	CGV	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
e. Special Temporary Authority (per request).	312 & 159	170.00	CGV	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
f. Amendment of Pending Application (per system).	312 Main & Schedule A or B & 159.	170.00	CGV	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
g. Extension of Construction Permit (modification) (per system).	312 & 159	170.00	CGV	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
7. Mobile Satellite Earth Stations				
a. Initial Applications of Blanket Authorization.	312 Main & Schedule B & 159.	8,895.00	BGB	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
b. Initial Application for Individual Earth Station.	312 Main & Schedule B & 159.	2,135.00	CYB	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.

Service	FCC form No.	Fee amount	Payment type code	Address
c. Modication of License (per system)	312 Main & Schedule B & 159.	170.00	CGB	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
d. Assignment or Transfer (per system)	312 Main & Schedule A & 159.	2,380.00	CZB	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
e. Renewal of License (per system)	312–R & 159	170.00	CGB	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
f. Special Temporary Authority (per request).	312 & 159	170.00	CGB	Federal CommunicationS Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
g. Amendment of Pending Application (per system).	312 Main & Schedule B & 159.	170.00	CGB	Federal CommunicationS Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
h. Extension of Construction Permit (modification) (per system).	312 & 159	170.00	CGB	Federal Communications Commission International Bureau—Earth Stations P.O. Box 358160 Pittsburgh, PA 15251–5160.
8. Space Stations (Geostationary): a. Application for Authority to Launch & Operate (per satellite).				
(i) Initial Application	312 Main & Schedule S & 159.	110,580.00	BNY	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
(ii) Replacement Satellite	312 Main & Schedule S & 159.	110,580.00	BNY	
b. Assignment or Transfer (per satellite) ...	312 Main & Schedule A & 159.	7,900.00	BFY	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
c. Modification (per satellite)	312 Main & Schedule S (if needed) & 159.	7,900.00	BFY	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
d. Special Temporary Authority (per satellite).	312 & 159	790.00	CRY	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
e. Amendment of Pending Application (per satellite).	312 Main & Schedule S (if needed) & 159.	1,580.00	CWY	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
f. Extension of Launch Authority (per satellite).	312 Main & Corres & 159.	790.00	CRY	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
9. Space Stations (NGSO) a. Application for Authority to Launch & Operate (per system of technically identical satellites) satellites.	312 Main & Schedule S & 159.	380,835.00	CLW	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.

Service	FCC form No.	Fee amount	Payment type code	Address
b. Assignment or Transfer (per system)	312 Main & Schedule A & 159.	10,885.00	CZW	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
c. Modification (per system)	312 Main & Schedule S (if needed) & 159.	27,205.00	CGW	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
d. Special Temporary Authority (per request).	Corres & 159	2,725.00	CXW	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
e. Amendment of Pending Application (per request).	312 Main & Schedule S & 159.	5,445.00	CAW	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
f. Extension of Launch Authority (per system).	312 Main & 159	2,725.00	CXW	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
10. Direct Boradcast Satellites a. Authorization to Constructor Major Modification (per satellite).	312 Main & Schedule S & 159.	3,210.00	MTD	Federal Communication Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
b. Construction Permit and Launch Authority (per satellite).	312 Main & Schedule S & 159.	31,140.00	MXD	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
c. License to Operate (per satellite)	312 Main & Schedule S & 159.	31,140.00	MXD	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
d. Special Temporary Authority (per satellite).	312 Main & 159	160.00	MGD	Federal Communications Commission International Bureau—Satellites P.O. Box 358210 Pittsburgh, PA 15251–5210.
11. International Broadcast Stations a. New Station & Facilities Change Construction Permit (per application).	309 & 159	2,695.00	MSN	Federal Communications Commission International Bureau P.O. Box 358175 Pittsburgh, PA 15251–5175.
b. New License (per application)	310 & 159	610.00	MNN	Federal Communications Commission application) International Bureau P.O. Box 358175 Pittsburgh, PA 15251–5175.
c. License Renewal (per application)	311 & 159	155.00	MFN	Federal Communications Commission International Bureau P.O. Box 358175 Pittsburgh, PA 15251–5175.
d. License Assignment or Transfer of Control (per station license).	314 & 159 or ..... 315 & 159 or ..... 316 & 159	95.00	MCN	Federal Communications Commission International Bureau P.O. Box 358175 Pittsburgh, PA 15251–5175.
e. Frequency Assignment & Coordination (per frequency hour).	Corres & 159	60.00	MAN	Federal Communications Commission International Bureau P.O. Box 358175 Pittsburgh, PA 15251–5175.

Service	FCC form No.	Fee amount	Payment type code	Address
f. Special Temporary Authorization (per application).	Corres & 159	160.00	MGN	Federal Communications Commission International Bureau P.O. Box 358175 Pittsburgh, PA 15251–5175.
12. Permit to Deliver Programs to Foreign Broadcast Stations (per application): a. Commercial Television Stations	308 & 159	90.00	MBT	Federal Communications Commission International Bureau P.O. Box 358175 Pittsburgh, PA 15251–5175.
b. Commercial AM or FM Radio Stations ..	308 & 159	90.00	MBR	Federal Communications Commission International Bureau P.O. Box 358175 Pittsburgh, PA 15251–5175.
13. Recognized Operating Agency (per application)	Corres & 159	965.00	CUG	Federal Communications Commission International Bureau P.O. Box 358115 Pittsburgh, PA 15251–5115.

■ 8. Section 1.1113 is amended by revising paragraph (c) to read as follows:

§ 1.1113 Return or refund of charges.

* * * * *

(c) Applicants in the Media Services for first-come, first-served construction permits will be entitled to a refund of the fee, if, within fifteen days of the issuance of a Public Notice, applicant indicates that there is a previously filed pending application for the same vacant channel, such applicant notifies the Commission that they no longer wish their application to remain on file behind the first applicant and any other applicants filed before his or her application, and the applicant specifically requests a refund of the fee paid and dismissal of his or her application.

* * * * *

■ 9. Section 1.1114 is amended by revising paragraphs (c), (d), and (e) to read as follows:

§ 1.1114 General exemptions to charges.

* * * * *

(c) Applicants, permittees or licensees of noncommercial educational (NCE) broadcast stations in the FM or TV services, as well as AM applicants, permittees or licensees operating in accordance with § 73.503 of this chapter.

(d) Applicants, permittees, or licensees qualifying under paragraph (c) of this section requesting Commission authorization in any other mass media radio service (except the international broadcast (HF) service) private radio service, or common carrier radio communications service otherwise requiring a fee, if the radio service is used in conjunction with the NCE broadcast station on an NCE basis.

(e) Other applicants, permittees, or licensees providing, or proposing to provide, an NCE or instructional service, but not qualifying under paragraph (c) of this section, may be exempt from filing fees, or be entitled to a refund, in the following circumstances.

(1) An applicant is exempt from filing fees if it is an organization that, like the Public Broadcasting Service or National Public Radio, receives funding directly or indirectly through the Public Broadcasting Fund, 47 U.S.C. 396(k), distributed by the Corporation for Public Broadcasting, where the authorization requested will be used in conjunction with the organization on an NCE basis;

(2) An applicant for a translator or low power television station that proposes an NCE service will be entitled to a refund of fees paid for the filing of the application when, after grant, it provides proof that it has received funding for the construction of the station through the National Telecommunications and Information Administration (NTIA) or other showings as required by the Commission.

(3) An applicant that has qualified for a fee refund under paragraph (e)(2) of this section and continues to operate as an NCE station is exempt from fees for broadcast auxiliary stations (subparts D, E, and F of part 74) or stations in the private radio or common carrier services where such authorization is to be used in conjunction with the NCE translator or low power station.

(4) An applicant that is the licensee in the Educational Broadband Service (EBS) (formerly, Instructional Television Fixed Service (ITFS)) (parts 27 and 74, e.g., §§ 27.1200, *et seq.*, and 74.832(b), of this chapter) is exempt from filing fees where the authorization requested will be used by the applicant in conjunction with the provision of the EBS.

* * * * *

[FR Doc. 06–7658 Filed 9–13–06; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 71, No. 178
Thursday, September 14, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2003–0064; FRL–8219–6]

RIN 2060–AL75

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Debottlenecking, Aggregation, and Project Netting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes revisions to the regulations governing the major NSR programs mandated by parts C and D of title I of the Clean Air Act (CAA). These proposed changes reflect EPA's consideration of the Agency's 2002 Report to the President and its associated recommendations as well as discussions with various stakeholders including representatives of environmental groups, State and local governments, and industry. We propose to change how emissions from emissions units upstream or downstream from the unit(s) undergoing a physical change or change in the method of operation are included in the calculation of an emissions increase for the project. Also, these proposed changes would clarify and codify our policy of when emissions increases from multiple projects are to be aggregated together to determine NSR applicability. Finally, we are clarifying how emissions decreases from a project may be included in the calculation to determine if a significant emissions increase will result from a project. We intend the proposed rules to improve implementation of the program by articulating and codifying principles for determining major NSR applicability that we currently address through guidance only.

We are seeking comment on all aspects of this proposed rule. This proposal seeks public comment in accordance with section 307(d) of the CAA and should not be used or cited in any litigation as a final position of the Agency.

DATES: *Comments.* Comments must be received on or before November 13, 2006. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by OMB on or before October 16, 2006.

Public Hearing. If anyone contacts EPA requesting a public hearing by September 28, 2006, we will hold a public hearing approximately 30 days after publication in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0064 by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov*.
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. 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:* Environmental Protection Agency, EPA West Building, Room B102, 1301 Constitution Ave., NW., Washington, DC. 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–2003–0064. 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, avoid 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*. For additional instructions on submitting comments, go to section I.B of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 at the Air and Radiation Docket and Information Center, EPA/DC, EPA West Building, 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 and Radiation Docket and Information Center 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 *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: Mr. David J. Svendsgaard, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–2380, fax number (919) 541–5509, e-mail address *svendsgaard.dave@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Entities affected by this rule include sources in all industry groups. The majority of sources potentially affected are expected to be in the following groups:

Industry Group	SIC [a]	NAICS [b]
Electric Services	491	221111, 221112, 221113, 221119, 221121, 221122
Petroleum Refining	291	324110
Industrial Inorganic Chemicals	281	325181, 325120, 325131, 325182, 211112, 325998, 331311, 325188
Industrial Organic Chemicals	286	325110, 325132, 325192, 325188, 325193, 325120, 325199
Miscellaneous Chemical Products	289	325520, 325920, 325910, 325182, 325510
Natural Gas Liquids	132	211112
Natural Gas Transport	492	486210, 221210
Pulp and Paper Mills	261	322110, 322121, 322122, 322130
Paper Mills	262	322121, 322122
Automobile Manufacturing	371	336111, 336112, 336211, 336992, 336322, 336312, 336330, 336340, 336350, 336399, 336212, 336213
Pharmaceuticals	283	325411, 325412, 325413, 325414

[a] Standard Industrial Classification.
[b] North American Industry Classification System.

Entities affected by the rule also include States, local permitting authorities, and Indian tribes whose lands contain new and modified major stationary sources.

B. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the WWW. Following signature, a copy of this notice will be posted in the regulations and standards section of our NSR home page located at *http://www.epa.gov*.

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit information that you consider to be CBI electronically 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 rulemaking by docket number and other identifying information (*e.g.*, subject heading, **Federal Register** proposal publication date and reference page number(s)).
- Follow directions—The EPA 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 provide 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 specified comment period deadline.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Roberto Morales, U.S. Environmental Protection Agency, OAQPS Document Control Officer, 109 TW Alexander Drive, Room C404–02, Research Triangle Park, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

D. How Can I Find Information About a Possible Hearing?

People interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Pam Long, Air Quality Planning Division, Office of Air Quality Planning and Standards (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–0641, fax number (919) 541–5509, e-mail address *long.pam@epa.gov*, at least 2 days in advance of the public hearing. People interested in attending the public hearing must also call Ms. Long to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed action. If a public hearing is held, it will be held at 9 a.m. in EPA's Auditorium in Research

Triangle Park, North Carolina, or at an alternate site nearby.

E. How Is This Preamble Organized?

The information presented in this preamble is organized as follows:

I. General Information
A. Does This Action Apply to Me?
B. Where Can I Get a Copy of This Document and Other Related Information?
C. What Should I Consider as I Prepare My Comments for EPA?
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II. Introduction
III. Debottlenecking
A. Background
B. Overview of This Proposed Action
C. Discussion of Issues Under Proposed Debottlenecking Approach
IV. Aggregation
A. Background
B. Overview of This Proposed Action
C. Discussion of Issues Under Proposed Aggregation Approach
V. Project Netting
A. Background
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VI. Statutory and Executive Order Reviews
A. Executive Order 12866—Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Analysis
D. Unfunded Mandates Reform Act
E. Executive Order 13132—Federalism
F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
VII. Statutory Authority

II. Introduction

In May 2001, President Bush's National Energy Policy Development Group issued findings and key recommendations for a National Energy Policy. This document included numerous recommendations for action, including a recommendation that the EPA Administrator, in consultation with the Secretary of Energy and other relevant agencies, review NSR regulations, including administrative interpretation and implementation.[1] The recommendation requested that we issue a report to the President on the impact of the regulations on investment in new utility and refinery generation capacity, energy efficiency, and environmental protection.

In response, in June 2001, we issued a background paper giving an overview of the NSR program. This paper is available on the Internet at *http://www.epa.gov/nsr/publications.html*. We solicited public comments on the background paper and other information relevant to the NSR 90-day Review and Report to the President. During our review of the NSR program, we met with more than 100 groups, held four public meetings around the country, and received more than 130,000 written comments. Our Report to the President and our recommendations in response to the energy policy were issued on June 13, 2002. A copy of this information is available at *http://www.epa.gov/nsr/publications.html*.

We have previously finalized responses to energy policy recommendations on December 31, 2002 (67 FR 80186) and October 27, 2003 (68 FR 61248).[2] These proposed regulations for ''aggregation'' and ''debottlenecking'' are a further response to the remaining recommendations. We also are proposing a change to our past policy for project netting. We believe that these proposed rules would provide greater regulatory certainty while preserving the current level of environmental protection and benefit derived from the current NSR program.

This action proposes and requests comment on changes to the regulations for both the approval and promulgation of implementation plans and requirements for preparation, adoption, and submittal of implementation plans governing the NSR programs mandated by parts C and D of title I of the CAA. We also propose to include conforming changes to 40 CFR (Code of Federal Regulations) part 51, appendix S. This notice does not include specific regulatory language related to this section. Nonetheless, we intend to finalize these rule provisions in Appendix S, either at the time we finalize the remainder of these proposed revisions, or at the time that we finalize changes to incorporate the 2002 NSR improvements into Appendix S. We seek comment on incorporating these changes into Appendix S through this proposed rule, and will not seek additional comments before taking final action on the Appendix S changes.

III. Debottlenecking

A. Background

1. NSR Improvement Rule of 2002

As noted above, EPA has already promulgated rules in response to the 2002 recommendations. On December 31, 2002, we finalized changes to NSR applicability for modifications at major stationary sources. Specifically, this rule promulgated changes for how to calculate emissions increases at sources that have undergone a physical change or change in the method of operation, or ''project.''

As a result of the 2002 rules, the major NSR regulations now measure an emissions increase from a project by comparing the change in actual emissions before and after the change.[3] Under this methodology, the actual annual emissions before the change are compared with the projected actual annual emissions after the change to determine if a physical or operational change would result in a significant increase in emissions. The major NSR regulations allow for consideration of an emissions unit's operating capacity in determining whether a change results in an emissions increase. Under the actual-to-projected-actual test, a source can subtract from its post-project emissions those emissions that the unit ''could have accommodated'' during the baseline period and that are unrelated to the change (sometimes referred to as the ''demand growth exclusion''). That is, the source can emit up to its current maximum capacity without triggering major NSR under the actual-to-projected-actual test, as long as the increase is unrelated to the physical or operational change.

Various governmental and nongovernmental entities sought judicial review of many aspects of the 2002 rules. In *New York* v. *EPA*, 413 F.3d 3 (D.C. Cir. 2005) (''*New York*''), the Court largely upheld EPA's rules on projecting actual emissions resulting from a change. The Court held that the NSR modification requirement, which incorporates by reference CAA section 111(a)(4), ''unambiguously defines 'increases' in terms of actual emissions.'' *See New York*, 413 F.3d at 39. The Court also upheld excluding from projections those increases attributable to ''demand growth.'' *Id.* at 33. Those emissions were increases that could have been accommodated by the

[1] For an overview of the major NSR program, *see* 67 FR 80187–80188.

[2] On March 17, 2006, the DC Circuit Court of Appeals vacated the October 27, 2003 rule. On June 30, 2006, the Court denied EPA's request for rehearing or, in the alternative, rehearing *en banc* with respect to this decision.

[3] Sources are allowed to use an actual-to-potential emissions test for NSR applicability that makes them not subject to reporting and recordkeeping requirements that are required under the new actual-to-projected-actual emissions test. *See* 67 FR 80197.

source prior to the change and which were unrelated to change.

Most of the applicability test in the 2002 rule based emissions test on historical (actual) emissions; however, EPA also promulgated the Clean Unit exemption, which would have allowed a source to calculate its emissions increase based on its permitted emissions. While the Court upheld EPA on projected actual emissions, it vacated the method of calculating emissions for Clean Units. The Court held that EPA lacked authority to promulgate the Clean Unit provision, and in doing so, held that ''the plain language of the CAA indicates that Congress intended to apply NSR to changes that increase actual emissions instead of potential or allowable emissions.'' The Court held that the method for clean units would have impermissibly relied on a measure of emissions that was not based on actual emissions increases at the source.

2. What Is ''Debottlenecking''?

A major stationary source often consists of multiple emitting and non-emitting units that comprise integrated processes at the source. As part of the operations of the source or within a process, various pieces of equipment may provide input to or accept output from other equipment or units at the source. These equipment and units at the source may have different operating capacities.

When equipment and units of different capacities operate, one unit may constrain other units from operating at their full design capacity or maximum output rating either by limiting inputs to those other units or by limiting usable output. Such constraining equipment and units are commonly called ''bottlenecks'' in a process. The constrained emissions unit(s) can be situated in the process either in advance of the constraining emissions unit (*i.e.,* ''upstream'') or after it (''downstream'').

When a constraining unit or piece of equipment is changed to increase its capacity, another unit may increase its operations (depending on whether some or all of the constraint was removed) to provide input to the changed unit or use output from it. We have historically referred to this phenomenon as ''debottlenecking.'' This increased operation of the upstream or downstream emissions unit(s) can contribute to increased emissions from the unit(s).

Our current regulations define a ''major modification'' as one in which a physical change or a change in the method of operation of a major stationary source results in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant at the source. *See* 40 CFR 52.21(b)(2). Based on this current regulation, the total increase in emissions that are included in determining if there will be a post-change significant emissions increase includes: (1) Increases occurring at all new or modified units, and (2) any other increases at existing emissions units not being modified that experience emissions increases as a result of the change.[4] Under our current and prior rules, we have presumed that increases in emissions at a debottlenecked unit are caused by the project and, thus, included in determining NSR applicability for the project.

The EPA's recommendation to the President directed changes to our ''debottlenecking'' rule provisions, and we recognize that there has been confusion over our past policies for calculating emissions from debottlenecked units and from units experiencing an ''increase in utilization.'' While we are not defining the term ''debottlenecked unit'' in this proposed rule, we intend for these provisions, when finalized, to apply to any unchanged unit at a source that increases its utilization following a change elsewhere at the source.

3. How Does EPA Currently Implement Major NSR for Debottlenecking Changes?

As stated above, the emission calculation for a new project includes the emission increases from all the units involved in a project. Any new unit's emission increase that results from the project is equal to the unit's potential to emit, or ''PTE.'' *See* 40 CFR 52.21(a)(2)(iv)(*d*). For existing units, the emission increase associated with the project is based on the ''actual-to-projected-actual'' test, and, under the current test, it includes increases not only from the unit(s) undergoing the change but also increases at any other unit at the major stationary source that are related to the change.[5] In the past, EPA has generally assumed that emissions from debottlenecked units result from the proposed project.

Under the ''actual-to-projected-actual'' test, pre-change emissions are determined using the procedures for ''baseline actual emissions.'' As evident in 40 CFR 52.21(b)(48), different rules apply for determining baseline actual emissions depending on whether or not the source is an electric utility. Except for electric utility steam generating units, the major stationary source requesting the modification may use any consecutive 24-month period in the past 10 years to determine the baseline actual emissions for the emissions unit(s) involved. This 10-year ''look back'' period is limited to 5 years for electric utilities, but a different 24-month period outside of the 5-year window can be used if it is more representative of normal source operation. Post-change emissions are generally projected using the emissions unit's maximum annual rate, in tons per year, at which it is expected to emit a regulated NSR pollutant within five years following a change, less any amount of emissions that the unit could have accommodated during the selected 24-month baseline period and that are unrelated to the change. This final ''projected actual'' value, in tons per year, is the value you compare to the ''baseline actual emissions'' in order to determine, by summing the increases at various emissions units, whether the proposed project will result in a ''significant'' emissions increase, as defined in the first step of the calculation. *See* 40 CFR 52.21(b)(23).[6]

The actual-to-projected-actual test in the 2002 rules for existing emissions units applies not only to the unit(s) undergoing the change but also to any other existing emissions unit(s) at the source that experiences a change in emissions related to the project. Thus, the current EPA rules permit emissions increases from debottlenecked units (and any other unit that increases its utilization as a result of the project) to be calculated using an ''actual-to-projected-actual'' test.[7] We believe this represents a fair reading of our current regulatory text for ''projected actual emissions'' found at 40 CFR 52.21(b)(41).[8]

[4] Note that, later in this preamble, we propose to include decreases (along with increases) from emissions units in calculating the emissions change that results from a project (*i.e.,* the first step of the NSR applicability analysis).

[5] These emissions increase test requirements apply to sources in delegated jurisdictions. Some SIP-approved jurisdictions have not yet adopted EPA's rules into their SIP's, meaning that their previous rules apply for their sources until they adopt the 2002 rules.

[6] The EPA is developing a rule for electric generating units (EGU) that would change the test for net emissions increase for those units. See 70 FR 61081 (October 20, 2005).

[7] Note that EPA does not require that sources use projected actual emissions to calculate their emissions increases. If a source prefers, it can calculate its emissions increases by comparing its past actual emissions to its future potential to emit.

[8] We note that some confusion was caused by a footnote in our 2002 rule preamble which conveyed that our debottlenecking requirements would not change as a result of those rules and referred readers to a future rulemaking to address debottlenecking. This footnote has been read by some to suggest that debottlenecked units were required to continue to calculate emissions

As explained above, when an emissions increase is projected at a debottlenecked emissions unit, that increase must be added to the increase projected at the changed unit, along with the sum of all contemporaneous emissions increases and decreases, to determine whether NSR applies to the source. Consequently, even when a project increases emissions by less than a significant amount at the changed unit, the project would trigger major NSR if: (1) It debottlenecks another unit at the source; (2) the emissions increase [9] (of that same pollutant) is large enough at the debottlenecked unit that there is a significant emissions increase resulting from the project; and (3) the contemporaneous emissions decreases and increases (of that same pollutant) at the source equal or exceed the levels that define a significant net emissions increase. If NSR applies, then the source goes through permitting, the changed unit undergoes a Best Available Control Technology (BACT) or Lowest Achievable Emissions Rate (LAER) analysis, and the net emissions increase is accounted for in the air quality analysis.

B. Overview of This Proposed Action

We propose to change the requirements for determining which emissions increases from existing units that are debottlenecked by a project elsewhere at the source must count towards NSR applicability. The purpose of this change is to remove barriers that the NSR program can impose that prevent owners and operators of major stationary sources from operating their facilities in the most efficient manner. Also, since 1992, EPA has worked to address concerns that the ''major NSR regulations were too complex and burdensome,'' [10] and these proposed changes continue our efforts to simplify the process. Numerous commenters have previously identified debottlenecking changes as a particularly complex aspect of the NSR program. Among the improvements to NSR called for in the 2002 recommendations paper were changes to how these rules address debottlenecking of processes.

We propose to amend the relevant rules in light of not only our 2002 energy policy recommendation for debottlenecking, but also consistent with the Court's holdings in *New York*. For purposes of clarity and greater certainty for affected parties, we propose that only those emissions increases at debottlenecked units that are ''caused'' by the physical change or change in the method of operation be included in the modification analysis. We believe the debottlenecking regulations can be improved if, as described below, the causation requirement of the NSR rules is more appropriately tailored to circumstances where emissions increases clearly result from a proposed change.[11] Our proposal seeks to refine the causation requirement, which we, in accordance with the D.C. Circuit ruling in *New York*, refer to as the ''but for'' causation requirement in light of various legal, physical and economic constraints that might exist on debottlenecked units. We are taking comment on all approaches to causation described below and ask whether it is more appropriate to rely on a single causation test or a combination of the tests.

As with our past policy, this debottlenecking rule proposal applies on a pollutant-specific basis. For example, a raw mill expansion at a cement plant is expected to result in a less than significant increase in particulate matter emissions. The increased raw mill capacity may also enable the previously constrained kiln to increase its productive capacity, thereby increasing emissions of other pollutants, such as nitrogen oxides (NO_X). While there may not be a significant increase of particulate matter emissions from both units, there may be a significant increase of NO_X emissions from the kiln. Since BACT or LAER cannot be triggered at a changed emissions unit unless the pollutant that has a significant net emissions increase is emitted by the changed unit, BACT or LAER would not apply to the raw mill expansion. PSD review, however, can be triggered for the source by increases in a pollutant not emitted by the changed unit.

As noted above, we believe that it is appropriate to revisit the causation requirements for determining when an emissions increase at a debottlenecked unit is caused by a particular change elsewhere at the source. We do not believe that including emissions increases from debottlenecked units, without first establishing causation, is consistent with Congress' intent in establishing the major NSR program. As we explained in promulgating the demand growth exclusion, we interpret the ''which increases'' and ''which results in'' language of section 111(a)(4) of the modification provision of the CAA as requiring ''a causal link between the proposed change and any post-change increase in emissions.'' *See* 67 FR 80203; *New York*, 413 F.3d at 32–33. In *New York*, the Court looked favorably on the demand growth exclusion for emissions increases that (1) Could have been accommodated prior to the change to meet the particular level of demand; and (2) were not caused by the change. *See New York*, 413 F.3d at 31–33.

The EPA's interpretation of section 111(a)(4) as requiring a causal relationship is governed by *Chevron U.S.A., Inc.* v. *Natural Res. Def. Council*, 467 U.S. 837 (1984) (''*Chevron*''). This decision was explained in *New York* as follows:

> As to EPA's interpretation of the CAA, we proceed under Chevron's familiar two-step process. See 467 U.S. at 842–43. In the first step ('Chevron Step 1'), we determine whether based on the Act's language, legislative history, structure, and purpose, 'Congress has directly spoken to the precise question at issue.' *Id.* at 842. If so, EPA must obey. But if Congress's intent is ambiguous, we proceed to the second step ('Chevron Step 2') and consider 'whether the agency's [interpretation] is based on a permissible construction of the statute.' *Id.* at 843. If so, we will give that interpretation 'controlling weight unless [it is] arbitrary, capricious, or manifestly contrary to the statute.' *Id.* at 844.[12]

The EPA believes that even if Congress failed to articulate unambiguously that section 111(a)(4) requires a causal link between the proposed change and any post-change increase in emissions, the agency's approach is a reasonable interpretation of the statute and well within the purview of administrative deference under *Chevron*. Below, we describe various standards of causation that we believe are consistent with the statutory text of section 111(a)(4). The EPA believes that not only inferring causation under section 111(a)(4) would be entitled to deference, but that selection of one or more of these causation approaches would also be afforded similar deference under *Chevron*.

increases as they had under the prior rules. The intent of that footnote was not to express a position on how emissions increases were to be calculated at debottlenecked units but rather to make clear that the 2002 NSR Improvement Rule would not change the fact that emissions from debottlenecked units must be included in the net emissions increase for the project, whenever appropriate, and that an upcoming rulemaking would, in accordance with the EPA recommendation to the President, address future treatment of debottlenecked units.

[9] As noted in footnote 4, later in this preamble we propose to include decreases from emissions units in calculating the emissions change that results from a project (*i.e.,* in step 1 of the NSR applicability analysis).

[10] *See* 61 FR 38250, 38252 (July 23, 1996).

[11] We intend for this rule to apply not only to emissions increases from debottlenecked units but also to any unchanged unit at a source that encounters an emissions increase after a project.

[12] *See New York,* 413 F.3d at 18.

1. Legal Causation

The causation test that is the most straightforward to apply and enforce for debottlenecked units would be a legal causation test in which an emissions increase at a debottlenecked unit would not be considered to have been caused by a physical or operational change at a major stationary source if the debottlenecked unit's post-project emissions were already authorized by a pre-existing air quality permit. This would apply to any debottlenecked unit with a permit that is enforceable as a practical matter.[13] For example, if a unit is debottlenecked by a change elsewhere at the source, but it had previously been permitted (with a qualifying permit) to emit at operating levels that could be reached but would not be exceeded after the debottlenecking, under this legal causation test any change in emissions at this unit actually resulted from the initial authorization and not from the proposed change. The reasoning behind this interpretation is especially clear when considering units with nonattainment NSR permits, where the source must obtain offsets under its original permit for a level of emissions that represents the maximum operation allowed for the unit by its original permit. Thus, as long as the post-debottlenecking operational level is within their permitted limit, and the source has already obtained permanent offsets for operating at the higher level, it is logical to conclude that the change associated with the initial authorization ''caused'' the changed level of emissions.[14]

Under this test, the ''but for'' legal cause of the increase would be the original new construction or modification that received the initial emission authorization. Without this original event, and the accompanying permit, the emissions associated with debottlenecking could not have occurred. Accordingly, EPA believes it is the original event, not the debottlenecking event, that is the legal cause for the changes in emissions at the unchanged unit. Although it is possible hypothetically to attribute the emissions to either event, the presence of the permit is the basis on which to legally attribute the emissions to the event that gave rise to the permit limit. The emissions unit is legally constrained from operating at the post-change emissions rate, if such emissions would violate a legally and practically enforceable term or condition of any previously issued permit.

The permit status of the unchanged unit would be the key criterion for establishing causation under this approach. For example, at a grey iron foundry, both the casters and rolling unit downstream of a melting tub are oversized; however, only the casting unit has a permit that is enforceable as a practical matter (*e.g.*, Title V operating permit containing SIP limits). Due to a physical change to expand the capacity of the melting unit, the casting unit can operate at a higher throughput. If the casting unit has obtained a qualifying permit that authorized its higher operating level, the emissions associated with that operating level first achieved after the change at the melting unit would be legally caused by the change that resulted in the earlier permitting action (*e.g.*, the original installation of the casting unit, or some modification to it) and not by the change at the melting unit.[15] Conversely, for the rolling unit, which removes iron billet out of the caster, if it operates at higher levels after the change, but had not received authorization for its higher operating levels through a qualifying permit, we would not, under the legal causation approach, attribute the emissions increase to the original roller installation because there is no enforceable permit which serves as a basis for us to attribute the legal cause. Thus, the rolling unit's emissions increase—based on applying the actual-to-projected-actual test—would be attributable to the change and must be included in the overall emissions increase resulting from the expansion project at the melting unit.

We believe that this approach offers significant advantages to NSR implementation with virtually no disadvantage. The ''but for'' legal causation test would be simpler for owners and operators to apply and for reviewing authorities to administer. It would reduce the burden of complex source-wide emissions calculations that can involve disputes or confusion about the physical capabilities of the design of the unchanged unit absent the change elsewhere in the process. This burden and confusion would be eliminated where an existing permit already authorized the emissions increase. This approach also offers source owners and operators certainty in designing and planning projects at their sources, because they may rely on the air pollution decisions already made for a given unit when planning for the future operation of that unit. We further note that our current rules do not require BACT or LAER at unchanged units, so this policy would not result in less control on the unchanged unit. It may result in sources not needing BACT/LAER review for the changed units themselves in situations where the increase from the unchanged unit must be part of the NSR applicability calculation in order to reach significant increase levels for a pollutant emitted by the changed unit. However, in such cases, the emissions increase at the changed unit necessarily would have to be less than the *de minimis* significance levels, so any reduction in pollution would also be *de minimis*.

While EPA believes that the legal causation approach may offer the greatest potential for improvement in the regulatory treatment of debottlenecking, we must address how this approach comports with the DC Circuit's recent decision in *New York* concerning Clean Units. The term ''modification'' is defined by section 111(a)(4) as ''any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant, emitted by such source or which results in the emission of any air pollutant not previously emitted.'' As previously stated, the agency has interpreted the ''which increases'' and ''which results in'' language of section 111(a)(4) as requiring a causal link between any change and any post-change increase in emissions. The EPA used this rationale in adopting the demand growth exclusion, and this exclusion was upheld by the court in *New York*. Therefore, under section 111(a)(4), there must be (1) A physical change or change in the method of operation, (2) that is the cause of, (3) an increase in emissions.

[13] ''Enforceable as a practical matter'' will be achieved if a requirement is both legally and practicably enforceable. A requirement is ''legally enforceable'' if some authority has the right to enforce the restriction. Under current EPA guidance, practicable enforceability for a source-specific permit will be achieved if the permit's provisions specify: (1) A technically accurate limitation and the portions of the source subject to the limitation; (2) the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); and (3) the method to determine compliance, including appropriate monitoring, recordkeeping, and reporting. For rules and general permits that apply to categories of sources, practicable enforceability additionally requires that the provisions: (1) Identify the types or categories of sources that are covered by the rule; (2) where coverage is optional, provide for notice to the permitting authority of the source's election to be covered by the rule; and (3) specify the enforcement consequences relevant to the rule.

[14] Here, we use nonattainment NSR as an example, but we propose to apply this approach to other types of air quality permits (*i.e.*, PSD and Title V operating permits, and other permits that are enforceable as a practical matter).

[15] In the case where a casting unit emits at a level higher than its permitted emissions rate, then it is a change in the method of operation and may be subject to major NSR.

In *New York,* the agency attempted to define Clean Unit status such that a change at the unit did not ''increase'' emissions for purposes of section 111(a)(4) as long as its status as a Clean Unit remained intact, even if the change caused an increase in actual emissions from the unit. *See New York*, 413 F.3d at 38. The court ruled that the agency lacked the authority to promulgate the Clean Unit provision because the term ''increases'' refers to an increase in actual emissions rather than potential or allowable emissions. This issue does not arise in this proposal, which focuses on the causation of the increase rather than its measurement.

The agency believes that, with regard to debottlenecking, the CAA and section 111(a)(4) more specifically are silent as to what type of causation is required between the physical change or change in the method of operation and the increase in emissions that occurs at the debottlenecked unit. While the ''which increases'' and ''which results in'' language from section 111(a)(4) strongly suggests a causal relationship is required, the statutory text does not mandate nor offers explicit guidance concerning a specific approach or standard of causation. The EPA believes that the legal causation approach is a reasonable interpretation and construction of section 111(a)(4) and would therefore be subject to Chevron Step 2 deference afforded the agency in administering the NSR program.

Under a legal causation test, we would view the original authorization of emissions from the unit to be the cause. If the emissions were authorized by a prior permit, then that prior transaction would be the cause of the emissions increase. If the emissions were not authorized previously, either because the permit level is exceeded or the unit failed to obtain a qualifying air quality permit, then the increase in emissions from the debottlenecked unit would be attributable not to a prior permit but instead to the change. Consistent with the Clean Unit portion of *New York*, we would count those emissions on an actual-to-projected-actual basis.

The legal causation test addresses whether a change at one unit causes an emissions increase at another. This issue is distinct from the question addressed in the Clean Unit portion of *New York*, which focused on how to calculate the emissions of a changed unit where causation was not in question. A debottlenecked unit is not undergoing a change, so we must establish a basis for causation. The legal causation test uses as its basis the permit level authorized when the unit was previously permitted. If this level is exceeded, or if no prior permitting action authorized the emissions level that would define the basis, then the cause of those emissions would be the current change and an actual-to-projected-actual emissions analysis is required to determine the debottlenecked unit's emissions increase that is attributable to the change.

Under this approach, an emissions increase at a debottlenecked emissions unit would be considered caused by the prior permitting action, and not by the project at issue, if the following three criteria are met:

- The unit's maximum emissions levels for each of the NSR pollutants in question is explicitly contained in a permit;
- The permit contains an allowable emissions limit (or operational limit that has the effect of constraining emissions) for the regulated NSR pollutant that is enforceable as a practical matter (*e.g.*, Title V operating permit); and
- The unit itself is unchanged.[16]

Under this legal causation approach for units meeting the above criteria, no future emissions increase at the debottlenecked unit is considered to have been caused by the project for the purposes of an NSR determination. In such circumstances, the contribution from the debottlenecked unit to determining whether the project results in a significant emissions increase is zero. On the other hand, if the project is expected to cause the debottlenecked emissions unit to increase above its permitted emissions, then its actual-to-projected-actual emissions increase must be included in the emissions increase calculation. In addition, its underlying permit would require a change (*i.e.*, to accommodate a higher permit limit), which would in most cases trigger review by the permitting authority.

Under the legal causation test, the emissions increase from a proposed project involving a unit undergoing a physical or operational change and a debottlenecked unit is calculated as follows.

- For new units, the emissions increase equals the unit's potential to emit.
- For an existing emissions unit undergoing a physical change or change in the method of operation, the emissions increase is determined under the actual-to-projected-actual test[17] as discussed in section III.A.3 of this preamble.
- For a debottlenecked emissions unit that will not be changed and that is not subject to an emission limit that is enforceable as a practical matter, the emission increase is determined under the actual-to-projected-actual test.
- For a debottlenecked emissions unit that will not be changed and that is subject to an emission limit that is enforceable as a practical matter, the emissions increase is zero, unless the source plans to exceed its permitted level, in which case the emission increase is determined under the actual-to-projected-actual test.
- Add all of the emissions increases from the project as discussed above to determine whether there is a significant emissions increase as a result of the proposed project.[18]

Thus, all emissions increases that meet the causation test should be considered in the project's total emissions increase. This applies to all related units, even those that do not require a permit change after the project. Regardless of whether the related units require permit changes, under no circumstance can the source's new emissions level cause or contribute to a violation of the National Ambient Air Quality Standards (NAAQS) or an exceedance of the PSD increment. CAA Section 165(a)(3).

It is important to note that the legal causation approach is not dependent on air quality modeling; rather, it is based on the fact that the reviewing authority has made an objective decision to authorize the unit to emit up to a certain level. Thus, we believe that a legal causation approach can effectively work with any unit that has a practically enforceable permit. This is because, as noted above, reviewing authorities have a statutory obligation to ensure that permitting in their jurisdictions will not cause or contribute to a violation of a NAAQS or PSD increment or adversely impact an air quality related value (AQRV) in a Class I area. Within each issued permit, even if it does not contain a comprehensive air quality assessment, the reviewing authority has responsibility for considering the totality of consequences of the source operating at the levels within the

[16] Under our existing regulations, exceeding a permit limit could be considered a change in the method of operation. Thus, while not physically changed, the debottlenecked unit would be operationally changed if it plans to exceed its prior permitted emissions limit.

[17] States with approved programs may still require that sources use our past emissions increase test until their SIP revisions incorporating the 2002 rules are effective and approved.

[18] As noted in footnote 4, later in this preamble we propose to include decreases from emissions units in calculating the emissions change that results from a project (*i.e.*, in step 1 of the NSR applicability analysis).

permit. These consequences include, at a minimum, performing some screening of the local and regional impacts of the unit operating at the maximum allowed emissions level of the permit. The reviewing authority will make a determination based on, at a minimum, an air quality screening, emissions inventory review, or other means to ensure that the unit can operate up to that allowable limit and not violate the NAAQS or exceed the PSD increment. In making objective decisions, reviewing authorities must consider any public comment received. Accordingly, if the public is concerned about the air quality impacts related to a source's operation at a particular emissions level, and they raise specific, articulated concerns to the reviewing authority, the reviewing authority must address these concerns and ensure that no unacceptable, adverse impacts result from allowing the source to operate at the proposed new levels before issuing the permit.

We solicit comment on all aspects of this preferred causation approach and on the proposed rule changes that implement this approach. We solicit comment on our proposal to apply legal causation to all permit limits that are enforceable as a practical matter (*i.e.*, PSD and nonattainment permits, minor NSR permits, and other authorizations). We ask for comment on whether the legal causation approach may need to account for additional factors, as described in section III.C.3 of this preamble, such as the level of air quality or attainment modeling associated with the original permit limit. If so, how would it be appropriate to account for the factors? Should the legal causation approach be limited in application when the prior permit lacked air quality or attainment modeling?

2. Physical Causation

A second approach to the causation requirement could focus upon a physical causation. Under this approach, the emissions increase at an unchanged unit would result from the change at the ''bottlenecking'' unit (and its emissions would be included in the project's emissions increase calculation) if the unchanged unit were physically incapable of operating at a higher level absent the change at the bottlenecking unit. An emissions unit is physically incapable of operating at the post-change emissions rate if pre-change operations at the major stationary source could not supply material to or accept material from the emissions unit due to inherent capacity constraints at the major stationary source, and there is no market from which or to which the major stationary source could purchase or sell the material, or if there is no other reasonable means of disposing of the material. In such a case, arguably the unchanged unit could not have physically accommodated its new emissions level but for the change.

To help clarify a ''but for'' physical causation test, consider the example from above of the iron foundry that has oversized casters downstream of a smaller-sized melting tub. A physical change to expand the melting unit would allow the casting unit to operate at a higher throughput. ''But for'' the change at the melting unit, the iron casting unit could not have increased its operations because there could be no other physical supply of molten iron from any place other than the melting unit. Thus, increases in emissions from the debottlenecked casting unit that are attributable to the project at the melting tub would be assessed using an actual-to-projected-actual emissions test.

In contrast, the ''but for'' physical causation would not exist in the case of the rolling unit at the foundry. The rolling unit is further downstream and removes iron billet out of the caster. However, the rolling unit could physically accommodate billet from other sources, since there is no physical impairment that would prevent the source from purchasing billet from other sources and increasing emissions from the rolling unit. Thus, a physical change at the casting unit (or further upstream, perhaps at the melting unit) would not be the ''but for'' cause of the emissions increase at the rolling unit and thus the rolling unit's emissions increase would not be attributable to the project.

For another example, assume that the smelting of recycled aluminum at a secondary aluminum smelter and rolling mill is limited by the capacity of the smelter. The rolling mill, however, can produce product using aluminum ingots either from the secondary smelter or from a nearby primary aluminum plant. The source wants to expand the capacity of the smelter in order to utilize more recycled aluminum rather than buying ingots from the primary aluminum plant to meet its growing product demand. The rolling mill is not bottlenecked by the available smelter capacity since it can use, and has in the past used, other aluminum sources to produce its rolled aluminum products. In this case, the ''but for'' physical causation test is not met, and increases in emissions from the rolling mill would not be considered to be part of the project emissions. However, increases in emissions above its baseline emissions (highest 2 years in 10) would be contemporaneous emissions increases included in the netting analysis if the increase in smelter emissions were significant.

We solicit comment on this approach in general. EPA anticipates that the emissions impacts of a physical causation approach are not appreciably different from those of a legal causation approach, but we anticipate that the improvements to certainty and clarity are diminished. Having to consider the physical capabilities of all emissions units at a source that are impacted by a project adds a degree of complexity to the causation evaluation. Whereas the ''but for'' legal causation boils down to whether or not the emissions increase was previously authorized, in this case there will need to be a technical judgment as to whether a source could have procured the input from another source. We solicit comment on how to most objectively determine what level an underutilized unit is physically capable of operating at, and, in general, how to most effectively evaluate projects using a but for physical causation test.

3. Economic Causation

As an extension of the physical causation approach, we also take comment on whether causation should be tied to both physical and economic realities. Under this approach, emissions increases at debottlenecked units will not be considered to have resulted from the change if it would have been both physically possible and economically rational for the unchanged unit to have operated at the post-change level. Under this approach, in addition to those increases that result from physical causation as described above, an additional category of emissions increases would result from the change at the ''bottlenecking'' unit (and their emissions would be included in the project's emissions increase calculation). This category would include units for which, although they may have been physically capable of operating at a higher level prior to the change at the bottlenecking unit, operating at the higher level would have been economically irrational. An emissions unit is economically constrained from operating at the post-change emissions rate, if a market exists from which or to which the major stationary source could purchase or sell the material, or if there is a reasonable means of disposing of the material, but the cost of such a transaction is so unreasonable it would preclude the major stationary source from engaging in the transaction.

An example where a unit may have been able to physically accommodate

higher operating levels before a change to another unit but it would have been economically irrational to do so is an oversized boiler supplying steam to several pulp digesters at a paper mill. Conceivably, the boiler could have operated at higher capacity even though the digesters and all other parts of the mill were incapable of using the extra steam prior to making any change at any other part of the mill. The boiler could have simply blown off steam to maximize its emissions rate, and was physically (and possibly legally able to do so), but such a use of resources would only be to take advantage of regulatory provisions and would not otherwise serve an economically rational purpose. If the mill were to add more digesters and those digesters increased the demand for steam on the boiler, under this ''but for'' causation approach we would attribute the emissions increase to the physical change (*i.e.*, adding the digesters) even though the boiler was physically capable of accommodating the increase prior to the change.

While we are soliciting comment on the economic causation approach as an alternative, EPA believes this option offers little benefit over the current NSR rules in reducing the complexity of permitting. We anticipate that this test would be more difficult to administer than either of the two options discussed above. It might result in similar sources being treated differently, depending on location. For example, if one fertilizer production plant were located near a rail line and another were located in a place that was only highway-accessible, and both sources used sulfuric acid as an input in production, this economic criterion might suggest that the source near the rail line might have been able to obtain acid in economic quantities from rail cars but that the more isolated source could would not have been able to get economic quantities from tank trucks. Thus, when each source seeks to expand its onsite sulfuric acid plant, it might lead to the increases from other parts of the process being added to the increases at the source in one case and not in the other.

C. Discussion of Issues Under Proposed Debottlenecking Approach

The following provides a discussion of the key issues we considered in developing our proposed approaches to the debottlenecking analysis under the NSR program.

1. Why Use a ''But For'' Causation Test for Units Upstream and Downstream of Emissions Units Undergoing a Change?

We do not believe that including emissions increases to debottlenecked units, without first establishing causation, is consistent with Congress's intent in establishing the major NSR program. As we explained in promulgating the demand growth exclusion, we interpret the ''which increases'' and ''which results in'' language of section 111(a)(4) of the modification provision of the CAA as requiring ''a causal link between the proposed change and any post-change increase in emissions.'' *See* 67 FR at 80203.

The EPA believes that the use of an historical, actual emissions test is sensible when determining emissions increases for emissions units undergoing a physical or operational change. The EPA also believes that using historical actual emissions to determine whether a project elsewhere at the source caused an emissions increase at an unchanged (*e.g.*, debottlenecked) unit is appropriate under certain circumstances. We believe, however, that our past and current policies for evaluating emission increases from unchanged units, which arguably have used even broader notions of causation than those outlined in this proposal, deter companies from undertaking projects that would increase energy efficiency and could potentially result in lower emissions per unit of production. Thus, we believe this approach strikes the best balance between Congress's desire to allow economic growth and the need for environmental protection.[19]

The EPA believes that major NSR must still apply to any new and existing units that debottleneck the process, if they result in a significant net emissions increase. Further, to the extent that any debottlenecked unit will operate above its previously permitted levels after the change, the unit must be re-permitted to allow for the higher emissions and to address the impacts of the higher emissions. Finally, we believe that this change will simplify the calculation of emission increases from a project, particularly at complex facilities like refineries where the calculation can be an extremely complicated and burdensome exercise. This holds especially true for the legal causation approach.

We believe that more appropriately tailored causation principles make sense for debottlenecked units since they are not the units undergoing a change, and they have already been assessed to operate at the increased level via a permit. These fundamental differences support the use of establishing causation prior to including the debottlenecked unit's emissions increase in the calculation of the emissions increase for a project. We also believe that the proposed approach for calculating emission increases from a project at a debottlenecked unit is a reasonable interpretation of the CAA.

2. Has EPA Evaluated the Impacts of the Debottlenecking Rule on the Environment?

We believe that the causation principles discussed above would better identify projects for which major NSR should apply than did our prior debottlenecking policies. Major NSR will continue to apply when projects, consistent with the causation principles discussed above, cause an emissions increase greater than the significance levels; thus, EPA believes the proposed approaches are sound interpretations of the statute and strike a better balance between Congress's desire to promote economic growth and the need for environmental protection than does the current approach.

Nevertheless, we recognize that the proposed emissions test for debottlenecked units, when finalized, may result in fewer projects undergoing major NSR than would the current actual-to-projected-actual emissions test with its wider view of causation. The affected types of projects are limited to those that involve changes to units that themselves result in *de minimis* increases but would have triggered NSR due to emissions increases at debottlenecked units. At the same time, EPA believes that the universe of emissions units that are now ''available'' for debottlenecking has been reduced as a result of newer NSR rule provisions, such as ''Plantwide Applicability Limitations'' (PALs), that were finalized in December 2002.[20] We expect that the various debottlenecking approaches could encourage sources to implement environmentally beneficial projects, such as more energy-efficient or lower-emitting processes, that would not have been undertaken under our prior debottlenecking policy due to the consequence of triggering major NSR review. The EPA qualitatively

[19] While EPA maintains that our prior emissions increase test for debottlenecked units remains a reasonable interpretation of the CAA, we believe that the proposed approach strikes a better balance of Congress's various goals for the NSR program and is sounder policy.

[20] *See* 67 FR 80241 (December 31, 2002).

concludes that any environmental effect of the proposed debottlenecking approaches will be negligible.

We specifically request comment on the environmental consequences of implementing the various approaches for debottlenecking units outlined above. Specifically, how are sources likely to be affected by these proposed provisions? What types of projects did not go forward in the past due to our policy? Are there projects that were deemed major modifications due to the debottlenecking provisions that obtained permits under our former provision and were built? What environmentally beneficial projects will benefit from these proposed provisions? What environmental protection benefits resulted from the old debottlenecking policy that would not occur under the proposed new approach?

3. Is There a Need for an Air Quality Impact Analysis for Debottlenecked Emissions Under This Approach?

Title I of the CAA largely leaves it to the State and local reviewing authorities to attain and maintain NAAQS, protect the PSD increment, and not interfere with another State's ability to reach attainment. Accordingly, when a reviewing authority issues a permit to construct or operate an emissions unit, the reviewing authority must account for the level of emissions in the debottlenecked unit's permit to assure that these requirements of the CAA are satisfied.

Our rules require that when a significant net emissions increase occurs from a project, the overall emissions increase will undergo an air quality review under PSD or be offset through emissions decreases at another major stationary source under nonattainment NSR. These rules also apply to projects that cause a debottlenecked unit to operate above its permitted emissions level(s). Some reviewing authorities may also require that sources with projects that qualify as minor NSR perform modeling to ensure protection of the NAAQS and PSD increments. But regardless of whether the emissions increase from a project is significant, any change that enables a debottlenecked unit to exceed its permitted emissions level will always require the unit to undergo a permit modification and re-evaluation of the impacts of the new permitted emissions level.

However, as explained in the section above, we recognize that the proposed emissions tests for debottlenecked units, when implemented, could result in fewer projects undergoing major NSR than would the current debottlenecking emissions test with its broader view of causation. Previously, we explained how having fewer major sources subject to major NSR under our debottlenecking approach will have a negligible environmental effect in terms of emissions impact. We ask for comment on the environmental and economic significance of having fewer major sources updating or conducting source-specific air quality modeling under our proposed approach.

4. Is There a Need for States To Make Revisions to Their State Implementation Plans?

We propose the debottlenecking approaches described in this proposed rule as a minimum program element of our base NSR program. Accordingly, each State must submit a revision to its SIP to incorporate this change or provide a demonstration that an alternative approach is at least equivalent to the Federal requirement. We propose to require States to submit these revisions for our approval no later than 3 years after the effective date of the final rule. However, we are specifically seeking comment on the need for SIP revisions or any viable alternatives for implementing the proposed changes for these proposed debottlenecking provisions such as through an interpretation of a State's existing regulations. The proposed change would apply in States where the Federal PSD program applies on the effective date established in the final rules.[21]

IV. Aggregation

A. Background

1. What Is ''Aggregation''?

Currently, when undergoing a physical or operational change, a source determines major NSR applicability through a two-step analysis that first considers whether the increased emissions from a particular proposed project alone are significant, followed by a calculation of the particular project's net emissions increase considering all contemporaneous increases and decreases at the source (*i.e.*, source-wide netting calculation) to determine if a major modification has occurred. *See*, for example, 40 CFR 52.21(b)(2)(i). The term ''aggregation'' comes into play in the first step (Step 1), and describes the process of grouping together multiple projects (*i.e.*, physical changes or changes in the method of operation) and summing their emissions changes for purposes of determining whether a significant emissions increase has occurred from the combined project. See, for example, 40 CFR 52.21(b)(40). Specifically, when undertaking multiple projects, the source must consider whether NSR applicability should be determined collectively or whether the emissions from each of the projects should separately undergo a Step 1 analysis.[22]

Neither the CAA nor current EPA rules specifically address the basis upon which to aggregate projects.[23] Instead, EPA has developed its aggregation policy over time through statutory and regulatory interpretation and applicability determinations. EPA's aggregation policy aims to ensure the proper permitting of modifications that involve multiple projects. Thus, multiple projects that are interrelated should be grouped together and considered a single project for the purpose of Step 1 in the NSR applicability test. When interrelated projects are evaluated separately, they may circumvent the purposes of NSR, which is designed to address a project(s) having a significant net emissions increase.

2. What Is EPA's Aggregation Policy?

Our aggregation policy has never been spelled out in detail in a single letter or memorandum. Rather, over the years we have applied common sense factors to determine the relatedness of projects for purposes of aggregation. Our aggregation policy has evolved in large part from specific, case-by-case after-the-fact inquiries related to the possible circumvention of NSR in existing permits. While there have been many such letters and memoranda over the years, one of the more important for the purposes of an aggregation policy is the letter EPA issued in 1993 related to a research facility owned by 3M Company in Maplewood, Minnesota. In this guidance memorandum (letter) issued to

[21] On August 21, 2006 (71 FR 48695), EPA proposed a nonattainment major NSR program that, when finalized, would apply in Indian country until a tribe adopts a Tribal Implementation Plan that implements major NSR. As part of today's proposal, we propose to apply the new debottlenecking provisions in any final major NSR rules for Indian country. If we finalize the major NSR rule for Indian country before we finalize this proposed rule, then we will codify changes in that rule when we finalize this rule. If, however, we finalize this rule before we finalize the NSR rule for Indian country, then we will codify the applicable provisions for Indian country when we finalize that rule.

[22] Even if projects are determined to be separate and subject to an individual Step 1 analysis, the emission increases and decreases may still be included together in the netting calculation if the projects occur within a contemporaneous period.

[23] However, EPA has consistently interpreted the CAA to require grouping of related projects when determining which emissions changes result from the physical or operational change.

3M, EPA used ''objective indicia'' to identify circumvention situations.[24] In the ''3M-Maplewood'' situation, the source was a sizeable complex that conducted research for multiple companies. Over a 6-month time period, 3M submitted four synthetic minor permits, and over an 18-month period, 3M submitted 12 synthetic minor permits. 3M sought permits for various projects separately as minor modifications, claiming that each project was pursued by a separate division of 3M and therefore unrelated to the other projects. The EPA, in its response, applied the EPA aggregation policy in determining whether projects at the Maplewood facility should have been aggregated—*i.e.*, whether 3M circumvented NSR in obtaining a series of minor source permits rather than a single major NSR permit.

While the 3M letter is not an exhaustive discussion of our aggregation policy, it consistently applies our long-held position on aggregating related projects. The 3M letter described the consideration of ''application for funding or funding mechanisms.'' [25] In the case of two projects, if an individual project would not be funded or it would not be economically viable if operated on an extended basis without the other project in place, this would indicate that the projects are part of a single project and should be reviewed as such for NSR purposes. The 3M letter also noted, ''[t]hese emissions and thereby modifications cannot be presumed to be independent given the plant's overall basic purpose to support a variety of research and development activities. Therefore, even though each research project may have been individually conceived and separately funded, it is appropriate to look at the overall expected research activity in assessing NSR applicability and enforcement.''

There has been some confusion over the 3M letter and the use of timing in making aggregation decisions. For example, some have read it to suggest that timing of minor NSR permits is a decisive, stand-alone factor in determining whether projects should be aggregated. Specifically, some have read the letter to suggest that if, for example, two minor NSR permits are issued on the same day for a given source, they should be automatically aggregated. We want to make clear that we do not believe that this would be a proper application of our long-standing aggregation policy. Timing considered as a factor alone is not conclusive to an analysis of whether projects are interrelated such that they should be aggregated.

As a result of the questions and issues that the 3M letter raised with our aggregation policy, NSR stakeholders have expressed concerns that EPA's position on aggregation is in need of clarification. The potential inconsistent application of the 3M letter led EPA to look more closely at our aggregation policy and determine to improve the NSR process by adding clarifying requirements to our rules as to when it is appropriate to aggregate projects. This clarification would ensure that the aggregation policy is being applied consistently by both those considering the applicability of NSR to potential modifications, and those conducting a case-by-case after-the-fact inquiry regarding whether or not NSR was circumvented through the failure to aggregate dependent projects. Therefore, in this proposal, EPA is clarifying circumstances where emissions from particular projects should be aggregated for purposes of Step 1 of the NSR applicability analysis. Specifically, we are proposing that when a particular project is technically or economically dependent upon another project, the emissions resulting from each of the projects must be added together for purposes of determining NSR applicability.

B. Overview of This Proposed Action

We are proposing to add our aggregation policy to our NSR regulations to achieve greater national consistency and provide further clarity in aggregation determinations. This proposal clarifies our existing policy and provides specific circumstances where emissions should be aggregated for purposes of NSR applicability. EPA proposes to revise the regulations to state that a source must aggregate emissions from projects that are technically or economically dependent. This same policy would be used in EPA's case-by-case after-the-fact inquiry of whether a source has circumvented NSR through a failure to aggregate dependent projects. To the extent that our 3M-Maplewood letter addresses the factors to consider in an analysis of whether projects should be aggregated, it is consistent with our long-standing policy that projects that are dependent on each other should be aggregated. To clarify this, we are reiterating this policy and codifying it in rule language.

We propose that if a source or reviewing authority determines that a project is dependent upon another project for its technical or economic viability, the source or reviewing authority must consider the projects to be a single project and must aggregate all of the emissions increases [26] for the individual projects in Step 1 of the major NSR applicability analysis. That is, the emissions increases from the related projects must be summed to determine if the project(s) will result in a significant emissions increase. If a significant emission increase results, then the source must conduct Step 2 of the NSR applicability test, which involves a netting calculation (Step 2) to determine if a major modification exists.

We believe these factors appropriately consolidate and clarify our past guidance. Accordingly, EPA believes that, by codifying these factors, these proposed provisions would improve implementation and permitting of the major NSR program for States and the regulated community. We solicit comment on all aspects of this interpretation of our rules and request comment on other approaches that could be used to aggregate related projects. In particular, we specifically request comment on whether the proposed rule accurately characterizes EPA's current aggregation practices. We also propose rule changes to address aggregation and request comment on that language.

1. What Is Technical Dependence?

The terms ''technically dependent'' and ''technical dependence'' describe the interrelationship between projects such that one project is incapable of performing as planned in the absence of the other project. This means that, absent another project, the process change cannot operate without significant impairment, or for the planned amount of hours, or at the planned rating or production level, or that it operates in a manner that results in a product of inferior quality. This assessment examines, and applies reasonable engineering assumptions to, the planned operational levels and/or specifications that are relied upon in the company's own descriptions of and/or justifications for the project. Thus, the technical viability of one project is ultimately contingent on another project

[24] ''Applicability of New Source Review Circumvention Guidance to 3M-Maplewood, Minnesota'' (U.S. EPA, June 17, 1993).

[25] The 3M letter states ''[a]pplications for commercial loans or, for public utilities, bond issues, should be scrutinized to see if the source has treated the projects as one modification for financial purposes. If the project would not be funded or if it would not be economically viable if operated on an extended basis (at least a year) without the other projects, this should be considered evidence of circumvention.''

[26] As noted in Footnote 4, later in this preamble we propose to include decreases from emissions units in calculating the emissions change that results from a project (*i.e.*, in Step 1 of the NSR applicability analysis).

being completed (*i.e.*, it is technically dependent).

One indication of technical dependence is that a project cannot operate within its maximum design parameters for an extended period of time without the other project(s). For example, an electric utility decides to fire its boiler unit with sub-bituminous coal rather than bituminous coal. This requires examination of the impacts of the change on other boiler and control systems. For example, this change may require installation of new types of burners in the boiler to accommodate the new fuel. Introduction of a new fuel also may necessitate adjustments to the air flow in the boiler to reduce/increase excess air and optimize the air-to-fuel ratio, to maintain the efficiency of the boiler. Thus, the owner determines that, if new burners are required, in order for the new burners to function as intended, the air ports and ducting in the boiler may also need to be altered (*i.e.*, different sizing and location) to better distribute the air throughout the boiler. While the new burners could be installed and operational with the boiler's current air handling system, the burners could be severely impaired in their operation if the air handling modification was not also performed. Hence, the two projects are technically dependent on each other.

Another indication of technical dependence is that a source cannot achieve its maximum production without the implementation of both projects. For example, a refinery conducts a project to increase the capacity of its fluid catalytic cracking unit (FCCU), but does not have adequate storage on site to reach that capacity. Then the refiner is likely to propose a subsequent project to add storage to accommodate the full FCCU production. While the additional storage project is not technically dependent (although it could be economically dependent) on the FCCU expansion, clearly the FCCU project cannot achieve the planned capacity increase and is therefore technically dependent on the storage expansion project. Thus, the emissions from the two projects would need to be aggregated when determining major NSR applicability.

Another indication of dependence is if the intention for a project is to make a new product, and absence of another project would not allow for full production of the new product, then the projects are technically dependent. In this case, one project must be done by virtue of another project, or the overall project would fail to operate. For example, an existing chemical plant has a new product that requires a multi-staged reaction in separate vessels. The intermediate products must remain heated between reactor stages. To achieve this, the source will install a new holding tank and a new process heater, which will maintain the temperature of the process fluid when exiting the reactors and while in the holding tank. Since the installation of both the process heater and the holding tank are essential to making the new product, the installations are technically dependent on each other and are a single project for NSR purposes.[27]

Projects occurring in unrelated portions of a major stationary source are generally not technically dependent. Clearly, aggregation determinations for projects occurring within a process unit are more difficult to assess. Using the above chemical plant example, consider that the source wishes to take advantage of the construction outage to add a second process heater that will utilize the same fuel piping network as the first process heater but it will serve a variety of heating needs elsewhere at the source. For determining NSR applicability, should the source aggregate emissions from the second process heater with those of the first heater and tank? Even though these projects will be built concurrently and are dependent on each other from a construction standpoint, timing of construction alone will not determine technical dependence. In this case, we would view the second process heater as not technically essential for manufacturing the new product. Thus, the project to install the second process heater is not technically dependent on the installation of the first heater and holding tank, and we therefore would not aggregate them under the provisions of this proposed rule.

We request comment on these examples and whether they arrive at appropriate conclusions of aggregation or disaggregation based on the technical relationship of the projects. We invite other examples of technical dependence and independence, and other suggestions for maximizing the clarity with which to articulate these criteria.

2. What Is Economic Dependence?

Activities are dependent on each other for their economic viability if the economic revenues or ''Return on Investment'' (ROI) associated with the project could not be realized without the completion of the other project. ROI is a measure of the worth in investing and is sometimes informally referred to as ''payback,'' which is an equivalent concept but is a more simplistic determination of the time it takes for savings or revenues generated from a project to equal the cost of the project. ROI is generally expressed as a percentage linked to a time frame (*e.g.*, 15 percent over 3 years). In contrast to payback, ROI takes into account the value of money over time.[28]

Economic dependence is generally evidenced when a particular project that may indeed be capable of operating technically independent from other planned projects is nevertheless planned or integrated as part of a larger project goal and is interrelated to such an extent that it is not economically viable as a stand alone project because both (or all) the projects are necessary for the larger project to achieve the operational level that justifies the investment of the planned project. While an argument can be made that all projects and activities at a source are economically linked, since they all contribute to the company's ''bottom line,'' we are clearly not proposing such an approach. Our approach would require that a source treat one project as economically dependent on another if it is no longer economically viable without the completion of the other project(s). Economic viability is measured by assessing the ROI or payback of a project, such that a project is not economically viable if it does not pay for itself (*e.g.*, yield a positive expected rate of return) in the absence of another related project.

For example, a pharmaceutical process is proposed to be modified in order to produce a newly approved drug. The process will generate a large volume of an unusable and harmful waste. The source could send the waste offsite for treatment, but the source is located in a remote area and has determined that transportation to a treatment facility is not cost-effective. However, a modification to its waste treatment plant would allow it to cost-effectively treat the waste chemical onsite and would allow for profitable production of the new product. In other words, the source would not expect to see a positive rate of return on its investment without the modification to the waste treatment plant. Although the two changes are technically capable of operating independently, since the source could send the waste offsite, the

[27] We note that many projects that are technically dependent are also economically dependent, since their rates of returns would likely be reduced considerably if the projects cannot properly function independently.

[28] We note that, with safety projects, sources often do not overtly consider economic revenues or ROI. Nevertheless, their existence has an overarching economic justification and, consequently, the viability of another activity could be economically dependent on a safety project.

ROI of the project to produce the new drug is clearly dependent on the modification to the onsite waste treatment plant. Therefore, these two projects are part of a single, overall project to economically produce the new drug, and their emissions should be combined for the purposes of evaluating NSR applicability.

Changes to a unit that are clearly sequenced or conducted in stages are, in many cases, considered a single project for major NSR applicability purposes.[29] For example, an electric utility intends, through periodic outages, to replace every piece of an entire boiler island with new and upgraded equipment over a 6-year period. Since it is clearly possible to have one phase of replacement projects that can be fully operational without having to immediately follow it with another phase of replacements, we would not consider the phases to be inherently technically dependent. However, since the separate phases are clearly contemplated and planned as a single project, and the projects are integrated to such an extent that they would not yield a positive rate of return if only an individual phase is done, all of the project phases are economically dependent and their associated emissions should be aggregated for determining NSR applicability.

Larger sources, having multiple, independent process lines, often undertake numerous activities that are unrelated and are not parts of larger projects. For example, a printing facility may have several production lines, one of which produces glossy magazines and another of which prints and folds black and white print newspapers. The two production lines use different inks, papers, binding materials and processes. The printing facility undertakes a change at the magazine line to use a different ink solution that smudges less than its current ink. The printing facility also, in the same month, modifies the paper folding mechanism on its newspaper line to allow it to produce more papers per hour. In this example, while the two activities are improving the economic viability of the source, the magazine line and newspaper line are clearly separate entities and have little, if any, economic (or technical) relationship. Thus, emission increases from the project at the magazine line should not be aggregated with the project at the newspaper line.

[29] Nothing in this proposal is intended to amend our rules for applying BACT or LAER to phased construction projects. *See* 40 CFR 52.21(j)(4) and (r)(2).

We request comment on these examples and whether they arrive at appropriate conclusions of aggregation or disaggregation based on the economic relationship of the projects. We request other specific examples of economic dependence and independence, and other suggestions for maximizing the clarity with which to articulate these criteria.

We recognize that implementation of the proposed aggregation test for economic viability may not be as straightforward as that of technical viability. This stems from the fact that the determination of economic dependence or viability is influenced by a range of factors and assumptions that are based on, among other things, the individuality of each source, its local economy and customers, other projects being contemplated, business cycles, and interest rates. On the other hand, the technical dependence test is based on a simpler, more common sense evaluation of the operational relationship between projects. Clearly, for two identical plants implementing the same set of projects, we would expect the decision of technical dependence to likely result in the same outcome, while the decision of economic dependence could have a range of outcomes depending on the interaction of the aforementioned factors, the application of various assumptions, and differing judgments about project funding decisions. EPA is concerned with this aspect of our proposal and requests comment on suggestions on providing clarity for these criteria for economic dependence. We believe an objective, bright-line approach would provide greater regulatory certainty and efficiency and would obviate the need for case-by-case review of aggregation determinations by permitting authorities.

Furthermore, we note that the key consideration in deciding whether to aggregate projects has always been a question of whether the projects are dependent. In this proposed rule, we describe two aspects of dependence (*i.e.*, technical and economic) that have guided our aggregation decisions. However, as we have already noted, projects that are technically dependent tend to be also economically dependent. Considering this close relationship between these two tests, as well as the potential difficulty in implementing a test based on economic viability (as described in the above paragraph), we request comment on whether the economic component of our past policy is needed in making future aggregation decisions.

3. Who Decides What Activities Should Be Aggregated?

Major NSR is a preconstruction permitting program and so existing sources are obligated to apply for and receive a permit before beginning construction of a major modification. Determining whether a permit is needed necessarily requires a source to make certain evaluations about the nature of an activity. Thus, when planning a physical or operational change, the source should always consider the rules and guidelines provided by EPA, and/or in the applicable SIP, in determining whether multiple projects should be aggregated.

Nonetheless, the source's determination of the proposed project is not the final decision; rather, the reviewing authority is responsible for ensuring that sources in their jurisdiction abide by the applicable rules and guidance for aggregating projects. This may require the reviewing authority to gather facts and request specific information from the source when further scrutiny is warranted. Sources claiming that emissions increases from particular projects should not be aggregated must be able to provide their reviewing authority and EPA information sufficient to answer EPA inquiries.

C. Discussion of Issues Under Proposed Aggregation Approach

The following provides a discussion of the key issues we considered in codifying our aggregation policy for this proposal. We specifically solicit comment on these issues as well as any additional alternatives to be used to determine when two or more activities should be aggregated for NSR purposes.

1. How Is Timing a Factor in Making Aggregation Determinations?

Under our current aggregation policy, there is no presumption that projects automatically are or are not aggregated as a result of their proximity in time. We believe that projects that happen to occur simultaneously at a source do not necessarily have any inherent relationship. Certainly, if concurrent projects occur at the same emissions unit, then there may be a greater sense of interrelationship, but it still does not provide conclusive evidence that they are dependent on each other. As previously stated, the technical and economic viability of a project are the sole objective criteria that a source and reviewing authority must consider when making an aggregation determination. Timing of construction scheduling, or time horizons for economic planning,

may weigh into a determination of economic or technical dependence, but timing, in and of itself, is not determinative in deciding whether to aggregate projects. The reviewing authority could, for example, review the technical and economic relation to other projects occurring within a short period of time (*e.g.*, within 18 months) as they review activity at regulated sources but would need to determine the technical and/or economic relationship of these projects—not simply their proximity in time—to make a determination about aggregation.

The EPA solicits comment on considering timing in aggregation decisions. To what extent is timing relevant to a test of economic and technical dependence? As an alternative to the policy clarification and codification proposed above, EPA solicits comments on whether it should change its approach and include a time-based presumption against aggregation. Specifically, EPA solicits comments on whether it should create a presumption in the final rule that projects separated by a certain number of years, *e.g.*, three, four, or five years, are independent and not aggregated for NSR purposes. The EPA solicits comments on whether it should create a rebuttable presumption. If such a presumption is created, how strong should this presumption be? What kind of evidence should be required to overcome the presumption? For example, to overcome the presumption, would the evidence need to show that the projects were dependent, or would there have to be a showing that the projects were separated intentionally to circumvent NSR? Should a presumption work in the opposite direction in favor of aggregation? How much burden is there on the source and/or reviewing authority if this rule does not bound the span of time for aggregating projects? The EPA further solicits comment on the legal and policy merits of establishing an irrebuttable presumption in the final rule that projects that are separated by between three and five years are *per se* separate and not aggregated. The EPA acknowledges that the establishment of a presumption, rebuttable or irrebuttable, would go beyond the codification of the status quo and would apply prospectively only. Furthermore, before establishing such a presumption, we would attempt to analyze its environmental effects on the NSR program. The possibility of such an analysis, and its completeness, would be highly dependent on whether appropriate data exist that describe past aggregation and non-aggregation decisions, along with timing data regarding the affected activities. If an environmental analysis is conducted, we would notify the public by publishing a supplemental notice of data availability in the **Federal Register** and seek comment on the various aspects of the analysis and its preliminary conclusions.

2. Has EPA Evaluated the Impacts of the Aggregation Rule on the Environment?

For the proposed aggregation provisions, we conclude that there would be no net environmental impact associated with the changes. This is because, as discussed in detail elsewhere in this preamble, this proposal represents a clarification of, not a change to, our aggregation policy. This proposed rule would codify objective criteria when emissions increases from multiple projects at a source must be aggregated for NSR applicability. As such, we have concluded that the aggregation provisions of this proposed rule will have no environmental impact.

3. Is There a Need for States To Make Revisions to Their State Implementation Plans?

Once we finalize our rule revisions for aggregation, we intend to encourage States to incorporate them for the sake of consistency and clarity, and to make their SIPs consistent with the proposed rule amendments. This would be a relatively easy task given that SIP changes will be required for the other two parts of this rule proposal at that same time. We believe this approach would be especially helpful since our existing aggregation policy was never formally issued in the past. However, we believe that, since these proposed provisions would simply codify our existing aggregation policy, SIP changes would not be required in order to implement them. We are specifically seeking comment on the need for SIP revisions or any viable alternatives for implementing the changes for these proposed aggregation provisions.

V. Project Netting

A. Background

As described briefly in section III of this preamble, a ''major modification'' requires both a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source. In determining whether an activity is a major modification, the 2002 NSR rules (67 FR 80186) focus first on whether a physical or operational change will occur.[30] Once the scope of the project has been identified, including aggregation of related activities or projects, if applicable, the source must then determine whether the project, as a whole, will result in a significant emissions increase at the affected emissions units. If a significant emissions increase will result at the emissions units involved in the project, then a source-wide emissions ''netting'' analysis is required to determine if major NSR applies. ''Source-wide netting'' or ''contemporaneous netting'' refers to the process of considering certain previous and prospective emissions changes [31] at an existing major source to determine if a net emissions increase of a pollutant will result from a proposed project. If a net emissions increase will result at a source, major NSR applies to each pollutant's emissions for which the net increase is significant. *See* 40 CFR 52.21(b)(3).

The initial inquiry as to whether the project, standing alone, will result in an increase in actual emissions is calculated by determining the emissions increase from the particular emissions units that are ''changed'' or added and any other emissions increases resulting from the proposed physical change or change in method of operation (*e.g.*, debottlenecked units). The EPA recognizes that in the past some sources and permitting authorities have counted decreases in emissions at the individual units involved in the project when determining an overall project emissions increase (*i.e.*, Step 1 of the NSR test), while some have not. In other words, some States allowed sources to ''project net'' and other States only allowed project decreases to be considered when netting on a source-wide basis (*i.e.*, in Step 2 of the NSR test). In past determinations, EPA has stated that only the increases resulting from the project are considered in determining whether a significant emissions increase has occurred in Step 1.

B. Overview of This Proposed Action

We propose to revise and change the current rules with respect to projects that involve both increases and decreases in emissions. We are concerned with inconsistent implementation of our past policy to

[30] Routine maintenance, repair and replacement and certain other changes are excluded by regulation from the definition of physical or operational change, per 40 CFR 52.21(b)(2)(iii).

[31] Includes all increases and decreases, anywhere at the source, that are contemporaneous and creditable, per 40 CFR 52.21(b)(3)(i)(b).

only consider increases in Step 1, and we frequently receive questions related to our policy on project netting.

Our 2002 rules, in 40 CFR 52.21(a)(2)(iv)(*b*), provide that the procedure for calculating a significant emissions increase depends on the type of emissions units involved in the project. For example, for projects that only involve existing units, 40 CFR 52.21(a)(2)(iv)(*c*) provides that ''[a] significant emissions increase of a regulated NSR pollutant is projected to occur if the *sum of the difference* between the projected actual emissions * * * and the baseline actual emissions * * * for each existing emissions unit, equals or exceeds the significant amount for that pollutant * * *'' [emphasis added]. Use of the phrase ''sum of the difference'' between projected and baseline emissions indicates that one must look at the difference between the projection and the baseline. That difference may either be a positive number (representing a projected increase) or a negative number (representing a projected decrease). In either case, the values must be taken into consideration in determining the overall increase, or decrease, in emissions resulting from the project.

When there are multiple types of emission units, the impact of the project is determined by 40 CFR 52.21(a)(2)(i)(*f*), titled ''*Hybrid test for projects that involve multiple types of emissions units.*'' However, in this case, the phrase ''sum of the emissions increases for each emissions unit'' is used, which challenges whether an emissions increase at an individual emissions unit can be a negative number. Because we intend for Step 1 of the NSR applicability test to represent the true environmental impact of a project on all involved emissions units, and the current rules reference 40 CFR 52.21(a)(2)(iv)(*c*) which allows for project netting, it is reasonable to conclude that a source can perform project netting for hybrid units as well. The current rule, however, would not allow a source to include reductions from units that are part of the project until Step 2 of the calculation. Thus, we propose that all emissions changes (*i.e.*, both increases and decreases) that occur within the scope of a project get counted in Step 1 of the NSR applicability test.

The net emissions from the proposed project are the sum of all proposed creditable emissions increases and decreases resulting from the project. The following are the steps for determining the emissions from a project net:

- Determine the increases and decreases that are to be used in the project net by applying the appropriate emissions test for all units involved in a proposed project. Increases and decreases must be quantified using the procedures in 40 CFR 52.21(a)(2)(iv)(*a*) through (*d*) and (*f*).
- Decreases must be enforceable as a practical matter, or there must be another procedure that will ensure the decrease actually occurs and is maintained, and are subject to all the requirements of 40 CFR 52.21(b)(3).
- Emission increases and decreases used in the project netting analysis cannot be used again, or double-counted, in the source-wide netting analysis.

We believe that it is sound policy to revise our rules so that projects that have both emissions increases and decreases can consider both the positive and negative values at affected emissions units when determining whether a significant emissions increase results from the project.

While the contemporaneous netting has proven to be a sometimes difficult and controversial aspect of the major NSR program, we believe that the project netting calculations are more straightforward. The resulting program will allow you to receive credit for emission reductions that are achieved as part of an overall project, without introducing complexity into the program.

While it is conceivable that fewer projects would trigger major NSR as a result of allowing for project netting in Step 1 of the NSR applicability test, we do not have enough information to quantitatively analyze if an emissions increase will result from the proposed rule change. However, we have performed a qualitative environmental analysis of the proposed change. Since the rule change would merely allow emissions decrease credits from the project to be used in Step 1 rather than Step 2 of the test, we expect that most sources that would take advantage of project netting to avoid triggering major NSR would also net out of review under the current approach that only allows for netting in Step 2. In the few cases where allowing for project netting could theoretically determine whether a project triggers major NSR, it is possible, and perhaps very likely, that the owner or operator of the source would choose to forego the project simply to avoid the expense and time necessary with major NSR. Consequently, we expect that most sources will be unaffected by this change, and of those that are affected, the permit review will not result in further emission reductions. For these reasons, we believe the environmental impact of allowing for project netting will be negligible.

We seek comment and data on the impact of allowing project netting. Specifically, do you believe that project netting can improve the implementation of the NSR program? If so, please provide detailed examples. What is the anticipated environmental impact from allowing project netting? We also are proposing rule changes to address project netting and request comment on that language.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it raises policy issues arising from the President's priorities. Accordingly, EPA submitted this action to OMB for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in the proposed amendments have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The Information Collection Request (ICR) document prepared by us has been assigned OMB Control Number 2060–0003 (EPA ICR No. 1230.16).

The first 3 years following promulgation of this rulemaking will have a limited effect on sources, since it will take several years for reviewing authorities to modify their SIPs and have them approved by EPA. During this period, only federally controlled areas will contain sources affected by this rule. During the period covered by this ICR revision, we estimate this rulemaking will produce a source burden decrease of 1,416 hours per year and a cost decrease of $212,740 per year. For reviewing the 112 reviewing authorities, we estimate that this rulemaking will produce a burden increase of 366 hours per year and cost increase of $16,320 per year (or about $146 per entity per year).

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 rules are listed in 40 CFR part 9 and 48 CFR chapter 15. 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–2003–0160. 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 September 14, 2006, a comment to OMB is best assured of having its full effect if OMB receives it by October 16, 2006. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed action on small entities, a 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 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 this proposed action on small entities, I certify that this action 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. 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 as to 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. This proposed 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.

Thus, this 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 proposal 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 13175. Thus, Executive Order 13175 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA is soliciting comment on this proposal 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 13175, 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. There are no tribal authorities currently issuing major NSR and title V permits. Thus, Executive Order 13175 does not apply to this rule.

Although Executive Order 13175 does not apply to this proposed rule, EPA specifically solicits comment on this proposed rule from tribal officials.

G. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled ''Protection of Children from

Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under 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.

This proposed action is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed action 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.

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 (for example, 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.

This proposed action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

VII. Statutory Authority

The statutory authority for this action is provided by sections 307(d)(7)(B), 101, 111, 114, 116, and 301 of the CAA as amended (42 U.S.C. 7401, 7411, 7414, 7416, and 7601). This notice is also subject to section 307(d) of the CAA (42 U.S.C. 7407(d)).

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Baseline emissions, Intergovernmental relations, Netting, Major modifications, Reporting and recordkeeping requirements.

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Baseline emissions, Intergovernmental relations, Netting, Major modifications, Reporting and recordkeeping requirements.

Dated: September 8, 2006.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401—7671 q.

Subpart I—[Amended]

2. Section 51.165 is amended:

a. By adding paragraph (a)(1)(xxviii)(B)(*5*);

b. By revising paragraph (a)(1)(xxxix);

c. By revising paragraph (a)(2)(ii)(F); and

d. By adding paragraph (a)(2)(ii)(G).

The additions and revisions read as follows:

§ 51.165 Permit requirements.

(a) * * *

(1) * * *

(xxviii) * * *

(B) * * *

(*5*) For purposes of paragraph (a)(1)(xxviii)(B)(3) of this section, an emissions increase results from a project if, before the project, the emissions unit was legally incapable of operating at the post-change emissions rate without violating a legally and practically enforceable term or condition of any previously issued air quality permit.

* * * * *

(xxxix) *Project* means a physical change in, or change in the method of operation of, an existing major stationary source.

(A) Projects occurring at the same major stationary source that are dependent on each other to be economically or technically viable are considered a single project.

(B) For purposes of determining whether a project results in a significant emissions increase under paragraph (a)(1)(xxvii) of this section, include the emissions increases from:

(*1*) Any new emissions unit;

(*2*) Any emissions unit that undergoes a physical change in or change in the method of operation; and

(*3*) Any emissions unit that does not undergo a physical change in or change in the method of operation but whose emissions result from the physical change in or change in the method of operation.

(*4*) For purposes of paragraph (a)(1)(xxxix)(B)(*3*) of this section, emissions of a specific pollutant at an emissions unit result from the project according to paragraph (a)(1)(xxviii)(B)(*5*) of this section.

* * * * *

(2) * * *

(ii) * * *

(F) *Hybrid test for projects that involve multiple types of emissions units.* A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each emissions unit, using the method specified in paragraphs (a)(2)(ii)(C) through (D) of this section as applicable to each type of emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (a)(1)(x) of this section). For example, if a project involves both an existing emissions unit and a new emissions unit, the projected increase is determined by summing the values determined using the method specified in paragraph (a)(2)(iv)(C) of this section for the existing unit and the method specified in paragraph (a)(2)(iv)(D) of this section for the new unit.

(G) *Project netting.* (*1*) Emissions decreases resulting from a project shall be calculated using the procedures contained in paragraphs (a)(2)(iv)(C), (D), and (F) of this section.

(*2*) Decreases must be creditable according to all of the requirements of paragraph (a)(1)(vi) of this section, or otherwise enforceable as a practical matter.

(*3*) The same emissions decrease cannot be used in both project netting and contemporaneous netting.

* * * * *

3. Section 51.166 is amended:

a. By revising paragraph (a)(7)(iv)(*f*);

b. By adding paragraph (a)(7)(iv)(*g*);

c. By adding paragraph (b)(40)(ii)(*e*); and

d. By revising paragraph (b)(51).

The revisions and additions read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

(a) * * *

(7) * * *

(iv) * * *

(*f*) *Hybrid test for projects that involve multiple types of emissions units.* A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each emissions unit, using the method specified in paragraphs (a)(7)(iv)(*c*) through (*d*) of this section as applicable to each type of emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(23) of this section). For example, if a project involves both an existing emissions unit and a new emissions unit, the projected increase is determined by summing the values determined using the method specified in paragraph (a)(7)(iv)(*c*) of this section for the existing unit and the method specified in paragraph (a)(7)(iv)(*d*) of this section for the new unit.

(*g*) *Project netting.* (*1*) Emissions decreases resulting from a project shall be calculated using the procedures contained in paragraphs (a)(7)(iv)(*c*), (*d*), and (*f*) of this section.

(*2*) Decreases must be creditable according to all of the requirements of paragraph (b)(3) of this section, or otherwise enforceable as a practical matter.

(*3*) The same emissions decrease cannot be used in both project netting and contemporaneous netting.

* * * * *

(b) * * *

(40) * * *

(ii) * * *

(*e*) For purposes of paragraph (b)(40)(ii)(*c*) of this section, an emissions increase results from a project if, before the project, the emissions unit was legally incapable of operating at the post-change emissions rate without violating a legally and practically enforceable term or condition of any previously issued air quality permit.

* * * * *

(51) *Project* means a physical change in, or change in the method of operation of, an existing major stationary source.

(i) Projects occurring at the same major stationary source that are dependent on each other to be economically or technically viable are considered a single project.

(ii) For purposes of determining whether a project results in a significant emissions increase under paragraph (b)(39) of this section, include the emissions increases from:

(*a*) Any new emissions unit;

(*b*) Any emissions unit that undergoes a physical change in or change in the method of operation; and

(*c*) Any emissions unit that does not undergo a physical change in or change in the method of operation but whose emissions result from the physical change in or change in the method of operation.

(*d*) For purposes of paragraph (b)(51)(ii)(*c*) of this section, emissions of a specific pollutant at an emissions unit result from the project according to paragraph (b)(40)(ii)(*e*) of this section.

* * * * *

PART 52—[AMENDED]

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

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

Subpart A—[Amended]

5. Section 52.21 is amended:

a. By revising paragraph (a)(2)(iv)(*f*);

b. By adding paragraph (a)(2)(iv)(*g*);

c. By adding paragraph (b)(41)(ii)(*e*); and

d. By revising paragraph (b)(52).

The revisions and additions read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

(a) * * *

(2) * * *

(iv) * * *

(*f*) *Hybrid test for projects that involve multiple types of emissions units.* A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each emissions unit, using the method specified in paragraphs (a)(2)(iv)(*c*) through (*d*) of this section as applicable to each type of emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(23) of this section). For example, if a project involves both an existing emissions unit and a new emissions unit, the projected increase is determined by summing the values determined using the method specified in paragraph (a)(2)(iv)(*c*) of this section for the existing unit and the method specified in paragraph (a)(2)(iv)(*d*) of this section for the new unit.

(*g*) *Project netting. (1)* Emissions decreases resulting from a project shall be calculated using the procedures contained in paragraphs (a)(2)(iv)(*c*), (*d*), and (*f*) of this section.

(*2*) Decreases must be creditable according to all of the requirements of paragraph (b)(3) of this section, or otherwise enforceable as a practical matter.

(*3*) The same emissions decrease cannot be used in both project netting and contemporaneous netting.

* * * * *

(b) * * *

(41) * * *

(ii) * * *

(*e*) For purposes of paragraph (b)(41)(ii)(*c*) of this section, an emissions increase results from a project if, before the project, the emissions unit was legally incapable of operating at the post-change emissions rate without violating a legally and practically enforceable term or condition of any previously issued air quality permit.

* * * * *

(52) *Project* means a physical change in, or change in the method of operation of, an existing major stationary source.

(i) Projects occurring at the same major stationary source that are dependent on each other to be economically or technically viable are considered a single project.

(ii) For purposes of determining whether a project results in a significant emissions increase under paragraph (b)(40) of this section, include the emissions increases from:

(*a*) Any new emissions unit;

(*b*) Any emissions unit that undergoes a physical change in or change in the method of operation; and

(*c*) Any emissions unit that does not undergo a physical change in or change in the method of operation but whose emissions result from the physical change in or change in the method of operation.

(*d*) For purposes of paragraph (b)(52)(ii)(*c*) of this section, emissions of a specific pollutant at an emissions unit result from the project according to paragraph (b)(41)(ii)(*e*) of this section.

* * * * *

[FR Doc. E6–15248 Filed 9–13–06; 8:45 am]

BILLING CODE 6560–50–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; correction.

SUMMARY: On August 9, 2006 the Commission published the Further Notice of Proposed Rule Making which sought 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. The Further Notice of Proposed Rule Making also initiated the next quadrennial review of the broadcast ownership rules. The Commission inadvertently omitted the Supplemental Initial Regulatory Flexibility Analysis, which was part of the item adopted by the Commission, in the **Federal Register** publication. This document corrects the **Federal Register** as it appeared.

DATES: Comments on the Supplemental Initial Regulatory Flexibility Analysis are due 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.

SUPPLEMENTARY INFORMATION: Following is the Supplemental Initial Regulatory Flexibility Act analysis to be associated with the Further Notice of Proposed Rule Making that was published in the **Federal Register** on August 9, 2006 (71 FR 45511).

Supplemental Initial Regulatory Flexibility Analysis. As required by the Regulatory Flexibility Act (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the Notice of Proposed Rulemaking (NPRM), 67 FR 65751 (October 28, 2002), in MB Docket No. 02–277. Additionally, the Commission has prepared this Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the proposals in the Further Notice of Proposed Rulemaking (NPRM), 71 FR 45511, August 9, 2006. Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission has sent a copy of the Further Notice, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Need for, and Objectives of, the Proposed Rules. The NPRM invites comment on how to address the issues raised by the opinion of the U.S. Court of Appeals for the Third Circuit in *Prometheus Radio Project* v. *FCC,* and, pursuant to section 202(h) of the Telecommunications Act of 1996, on whether the media ownership rules are ''necessary in the public interest as the result of competition.'' In the Prometheus Remand Order, the court affirmed some Commission decisions and remanded others for further Commission justification or modification. This Supplemental IRFA is issued due to the passage of time since the release of the NPRM in this proceeding and in order to invite comment on the effect on small entities of the proposals in the NPRM. We particularly solicit comment from all small business entities, including minority-owned and women-owned small businesses. We especially solicit comment on whether, and if so, how, the particular interests of these small businesses may be affected by the rules. The NPRM discusses the local TV ownership rule, the local radio ownership rule, Cross-Media Limits and the Dual Network rule; details the issues raised in the Prometheus Order regarding the Commission's decision with respect to each of these rules; and invites comment on how to address those issues.

Legal Basis. This NPRM is adopted pursuant to sections 1, 2(a), 4(i), 303, 307, 309, 310, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, and Section 202(h) of the Telecommunications Act of 1996.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental entity'' under Section 3 of the Small Business Act. In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

Television Broadcasting. In this context, the application of the statutory definition to television stations is of concern. The Small Business Administration defines a television broadcasting station that has no more than $13 million in annual receipts as a small business. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' According to Commission staff review of the BIA Financial Network, Inc. Media Access Pro Television Database as of June 6, 2005, about 852 (66 percent) of the 1,286 commercial television stations in the United States have revenues of $12 million or less. However, in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by any changes to the attribution rules, because the revenue figures on which this estimate

is based do not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time and in this context to define or quantify the criteria that would establish whether a specific television station is dominant in its market of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any television stations from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. It is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

Radio Broadcasting. The Small Business Administration defines a radio broadcasting entity that has $6.5 million or less in annual receipts as a small business. Business concerns included in this industry are those ''primarily engaged in broadcasting aural programs by radio to the public.'' According to Commission staff review of the BIA Financial Network, Inc. Media Access Radio Analyzer Database as of June 6, 2005, about 10,425 (95 percent) of 11,000 commercial radio stations in the United States have revenues of $6 million or less. We note, however, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by any changes to the ownership rules, because the revenue figures on which this estimate is based do not include or aggregate revenues from affiliated companies. In this context, the application of the statutory definition to radio stations is of concern. An element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time and in this context to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any radio station from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

Daily Newspapers. The SBA has developed a small business size standard for the census category of Newspaper Publishers; that size standard is 500 or fewer employees. Census Bureau data for 2002 show that there were 5,159 firms in this category that operated for the entire year. Of this total, 5,065 firms had employment of 499 or fewer employees, and an additional 42 firms had employment of 500 to 999 employees. Therefore, we estimate that the majority of Newspaper Publishers are small entities that might be affected by our action.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. Depending on the rules adopted as a result of this Notice of Proposed Rule Making, the Report and Order (R&O) ultimately adopted in this proceeding may contain new or modified information collections. We anticipate that none of the changes would result in an increase to the reporting and recordkeeping requirements of broadcast stations, newspapers, or applicants for licenses. As noted above, we invite small business entities to comment in response to the NPRM.

Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. We are directed under law to describe any alternatives we consider, including alternatives not explicitly listed above. This NPRM initiates the next quadrennial review of the media ownership rules and seeks public comment on the issues raised by the Prometheus Remand Order. Thus, it invites comment on how to address the court's decisions in the Prometheus Remand Order with respect to the local TV ownership rule, the local radio ownership rule, and the cross-media limits. In addition, the NPRM asks for comment on whether the dual network rule remains necessary in the public interest as a result of competition. The NPRM also seeks comment on the minority ownership proposals made by Minority Media and Telecommunications Council in comments in the 2002 biennial ownership proceeding. Parties' discussions of alternatives that are in their submitted comments will be fully considered. We especially encourage small entity comment.

Federal Rules that May Duplicate, Overlap, or Conflict with the Commission's Proposals. None.

Comment Information. Pursuant to sections 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. 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. 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 Web site for submitting comments. 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).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–15246 Filed 9–13–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3, 12, and 52

[FAR Case 2005–035; Docket 2006–0020; Sequence 8]

RIN: 9000–AD76

Federal Acquisition Regulation; FAR Case 2005–035, Changes to Lobbying Restrictions

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to be consistent with the Lobbying Disclosure Act of 1995 and the OMB Interim Final Guidance, and to improve clarity of the regulation through improved use of plain language and compliance with FAR drafting conventions.

DATES: Interested parties should submit written comments to the FAR Secretariat on or before November 13, 2006 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2005–035 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Search for this document at the ''Federal Acquisition Regulation'' agency and review the ''Document Title'' column; click on the Document ID number. Click on ''Add Comments''.

You may also search for any document using the ''Advanced search/document search'' tab, selecting from the agency field ''Federal Acquisition Regulation'', and typing the FAR case number in the keyword field.

- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2005–035 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT For clarification of content, contact Mr. Ernest Woodson, Procurement Analyst, at (202) 501–3775. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAR case 2005–035.

SUPPLEMENTARY INFORMATION:

A. Background

The Byrd Amendment was enacted as section 319 of the Department of Interior and Related Agencies Appropriations Act (Pub. L. 101–121), which added a new section 1352 to title 31, United States Code, entitled ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions''. Section 1352 prohibits the recipient of a Federal contract from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of the executive or legislative branches in connection with the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. It required OMB to issue guidance for agency implementation.

- On December 18, 1989, OMB's published interim final guidance.
- On January 30, 1990, OMB's interim final guidance was implemented in the FAR as an interim rule in FAC 84–55. FAC 84–55 added FAR Subpart 3.8, the provision at FAR 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and the clause at FAR 52.203–12, Limitation on Payments to Influence Certain Federal Transactions.
- On June 12, 1990, the Administrator for Federal Procurement Policy and the Acting Assistant Director for Financial Management issued clarifications of the interim guidance. This clarification was subsequently published as a notice in the **Federal Register** at 55 FR 24540, June 15, 1990.
- On December 19, 1995, Congress enacted the Lobbying Disclosure Act of 1995 (Pub. L. 104–65).
- On January 19, 1996, OMB issued interim final amendments to its Governmentwide guidance (61 FR 1412).

The Lobbying Disclosure Act of 1995 provided rules on disclosure of lobbying activities to influence the Federal Government, codified at 2 U.S.C. 1601 *et seq.*, and also simplified the disclosure and reporting requirements of 31 U.S.C. 1352.

- Under the revised statute, the person must identify the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person, but need not provide information with regard to amounts paid or descriptions of services performed, including identification of who was contacted.
- Agency head semi-annual compilations to Congress and Inspector General (IG) annual reports to Congress were eliminated.

The interim final amendments to OMB's Governmentwide Guidance on Lobbying made changes to the Standard Form (SF) LLL Disclosure of Lobbying Activities, changing ''Name and Address of Lobbying Entity'' to ''Name and Address of Lobbying Registrant'' in item 10a, removing the reference to a continuation sheet in block 10, and deleting blocks 12–15. The agency head and Inspector General reporting requirements were not included in the FAR, so no FAR change was necessary to implement their elimination. The interim final amendment did not provide any suggested rewording of the lobbying disclosure provision or clause.

A rule was published in the **Federal Register** at 70 FR 57455, September 30, 2005, under FAR case 1989–093 to finalize the interim rule that was published in the **Federal Register** at 55 FR 3190, January 30, 1990, to implement the Byrd Amendment. The final rule only made minor corrections to the interim rule, recognizing that a new case might be required to consider further changes to implement the OMB clarifications of 1990, the Lobbying Disclosure Act of 1995, OMB's Interim Final Amendments of 1996, and other clarifications.

In reviewing the need for further changes, the Councils reviewed the Lobbying Disclosure Act of 1995, OMB Guidance, comments on the prior case,

and prior agreements of the Councils as represented by a draft final rule that was presented to the FAR Council on November 2, 2001, but was not accepted by OFPP at that time. These changes represent a few changes to implement the law and OMB Guidance, but primarily consist of clarification, plain language changes, FAR drafting conventions, and editorial corrections. The Councils have incorporated in the proposed rule those changes that are necessary or beneficial, and identified the rationale for each proposed change.

1. **FAR 3.800, Scope of subpart.** This section is amended to cite the United States Code rather than the public law number. Although the Lobbying Disclosure Act of 1995 also added newly codified sections at 2 U.S.C. 1601, *et seq.*, the OMB Interim Final Amendments to OMB's Governmentwide Guidance on Lobbying does not cite 2 U.S.C. 1601, *et seq.* The FAR is still implementing 31 U.S.C. 1352, as amended.

2. **FAR 3.801, Definitions.**

• ''Agency'' and ''Covered Federal action''. This rule proposes strictly editorial changes to these definitions.

• ''Indian tribe'' and ''tribal organization''. This proposed rule corrects the cite from ''25 U.S.C. 450B'' to ''25 U.S.C. 450b''.

• ''Person'' and ''recipient''. The proposed rule revises these definitions to be strictly consistent with the statute.

3. **FAR 3.802, Prohibitions.** This section is retitled and reorganized into two sections for improved clarity.

• Only paragraph (a) of 3.802 is a prohibition. Paragraph (b) is a requirement for a declaration. Paragraph (c) contains exceptions. This rule proposes to retitle 3.802 as ''Statutory prohibition and requirement'' and add a new FAR 3.803 for the exceptions.

• **FAR 3.802(a).** Instead of adding a definition of appropriated funds, this rule proposes to add the OMB explanation that the term ''appropriated funds'' does not include profit or fee from a covered Federal action, and the clarification that to the extent a person can demonstrate that the person has sufficient monies other than Federal appropriated funds, the Government shall assume that these other monies were spent for any influencing activities unallowable with Federal appropriated funds.

• **FAR 3.802(b).** The text of the FAR is addressed to the contracting officer. Having referenced the provision and clause that set forth the declaration requirements for offerors and contractors, it is not necessary to repeat the details of the requirements in the text.

4. **FAR 3.803, Certification and disclosure.** The language in this section is deleted as duplicative of the provision at FAR 52.203–11 and clause at FAR 52.203–12. The text of the FAR is supposed to be addressed to the contracting officer. Requirements for contractors are set forth in provisions and clauses.

5. **FAR 3.803, Exceptions.** The exceptions have been revised and redesignated as the FAR 3.803 to eliminate unnecessary duplication within the text and also eliminate many of the current subdivision identifiers that detract from the readability of the regulation.

6. **FAR 3.804, Policy.** This section is revised to remove paragraph (b). Paragraph (b) was relevant when agencies were required to submit reports to the Congress. This requirement was eliminated by the Lobbying Disclosure Act.

7. **FAR 3.805, Exemption.** The proposed rule contains minor editorial corrections to change ''section'' to ''subpart'' and eliminate the word ''such'' in two places.

8. **FAR 3.806, Processing suspected violations.** Minor plain language improvements have put this requirement in active voice.

9. **FAR 3.808, Solicitation provision and contract clause.** The proposed rule restates the provision and clause prescriptions in active voice.

10. **FAR 12.504, Applicability of certain laws to subcontracts for the acquisition of commercial items.**

41 U.S.C. 430, List of laws inapplicable to procurements of commercial items in Federal Acquisition Regulations, requires in paragraph (b) that the FAR must include a list of laws inapplicable to commercial subcontracts. Covered laws shall be included on the list unless the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt subcontracts from that provision. Covered laws include laws that set forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government and that do not—

• Provide for criminal or civil penalties; or

• Specifically refer to 41 U.S.C. 430 and nevertheless make the law applicable to contracts for commercial items.

The current FAR 12.504, Applicability of certain laws to subcontracts for the acquisition of commercial items, includes 31 U.S.C. 1352 as a law inapplicable to commercial items. Because 31 U.S.C. 1352 provides for civil penalties, the Councils determined that its inclusion on such list is unauthorized and propose to remove it from the list.

11. **FAR 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.**

• **Definitions.** This proposed rule adds a definition of ''lobbying contact''. This is the key term introduced by the Lobbying Disclosure Act of 1995. With regard to the other terms used in the provision that are defined in the clause, the proposed rule lists the specific terms that are used in the provision and defined in the clause.

• **Prohibitions.** In accordance with FAR drafting conventions, the first paragraph of a provision or clause should include any needed definitions. This rule separates into a separate paragraph the statement that was included with the definitions regarding prohibitions of the clause being incorporated in the provision by reference from the definitions paragraph to a separate paragraph (b).

• **Certification.** Paragraph (b) is redesignated paragraph (c). The proposed rule deletes the date of December 23, 1989, which is no longer relevant, and changes ''his or her'' to ''its'' (FAR drafting convention).

• **Disclosure.** Current paragraph (b)(2) is deleted and replaced by new paragraph (d) to implement the Lobbying Disclosure Act of 1995, which brings in the concept of registrants under the Act and lobbying contacts.

• **Flowdown.** The current paragraph (b)(3) has been deleted because flow down can only be required through a contract clause, not a solicitation provision.

• **Penalty.** Paragraph (c) has been redesignated as paragraph (e), and there are only minor editorial changes.

12. **FAR 52.203–12, Limitation on Payments to Influence Certain Federal Transactions.**

This clause is revised to make conforming changes to parallel the changes made to FAR Subpart 3.8. In addition—

• Paragraph (c)(2)(iii). The Councils propose to delete the long examples and discussion of advice and analysis that directly apply any professional or technical discipline, substituting a reference to FAR 3.803 where the examples are also found.

• Paragraph (d). The events that materially affect disclosure are no longer in accordance with the disclosure requirements. The only relevant change now is a change in the name and address of the lobbying registrant or the individuals performing the services.

• Paragraph (d)(2). The contractor shall file a declaration at the end of each calendar quarter in which a change occurs.

• *Agreement.* For consistency with previous changes to the FAR, the Councils have removed the requirement for ''contractor agreement'' and reworded the prohibition in paragraph (b) to state that ''the Contractor shall''. This is the preferred method of imposing a requirement upon a contractor.

• Paragraph (g). The requirements regarding subcontractors and flowdown have been moved to the last paragraph of the clause, in accordance with FAR drafting conventions. The requirement for the subcontractors to pass the disclosure up the chain to the prime contractor is retained, even though the agency head and IG reporting requirements have been deleted. In order for the information to have any value, it must be passed to the Government.

13. **52.212–3(e), Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352).** The Councils propose to add the new language on disclosure at paragraph (d) of the provision at 52.203–11 and to the certification requirement at 52.212–3(e). Since acquisitions of commercial items are subject to the requirements of 31 U.S.C. 1352, and there are civil penalties for failure to submit the required disclosure as well as the certification, it is important to include this requirement.

14. **OMB SF LLL and LLL-A.** SF LLL and SF LLL-A were developed as an interim measure to accommodate OMB's interim guidance. These forms are illustrated in the FAR under ''Forms Authorized for Local Reproduction''. The SF LLL-A must be removed to conform to OMB's January 19, 1996, **Federal Register** Notice.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this proposed rule mainly implements improvements in clarity and consistency. The Federal Government awards approximately 90,000 contracts per year to approximately 18,000 small entities. The disclosure requirements of the rule will only apply to small entities on whose behalf a registered lobbyist has made lobbying contacts with respect to a particular Federal contract. Based on OMB Control No. 0348–0046, Disclosure of Lobbying Activities for SF LLL, which is the standard disclosure form for lobbying paid for with non-Federal funds as required by the Byrd Amendment, 300 responses were received annually from states, local governments, non-profit organizations, individuals, and businesses. The number of such small entities is estimated to be near zero, based on the small number of lobbyists reported to have registered under the Byrd Amendment and the improbability that such lobbyists represent small entities. The rule does not impose new requirements that impose a burden on contractors.

An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 3, 12, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2005–035), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply. The reporting requirements are approved under OMB Control Number 0348–0046. OMB claimed a reduction in the information collection requirement upon issuance of the Interim Final Amendments to OMB's Governmentwide Guidance on Lobbying in January 1996, due to the simplified SF LLL. This rule will not impact the reporting requirement.

List of Subjects in 48 CFR Parts 3, 12, and 52

Government procurement.

Dated: September 6, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 3, 12, and 52 as set forth below:

1. The authority citation for 48 CFR parts 3, 12, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Revise section 3.800 to read as follows:

3.800 Scope of subpart.

This subpart prescribes policies and procedures implementing 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions''.

3. Amend section 3.801 by—

a. Adding a new introductory paragraph;

b. Revising the definitions ''Agency'', ''Covered Federal action'' and '''Indian tribe' and 'tribal organization''';

c. Removing from the definitions ''Influencing or attempting to influence'' and ''Local government'' '', as used in this section,'';

d. Removing from the definition ''Officer or employee of an agency,'' '', as used in this section''; and redesignating paragraphs (a), (b), (c), and (d) as (1), (2), (3), and (4), respectively;

e. Revising the definition ''Person'';

f. Removing from the definitions ''Reasonable compensation'' and ''Reasonable payment'' '', as used in this section,'';

g. Revising the definition ''Recipient''; and

h. Removing from the definitions ''Regularly employed'' and ''State'' '', as used in this section,''.

The added and revised text reads as follows:

3.801 Definitions.

As used in this subpart—

Agency means ''executive agency'' as defined in 2.101.

Covered Federal action means any of the following actions:

(1) Awarding any Federal contract.

(2) Making any Federal grant.

(3) Making any Federal loan.

(4) Entering into any cooperative agreement.

(5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and tribal organization have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

* * * * *

Person means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for

profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in 3.802(a) and are permitted by other Federal law.

* * * * *

Recipient includes the contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in 3.802(a) and permitted by other Federal law.

* * * * *

4. Revise sections 3.802 and 3.803 to read as follows:

3.802 Statutory Prohibition and Requirement.

(a) 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with covered Federal actions.

(1) For purposes of this subpart, the term ''appropriated funds'' does not include profit or fee from a covered Federal action.

(2) To the extent a person can demonstrate that the person has sufficient monies, other than Federal appropriated funds, the Government shall assume that these other monies were spent for any influencing activities unallowable with Federal appropriated funds.

(b) 31 U.S.C. 3152 also requires offerors to furnish a declaration consisting of both a certification and a disclosure, with periodic updates of the disclosure after contract award. These requirements are contained in the provision at 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and the clause at 52.203–12, Limitation on Payments to Influence Certain Federal Transactions.

3.803 Exceptions.

(a) The prohibition of 3.802(a) does not apply under the following conditions:

(1) *Agency and legislative liaison by own employees.* (i) Payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern—

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the person's products or services for an agency's use.

(iii) Providing prior to formal solicitation of any covered Federal action any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action.

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission.

(v) Making capability presentations prior to formal solicitation of any covered Federal action when seeking an award from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95–507, and subsequent amendments.

(2) *Professional and technical services.* (i) Payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action, or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(iii) As used in paragraph (a)(2), of this section, ''professional and technical services'' are limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional or a technical person are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another, are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(b) Only those communications and services expressly authorized by paragraph (a) of this section are permitted.

(c) The disclosure requirements of 3.802(b) do not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

3.804 [Amended]

5. Amend section 3.804 by removing the paragraph designation (a) and paragraph (b).

6. Revise sections 3.805 and 3.806 to read as follows:

3.805 Exemption.

The Secretary of Defense may exempt, on a case-by-case basis, a covered

Federal action from the prohibitions of this subpart whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of the exemption to Congress immediately after making the determination.

3.806 Processing suspected violations.

The contracting officer shall report suspected violations of the requirements of 31 U.S.C. 1352 in accordance with agency procedures.

3.808 [Amended]

7. Amend section 3.808 in paragraphs (a) and (b) by removing ''The'' and adding ''Insert the'' in its place; and by removing ''shall be included''.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.504 [Amended]

8. Amend section 12.504 by removing and reserving paragraph (a)(3).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Revise section 52.203–11 to read as follows:

52.203–11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

As prescribed in 3.808(a), insert the following provision:

CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (DATE)

(a) *Definitions.* As used in this provision—

Lobbying contact has the meaning provided at 2 U.S.C. 1602(8). The terms ''agency,'' ''influencing or attempting to influence,'' ''officer or employee of an agency,'' ''person,'' ''reasonable compensation,'' and ''regularly employed'' are defined in the FAR clause of this solicitation entitled, Limitation on Payments to Influence Certain Federal Transactions, (52.203–12).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled Limitation on Payments to Influence Certain Federal Transactions, (52.203–12), are hereby incorporated by reference in this provision.

(c) *Certification.* The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

(End of provision)

10. Amend section 52.203–12 by—

a. Revising the date of the clause;

b. Amending paragraph (a) by—

i. Revising the introductory text and the definitions ''Agency'', ''Covered Federal action'', and '''Indian tribe' and 'tribal organization'''';

ii. In the definitions ''Influencing or attempting to influence'', ''Local government'', and ''Officer or employee of an agency,'' removing '', as used in this clause,'';

iii. Revising the definition ''Person''

iv. In the definitions ''Reasonable compensation'' and ''Reasonable payment'' removing '', as used in this clause,'';

v. Revising the definition ''Recipient''; and

vi. In the definitions ''Regularly employed'' and ''State'' removing '', as used in this clause,''.

c. Revising paragraph (b);

d. Removing paragraph (d), redesignating paragraph (c) as paragraph (d), and revising the newly designated paragraph (d);

e. Adding a new paragraph (c);

f. Revising the first sentence of paragraph (e)(1); and

g. Adding a new paragraph (g).

The revised and added text reads as follows:

52.203–12 Limitations on Payments to Influence Certain Federal Transactions.

* * * * *

LIMITATIONS ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (DATE)

(a) *Definitions.* As used in this clause—

Agency means ''executive agency'' as defined in Federal Acquisition Regulation 2.101.

Covered Federal action means any of the following actions:

(1) Awarding any Federal contract.

(2) Making any Federal grant.

(3) Making any Federal loan.

(4) Entering into any cooperative agreement.

(5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and tribal organization have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

* * * * *

Person means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

* * * * *

Recipient includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and permitted by other Federal law.

* * * * *

(b) *Prohibitions.* 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with covered Federal actions. In accordance with 31 U.S.C. 1352, the Contractor shall not use appropriated funds to pay any person for influencing or attempting to

influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contract or the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term ''appropriated funds'' does not include profit or fee from a covered Federal action.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government shall assume that these other monies were spent for any influencing activities unallowable with Federal appropriated funds.

(c) *Exceptions.* The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) *Agency and legislative liaison by Contractor employees.* (i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern—

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the person's products or services for an agency's use.

(iii) Providing prior to formal solicitation of any covered Federal action any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action.

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission.

(v) Making capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95–507, and subsequent amendments.

(2) *Professional and technical services.* (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action;

(ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(iii) As used in paragraph (c)(2) of this clause, ''professional and technical services'' are limited to advice and analysis directly applying any professional or technical discipline (for example, See FAR 3.803(a)(2)(iii)).

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) *Disclosure.* (1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor shall complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (c) of the provision at FAR 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor shall submit to the Contracting Officer an updated disclosure using OMB Standard Form LLL at the end of the calendar quarter, in which the change occurs.

(e) *Penalties.* (1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. * * *

* * * * *

(g) *Subcontracts.* (1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding $100,000 under this contract. The Contractor or subcontractor that awards the subcontract shall retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit a copy of all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $100,000.

(End of clause)

11. Amend section 52.212–3 by revising the date of the clause and adding two sentences at the end of paragraph (e) to read as follows:

52.212–3 Offeror Representations and Certifications— Commercial Items.

* * * * *

OFFEROR REPRESENTATIONS AND CERTIFICATIONS-COMMERCIAL ITEMS (DATE)

* * * * *

(e) * * * If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[I.D. 063003A]

RIN 0648–AR33

Atlantic Striped Bass Conservation Act; Atlantic Striped Bass Fishery

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

ACTION: Withdrawal of a notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: On October 20, 2003, NMFS announced its intent to prepare an Environmental Impact Statement (EIS) and hold scoping meetings in accordance with the National Environmental Policy Act (NEPA). On September 7, 2006, the Assistant Administrator for Fisheries decided to withdraw NMFS' intent to prepare an EIS due the increase in the fishing mortality rate since the time of the original notice. The overwhelming public response to the rulemaking - the great majority of whom were in support of maintaining the closure - together with the clear public perception that large trophy sized fish congregate in the Exclusive Economic Zone (EEZ), suggests that fishing effort in an opened EEZ might markedly increase striped bass mortality above the already elevated current rates. Therefore, further processing of an EIS is no longer warranted. The notice of intent to prepare an EIS is withdrawn and the NEPA process is hereby terminated.

DATES: Effective September 14, 2006.

FOR FURTHER INFORMATION CONTACT: For any further information, contact Chris Moore, Chief, Partnerships and Communications Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13317, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION:

Background

On April 24, 2003, the Atlantic States Marine Fisheries Commission (Commission) recommended that the Secretary of Commerce (Secretary) remove the moratorium on the harvest of striped bass in the EEZ and implement Federal regulations to compliment Commission measures in Amendment 6 to the Interstate Fishery Management Plan for Striped Bass (Amendment 6). In addition, the letter included rationale for the action and requested that the Secretary implement a 28–inch minimum size limit for the recreational and commercial striped bass fisheries in the EEZ and allow states the ability to adopt more restrictive rules for fishermen and vessels licensed in their jurisdiction.

In February 2003, the 2002 fishing mortality rate of F=0.28 was below the target level (F=0.30), whereas the female spawning stock biomass of 60.6 million pounds was 1.6 times the target level an all-time high. Under these ideal conditions, the Commission recommended to the Secretary to open the EEZ to striped bass fishing.

In response to the Commission recommendation, an advance notice of proposed rulemaking (ANPR) was published in the **Federal Register** on July 21, 2003 (68 FR 43074). The comment period closed on August 20, 2003. The comment period was subsequently reopened on August 26, 2003 (68 FR 51232), for an additional 30-days. NMFS announced that it was considering proposed rulemaking to revise Federal Atlantic striped bass regulations to be compatible with the Commission's Amendment 6, and was seeking comments on the implementation of the Commission's recommendations to the Secretary to open the EEZ to the harvest of Atlantic striped bass. NMFS also solicited comments on possible alternative management measures and issues relative to these recommendations.

After review of comments received from the public during the ANPR comment period, NMFS determined there were sufficient issues raised, both in support of, and in opposition to, the Commission's recommendation, to warrant further evaluation of the potential impacts of opening the EEZ to striped bass fishing. That determination resulted in the initiation of a decision-making process required under the NEPA. A Notice of intent to prepare an Environmental Impact Statement (EIS) and notice of scoping process was published in the **Federal Register** on October 20, 2003 (68 FR 59906). The notice presented a summary of the ANPR comments, and requested further public input on a list of potential alternatives and other management measures. Public meetings were held in nine Atlantic coast states between November 5 and December 10, 2003, and public comment period closed on December 22, 2003.

Delay in the Development of an EIS

In September 2004, the Commission's Striped Bass Technical Committee (Technical Committee) prepared its 2004 Stock Assessment Report for use by the Striped Bass Management Board (Board), which included data through 2003. That assessment contradicted previous assessments which had indicated that the striped bass population was not overfished and continued to grow in abundance. Instead, the results indicated that the stock was overfished and that spawning stock biomass had been reduced to below target levels. However, given that results of tagging study analyses did not show a similar increase in fishing mortality, the members of the Technical Committee did not feel the assessment provided an accurate representation of stock status. As such, the Technical Committee recommended the 2004 assessment results not be used for management decisions until both the modeling software and the input data sets were reevaluated during the 2005 assessment process. As a result, the 2004 stock assessment has not been used by the Commission for management decisions. In addition, NMFS decided to delay the completion of the EIS to be able to incorporate the 2005 stock assessment in the EIS.

During 2005, the Technical Committee and Stock Assessment Subcommittee reviewed model inputs and the model itself to determine if the results from the 2004 assessment truly reflected status of the population or were an artifact of data or model errors. They concluded that a number of the indices used in the 2004 effort were not consistent with what was observed in the population as a whole, or were contradictory to the majority of other reliable time series. Those indices were removed from subsequent model runs. The Technical Committee believes the current assessment reflects the true status of the population, i.e., the stock is not overfished and overfishing is not occurring.

Further Public Participation

As a result of the new assessment results, NMFS decided to consider options for opening the EEZ again in 2006. Because significant time had passed since the nine initial scoping hearings were held in November–December 2003, and given that further stock assessments were now available, NMFS needed additional scoping before finalizing the alternatives to be analyzed in a draft EIS. NMFS developed a preliminary draft analyses of Federal management options to open the EEZ to the harvest of Atlantic Striped Bass (Options Paper), which included the 2005 stock assessment. This document was published in the **Federal Register** on April 24, 2006 (71 FR 20984) with a

30-day comment period. The comment period was extended an additional 30 days and ended June 26, 2006. Options considered in the document were: (1) Open the entire EEZ, implement a 28–inch (71.1–cm) minimum size limit, and allow states to adopt more restrictive regulations for fishermen and vessels licensed in their state (Commission recommendation); (2) open the entire EEZ, implement a 28–inch (71.1–cm) minimum size limit, allow states to adopt more restrictive regulations for fishermen and vessels licensed in their state, implement a recreational bag limit of 2 fish per day, require circle hooks for all commercial and recreational hook and line fishing using bait, and commercial trip limits (option a) bycatch trip limit options (option b); (3) open the entire EEZ, implement a 28–inch (71.1–cm) minimum size limit, allow states to adopt more restrictive regulations for fishermen and vessels licensed in their state, allow hook and line gear only, implement a recreational bag limit of 2 fish per day, require circle hooks for all commercial and recreational hook and line fishing using bait, and implement a commercial trip limit of 30 fish per trip or day whichever is greater; and (4) status quo. No preferred option was identified.

Most public comments were based on review of the Options Paper, which analyzed impacts under each of the four options. The Option Paper stated that options 1–3 could result in an increased fishing pressure in the EEZ (i.e., increased mortality), however, any increase in EEZ effort will likely be minimal and offset by an equally small decrease in nearshore effort.

The vast majority (97 percent) of the 8,000–plus comments were for option 4 status quo. Public comments overwhelmingly indicated that the public disagreed with the Option Paper's conclusion that there would be no increase mortality if the EEZ were opened. The public believes that if the EEZ were opened that mortality would increase substantially. In addition, the public believes that ''It has been determined that the majority of striped bass in the EEZ are larger fish, which also tend to be females,'' although, there is no scientific study to substantiate this. Regardless, there exists a strong perception by the public that larger fish are offshore and that perception alone might cause an increase in fishing pressure in the EEZ and, as a result, an overall increase in mortality on the stock.

Discussion

The striped bass stock has shown significant changes since 2003 when the Commission recommended that the Secretary open the EEZ to striped bass fishing in Amendment 6. Although approved in February 2003, Amendment 6 was based largely on data from the 2001 Stock Assessment. Notably, at the time of adoption, the best available science suggested the mortality rate to be stable and below the threshold, and that spawning stock abundance was increasing. Amendment 6 incorporated new management standards to ensure stock conservation including targets and thresholds for both mortality and spawning stock biomass, and five triggers that would allow the Commission to respond quickly to increased mortality. One of the triggers is ''If the Management Board determines that the fishing mortality threshold is exceeded in any year, the Board must adjust the striped bass management program to reduce the fishing mortality rate to a level that is at or below the target within one year.''

The best available science suggests that the stock's status and fishing mortality rate have changed significantly since the time the Commission approved Amendment 6 in February 2003. Not only has the overall trend shifted towards increased mortality, but the specific fishing mortality rate itself has increased from F=0.28 (below the target of 0.30) to F=0.40 a rate that exceeds the target and is almost equal to the overfishing threshold of 0.41. This shift represents a mortality increase of 43% since 2002. In fact, fishing mortality estimates for older striped bass (age 9 F=0.50) and (age 10 F=0.44) both exceed the threshold level. Further, the trend toward increasing female spawning stock biomass (SSB) has reversed itself with the overall biomass decreasing from 60.6 million pounds (according to the science available in February 2003), to 55.0 million pounds in November 2005. The SSB remains well above the target of 38.6 million pounds and threshold of 30.9 million pounds, but has shown a downward trend of 9 percent since 2002.

The analysis in the Options Paper stated that any increase in EEZ effort (increase mortality) under options 1–3 would likely be minimal. But, with the fishing mortality rate at F=0.40, NMFS cannot be certain, especially after taking into account the overwhelming public perception that large trophy sized fish congregate in the EEZ, that opening the EEZ would not increase effort and lead to an increase in mortality that would exceed the threshold. Since the current mortality rate is just below the threshold, any increase will require the Commission to reduce fishing effort on striped bass. Both the Commission's and NMFS' ability to immediately respond to an overfishing and/or overfished situation is a potential issue, particularly given the timeframe within which Amendment 6 was created, and given the lag time in which a given year's data is available to management.

Therefore, NMFS has concluded that it would be imprudent to open the EEZ at this time and has chosen to not proceed with further processing of an EIS under the NEPA process.

Authority: 16 U.S.C. 1851 note.

Dated: September 8, 2006.

Alan D. Risenhoover,

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

[FR Doc. E6–15262 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 71, No. 178
Thursday, September 14, 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

September 8, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Disaster Assistance—General (7 CFR part 1945–A).

OMB Control Number: 0560–0170.

Summary of Collection: The regulation at 7 CFR 1945–A, defines the responsibilities of the Secretary of Agriculture in making disaster area determinations, the types of incidents that can result in a disaster area determination, and the factors used in making disaster area determinations. The determination of a disaster area is prerequisite to authorizing emergency (EM) loans to qualified farmers. EM loan funds may be used to restore or replace essential property, pay all or part of production costs incurred by the farmer or rancher in the year of the disaster, pay for essential family living expenses, pay to reorganize the farming operation or refinance USDA and non-USDA creditors.

Need and Use of the Information: FSA will collect information to determine whether sufficient losses have been suffered and to warrant a Secretarial natural disaster designation, and to determine the extenuating circumstances exist to grant a natural disaster designation under the Secretary's discretionary authority. The information will be used by FSA to process State Governor requests for Secretarial natural disaster designations.

Description Of Respondents: State, Local or Tribal Government.

Number Of Respondents: 1,539.

Frequency Of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 849.

Farm Service Agency

Title: Servicing Minor Program Loans.

OMB Control Number: 0560–0230.

Summary of Collection: Section 331 of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1981 (''CONACT'') authorizes the Secretary of Agriculture to modify, subordinate and release terms of security instruments, leases, contracts, and agreements entered into by the Farm Service Agency (FSA). FSA Farm Loan Program provides supervised credit in the form of loans to family farmers and ranchers to purchase land and finance agricultural production. Included are the associated loans for irrigation and drainage and grazing association.

Need and Use of the Information: FSA will collect information related to a program benefit recipient or loan borrower requesting action on security they own, which was purchased with FSA loan funds, improved with FSA loan funds or has otherwise been mortgaged to FSA to secure a Government loan. The information collected is primarily financial data, such as borrower asset values, current financial information and public use and employment data. Failure to collect this information will result in rejection of the borrower's request.

Description of Respondents: Farms; Individuals or households; Business or other-for-profit; Not-for-profit institutions; State, Local and Tribal Government.

Number of Respondents: 194.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 104.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–15226 Filed 9–13–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (CCPAC) will meet on October 4–5, 2006, in Upper Lake California. The purpose of the meeting is to discuss issues relating to implementing the Northwest Forest Plan (NWFP).

DATES: The meeting will be held from 10 a.m. to 4:30 p.m. on October 4, 2006 and 8:30 a.m. to 3:30 p.m. on October 5, 2006.

ADDRESSES: October 4, 2006, is a day-long field trip to the Upper Lake Ranger District, 10025 Elk Mountain Road, Upper Lake, California. On October 5, 2006, the meeting will be held at the Tallman Hotel Conference Room, 9550 Main Street, Upper Lake, California.

FOR FURTHER INFORMATION CONTACT: Kathy Allen, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501, (707) 441–3557, *kmallen@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The field trip is to the Pillsbury Stewardship Project and the Westshore Fuels Reduction Project. Agenda topics to be covered on October 5, 2006, include: (1) Marbled Murrelet Presentation; (2) Northwest Forest Plan 10-year Monitoring Reports; (3) Survey and Mange Final Supplemental EIS; and (4) New Mexico Forest Restoration Principles.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: September 8, 2006.

Tyrone Kelley,

Designated Federal Official.

[FR Doc. 06–7650 Filed 9–13–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Hood/Willamette Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Hood/Willamette Resource Advisory Committee (RAC) will meet on Friday, September 29, 2006. The meeting and field trip is scheduled to begin at 9 a.m. and will conclude at approximately 4:30 p.m. The meeting will be held at the Detroit Ranger Station; 14425 North Santiam Highway SE. (Hwy 22), Detroit, Oregon; (503) 854–3366. The tentative agenda includes: (1) Finalizing Recommendations on 2007 Projects; (2) Public Forum; and (3) Field Trip to Title II Projects.

The Public Forum is tentatively scheduled to begin at 9:15 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the September 29th meeting by sending them to Designated Federal Official Donna Short at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting contact Designated Federal Official Donna Short, Sweet Home Ranger District; 4431 Highway 20, Sweet Home, Oregon 97386; (541) 367–3540.

Dated: September 7, 2006.

Dallas J. Emch,

Forest Supervisor.

[FR Doc. 06–7651 Filed 9–13–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Peninsula Resource Advisory Committee & Olympic Province Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting (field trip).

SUMMARY: The Olympic Peninsula Resource Advisory Committee and the Olympic Province Advisory Committee will meet for a combined field trip meeting on Friday, September 22, 2006. The meeting will start at the Lake Quinault Lodge, 345 South Shore Road, Quinault, WA 98575. The meeting will begin at 9 a.m. and end in the field at approximately 3:30 p.m. Agenda topics are: Update on Secure Rural Schools Legislation; discuss future meeting agenda topics and set dates calendar dates for the meetings; field review 2 projects that are currently in process; field review 4 completed projects; and public comments.

All Olympic Peninsula Resource Advisory Committee & Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Karl Denison, Olympic Province Committee & Olympic Resource Advisory Committee Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2306.

Dated: September 6, 2006.

Dale Hom,

Forest Supervisor, Olympic National Forest.

[FR Doc. 06–7655 Filed 9–13–06; 8:45am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Dunloup Creek Watershed, Fayette and Raleigh Counties, WV

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture, is giving notice that an environmental impact statement (EIS) will be prepared for the Dunloup Creek Watershed of the New River Watershed, Fayette and Raleigh Counties, West Virginia. The EIS will evaluate potential impacts to the natural, physical and human environment as a result of the flood damage reduction measures proposed for the 100-year floodplain in the Dunloup Creek Watershed, Fayette and Raleigh Counties, West Virginia.

FOR FURTHER INFORMATION CONTACT: Ronald L. Hilliard, State Conservationist, Natural Resources Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia 26505, telephone (304) 284–7545.

SUPPLEMENTARY INFORMATION: Floodwater damage and critical area erosion in the Dunloup Creek watershed were the initial impetus for a study in 1965 when local sponsors applied for Federal assistance under Public Law 566—The Watershed Protection and Flood Prevention Act. Several years of study resulted in the preparation of a Watershed Plan—EIS in 1976. Further project activities were terminated in 1984 by mutual agreement between the former Soil Conservation Service (now NRCS) and the local project sponsors due to utility and land-rights issues.

In 1996, due to recurring flooding in the watershed, a new application was submitted by the local sponsors and NRCS re-initiated planning assistance. The planning effort resulted in the preparation of a Local Implementation Plan in December 1998. The Plan provided alternatives for local implementation without PL–566 cost-sharing and without full analysis of the hydraulic, environmental, economic and cultural concerns associated with alternatives. No further action was taken by the local sponsors with regard to implementing the 1998 Plan.

In August 2001, following flood events of July 2001, local sponsors requested additional planning assistance for the Dunloup Creek watershed under PL–566. The current work will document alternatives evaluated to reduce flooding and related damages in the Dunloup Creek watershed, including: Upstream floodwater retarding impoundments, channel modifications, diking, land

treatment measures, flood proofing and a voluntary buyout program. The ''no project'' alternative was also considered.

The environmental assessment of this federally-assisted action suggests the estimated costs of the various alternatives will exceed $5 million. As a result, Ronald L. Hilliard, State Conservationist, has determined that the preparation and review of a draft EIS is needed for this project.

A draft EIS will be prepared and circulated for review by agencies and the public. The Natural Resources Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft EIS. A scoping meeting (workshop) will be held on Wednesday September 20, 2006, at the National Guard Armory in Glen Jean, WV. The workshop will be held from 4 p.m. through 7 p.m. Those attending will have the opportunity to inquire about the project and to provide input to determine the scope of the evaluation of the proposed action. Further information on the proposed action may be obtained from Ronald L. Hilliard, State Conservationist, at the above address or telephone (304) 284–7545.

August 30, 2006.

Ronald L. Hilliard,

State Conservationist.

[FR Doc. E6–15249 Filed 9–13–06; 8:45 am]

BILLING CODE 3410–16–P

UNITED STATES ARCTIC RESEARCH COMMISSION

Notice of Meetings; Sunshine Act

Notice is hereby given that the U.S. Arctic Research Commission will hold its 81st meeting in Woods Hole, MA on October 10–11, 2006. The Business Session, open to the public, will convene at 8 a.m., Tuesday, October 10, 2006. An Executive Session will follow adjournment of the Business Session.

The Agenda items include:

(1) Call to order and approval of the Agenda.

(2) Approval of the Minutes of the 80th Meeting.

(3) Reports from Congressional Liaisons.

(4) Agency Reports.

The focus of the meeting will be reports and updates on programs and research projects affecting the Arctic.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

Contact Person for More Information: John Farrell, Executive Director, U.S. Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

John Farrell,

Executive Director.

[FR Doc. 06–7702 Filed 9–12–06; 12:23 pm]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; In the Matter of: Thomas Campbell Butler, 4611 10th Street, Lubbock, TX 79416, Respondent; Order

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') has notified Thomas Campbell Butler (''Butler'') of its intention to initiate an administrative proceeding against Butler pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (2006)) (''Regulations'') [1] and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (''Act''),[2] by issuing a proposed charging letter to Butler that alleged that Butler committed four violations of the Regulations. Specifically, the charges are:

1. *One violation of 15 CFR 764.2(a)—Engaging in Unauthorized Export to Tanzania:* On or around September 9, 2002, Butler engaged in conduct prohibited by the Regulations when he exported the human pathogen *Yersinia pestis* is subject to the Regulations and classified under Export Control Classification Number (*ECCN*) 1C351. Section 742.2 or the Regulations requires a Department of Commerce license to be obtained for exports of *Yersinia pestis* to Tanzania.

2. *One violation of 15 CFR 743.2(e)—Transferring, Forwarding and/or Disposing of Items with Knowledge that a Violation Would Occur:* On or around September 9, 2002, Butler transferred, forwarded, and/or disposed of items subject to the Regulations with knowledge that a violation of the Regulations was about to occur in connection with the items. Specifically, Butler transferred, forwarded, and/or disposed of the human pathogen *Yersinia pestis* (Plague) to Tanzania, as described in Charge One, knowing that the item would be exported without the required Department of Commerce license.

3. *One violation of 15 CFR 764.2(h)—Taking an Action with Intent to Evade the Provisions of the Act or Regulations:* On or around September 9, 2002, Butler took action with intent to evade the provisions of the Regulations in connection with the export described in Charge One above. Specifically, Butler described the human pathogen *Yersinia pestis* (Plague) as ''Laboratory Materials'' on the waybill, undervalued the shipment, neglected to fill out the section of the waybill regarding Shipper's Export Declaration requirements, and signed his name under a statement claiming that the commodities in question were being shipped in accordance with the Regulations. He did this to disguise the fact that the export required a license.

4. *One violation of 15 CFR 764.2(h)—Taking an Action with Intent to Evade the Provisions of the Act or Regulations:* On or around September 9, 2002, Butler took action with intent to evade the provisions of the Regulations in connection with the export described in Charge One above. Specifically, Butler failed to file a Shipper's Export Declaration for the export of the human pathogen *Yersinia pestis* (Plague). He did this to disguise the fact that the export required a license.

Whereas, BIS and Butler have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas, I have approved the terms of such Settlement Agreement; *It is therefore ordered:*

First, that a civil penalty of $37,400 is assessed against Butler, which shall be paid to the U.S. Department of Commerce no later than 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701–3702E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Butler will be assessed, in addition to

[1] The violations charged occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 CFR. Parts 730–774 (2002)). The 2006 Regulations establish the procedures that apply to this matter.

[2] Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive presidential notices, the most recent being that of August 3, 2006 (71 FR 44551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA'').

the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to Butler. Accordingly, if Butler should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Butler's export privileges under the Regulations for a period of one year from the date of entry of this Order.

Fourth, that for a period of 10 years from the date of entry of this Order, Thomas Campbell Butler, 4611 10th Street, Lubbock, Texas 79416, and, when acting on his behalf, his representatives, agents, or employees (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fifth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, or whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Sixth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Butler by affiliation, worship, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Seventh, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Eighth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

Ninth, that this Order shall be served on the Denied Person and on BIS, and shall be published in **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 1st day of September 2006.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 06–7622 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–549–502)

Circular Welded Carbon Steel Pipes and Tubes from Thailand: Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On April 7, 2006, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand in the **Federal Register**. *See Circular Welded Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 17810 (April 7, 2006) (Preliminary Results). The review covers one producer of the subject merchandise. The period of review is March 1, 2004 through February 28, 2005. Based on our analysis of the comments received, we have made changes to the preliminary results, which are discussed in the ''Changes Since the Preliminary Results'' section below. For the final dumping margins, see the ''Final Results of Review'' section below.

EFFECTIVE DATE: September 14, 2006.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5255 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 7, 2006, the Department published the *Preliminary Results*. In the *Preliminary Results*, we stated our intention to request further information from Saha Thai to allow Saha Thai the opportunity to demonstrate that there are two distinct levels of trade in the home market. On April 21, 2006, we issued a supplemental questionnaire for this purpose to Saha Thai and its affiliated resellers. Saha Thai submitted its response on May 8, 2006.

We invited parties to comment on the *Preliminary Results*. On May 18, 2006, we provided specific deadlines. On June 1, 2006, we received a case brief from the sole respondent, Saha Thai Steel Pipe Company, Ltd. (Saha Thai) and

from Allied Tube and Conduit Corporation and Wheatland Tube Company (collectively, petitioners); respondent and petitioners each submitted a rebuttal brief on June 6, 2006. On August 3, 2006, the Department published in the **Federal Register** a notice extending the final results from August 5, 2006 to September 7, 2006. *See Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Circular Welded Carbon Steel Pipes and Tubes from Thailand*, 71 FR 44016 (August 3, 2006).

Scope of the Order

The products covered by this antidumping order are certain welded carbon steel pipes and tubes from Thailand. The subject merchandise has an outside diameter of 0.375 inches or more, but not exceeding 16 inches. These products, which are commonly referred to in the industry as ''standard pipe'' or ''structural tubing,'' are hereinafter designated as ''pipes and tubes.'' The merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. Although the HTSUS subheadings are provided for convenience and purposes of U.S. Customs and Border Protection (CBP), our written description of the scope of the order is dispositive.

Analysis of Comments Received

The issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration (Decision Memorandum)*, dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues addressed in the *Decision Memorandum* is appended to this notice. The *Decision Memorandum* is on file in the central records unit (CRU), and can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made adjustments to our margin calculations. The adjustments are discussed in detail in the *Decision Memorandum*.

Final Results of Review

As a result of our review, we determine that the following weighted–average margin exists for the period of March 1, 2004 through February 28, 2005:

Manufacturer/Exporter	Margin (percent)
Saha Thai Steel Pipe Company, Ltd.	2.26

Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. Upon issuance of the final results of this administrative review, if any importer–specific rates calculated in the final results are above *de minimis (i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer or customer and dividing this amount by the total value of the sales to that importer (or customer). Where an importer (or customer)-specific ad valorem rate is greater than *de minimis*, and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis* and we do not have reliable entered values, we calculate a per–unit assessment rate by aggregating the dumping duties for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). The Department will issue appropriate assessment instructions directly to CBP within 15 days of the final results of this review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by the company included in these final results of review for which the reviewed company did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the ''all others'' rate from the investigation if there is no rate for the intermediate company involved in the transaction. *See Circular Welded Carbon Steel Pipes and Tubes from Thailand; Final Determination of Sales at Less Than Fair Value*, 51 FR 3384 (January 27, 1986). For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposits

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(2)(c) of the Act: (1) For companies covered by this review, the cash deposit rate will be the rate listed above; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company–specific rate published in the most recent final results in which that producer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the most recent final results in which that producer participated; and, (4) if neither the exporter nor the producer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 15.67 percent, the ''all others'' rate established in the less–than-fair–value investigation.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 7, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I Issues in Decision Memorandum

Comment 1: Saha Thai's Revocation Request

Comment 2: Antidumping Duty Exemptions

Comment 3: Duty Drawback
Comment 4: Product Matching for Fence Tube
Comment 5: Level of Trade in the Home Market
Comment 6: Zeroing of Saha Thai's Sales

[FR Doc. E6–15271 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–822]

Certain Frozen Warmwater Shrimp from Thailand; Corrected Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 14, 2006.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Alice Gibbons, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482–0656 and (202) 482–0498, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2006, the Department of Commerce (the Department) published in the **Federal Register** its notice of partial rescission of the antidumping duty administrative review of certain frozen warmwater shrimp from Thailand for the period August 4, 2004, through January 31, 2006. *See Certain Frozen Warmwater Shrimp from Thailand; Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 41200 (July 20, 2006) (*Partial Rescission*). In the *Partial Rescission*, the Department noted that it was rescinding the administrative review with respect to Thai Union Frozen Products Co., Ltd., based on a timely request for withdrawal. *See Partial Rescission*, 71 FR at 41201. However, the correct name for this company is Thai Union Frozen Products Public Co., Ltd.

Corrected Partial Rescission of Antidumping Duty Administrative Review

As noted above, the name for Thai Union Frozen Products Public Co., Ltd. was incorrectly stated in the *Partial Rescission*. We now correct the partial rescission of the 2004–2006 antidumping duty administrative review of certain frozen warmwater shrimp from Thailand as noted above. As a result of this correction, we are rescinding the 2004–2006 administrative review for Thai Union Frozen Products Public Co., Ltd.

This corrected partial rescission is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: September 11, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–15269 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp from India; Corrected Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 14, 2006.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Jill Pollack, 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) 482–3874 and (202) 482–4593, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 21, 2006, the Department of Commerce (the Department) published in the **Federal Register** its notice of partial rescission of the antidumping duty administrative review of certain frozen warmwater shrimp from India for the period August 4, 2004, through January 31, 2006. *See Certain Frozen Warmwater Shrimp from India; Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 41419 (July 21, 2006) (*Partial Rescission*). In *Partial Rescission*, the Department noted that it was rescinding the administrative review with respect to Sagar Samrat Foods, based on a timely request for withdrawal. *See Partial Rescission*, 71 FR at 41420. However, the correct name for this company is Sagar Samrat Seafoods.

Corrected Partial Rescission of Antidumping Duty Administrative Review

As noted above, the name for Sagar Samrat Seafoods was incorrectly stated in the *Partial Rescission*. We now correct the partial rescission of the 2004–2006 antidumping duty administrative review of certain frozen warmwater shrimp from India as noted above. As a result of this correction, we are rescinding the 2004–2006 administrative review for Sagar Samrat Seafoods.

This corrected partial rescission is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: September 11, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–15279 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–803

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 8, 2006, the Department of Commerce (''the Department'') published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles (''HFHTs''), from the People's Republic of China (''PRC''). *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Administrative Reviews and Preliminary Partial Rescission of Antidumping Duty Administrative Reviews*, 71 FR 11580 (March 8, 2006) (''*Preliminary Results*''). We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the dumping margin calculations for the final results. We find that certain manufacturers/exporters sold subject merchandise at less than normal value during the period of review (''POR'') February 1, 2004, through January 31, 2005.

EFFECTIVE DATE: September 14, 2006.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey (Respondents Shandong Huarong Machinery Co. Ltd. and Tianjin Machinery Import & Export Corporation), Cindy Robinson (Respondent Iron Bull Industrial Co., Ltd.), and Nicole Bankhead (Respondent Shandong Machinery Import & Export Company), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2312, (202) 482–3797 and (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The *Preliminary Results* in this administrative review were published on March 8, 2006. *See Preliminary Results*. This administrative review covers four exporters or producer/exporters of subject merchandise: Shandong Huarong Machinery Co., Ltd. (''Huarong''), Iron Bull Industrial Co., Ltd. (''Iron Bull''), Tianjin Machinery Import & Export Corporation (''TMC''), and Shandong Machinery Import & Export Company (''SMC'')[1], collectively ''the Respondents,'' and exports of the subject merchandise to the United States during the period February 1, 2004, through January 31, 2005.

On March 2, 2006, an importer/customer in the instant review (''Customer A'')[2] requested a second extension to respond to the Department's February 17, 2006, letter requesting that Customer A provide its downstream sales data and additional information about its bankruptcy status. The Department granted Customer A an additional extension of eleven days to respond to the Department's February 17, 2006, questionnaire. On March 17, 2006, Customer A submitted its questionnaire response providing additional information on its bankruptcy status but no downstream sales information. On March 20, 2006, Customer A submitted certifications from its bankruptcy lawyers. On March 28, 2006, the Department issued supplemental questionnaires to TMC and SMC.

On April 4, 2006, TMC submitted its supplemental questionnaire response. On April 5, 2006, SMC submitted its supplemental questionnaire response. On April 7, 2006, the Petitioner,[3] interested party Council Tool Company, and the Respondents submitted their case briefs. On April 13, 2006, the Petitioner and the Respondents submitted their rebuttal briefs.

On June 9, 2006, the Department extended the time limit for completion of the final results of the instant administrative review. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Extension of Time Limit for the 14th Antidumping Duty Administrative Review*, 71 FR 33438 (June 9, 2006). On July 26, 2006, the Department fully extended the final results of the instant administrative review. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Extension of Time Limit for the 14th Antidumping Duty Administrative Review*, 71 FR 43714 (August 2, 2006).

On July 26, 2006, the Department issued Customer A a questionnaire requesting additional information on its bankruptcy status. Customer A did not respond to this questionnaire.

Scope of the Antidumping Duty Orders

The products covered by these orders are HFHTs from the PRC, comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds); (2) bars over 18 inches in length, track tools and wedges; (3) picks and mattocks; and (4) axes, adzes and similar hewing tools. HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System of the United States (''HTSUS'') subheadings: 8205.20.60, 8205.59.30, 8201.30.00, 8201.40.60, and 8205.59.5510.[4] Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. The HTSUS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

The Department issued nine conclusive scope rulings regarding the merchandise covered by these orders: (1) On August 16, 1993, the Department found the ''Max Multi–Purpose Axe,''

[1] On March 23, 2005, the Department initiated the 14th administrative review of HFHTs from the PRC, for twenty-one companies in the axes/adzes and bars/wedges orders, and twenty companies in the hammers/sledges and picks/mattocks orders. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part (''Initiation Notice'')*, 70 FR 14643 (March 23, 2005). The Department notes that SMC was inadvertently referred to as ''Shanghai Machinery Import and Export Corporation'' instead of Shandong Machinery Import & Export Company in the Initiation Notice of the instant review for the hammers/sledges order.

[2] Please *see SMC Hammers/Sledges Final Analysis Memo, SMC Bars/Wedges Final Analysis Memo*, and *Affiliation Memo* for information regarding Customer A.

[3] Ames True Temper.

[4] *See Final Decision Memo* at Comment 5.

imported by the Forrest Tool Company, to be within the scope of the axes/adzes order; (2) on March 8, 2001, the Department found ''18–inch'' and ''24–inch'' pry bars, produced without dies, imported by Olympia Industrial, Inc. and SMC Pacific Tools, Inc., to be within the scope of the bars/wedges order; (3) on March 8, 2001, the Department found the ''Pulaski'' tool, produced without dies by TMC, to be within the scope of the axes/adzes order; (4) on March 8, 2001, the Department found the ''skinning axe,'' imported by Import Traders, Inc., to be within the scope of the axes/adzes order; (5) on December 9, 2004, the Department found the ''MUTT,'' imported by Olympia Industrial, Inc., under HTSUS 8205.59.5510, to be within the scope of the axes/adzes order; (6) on May 23, 2005, the Department found 8–inch by 8–inch and 10–inch by 10–inch cast tampers, imported by Olympia Industrial, Inc. to be outside the scope of the orders; (7) on September 22, 2005, following remand, the U.S. Court of International Trade affirmed the Department's determination that cast picks are outside the scope of the order; (8) on October 14, 2005, the Department found the Mean Green Splitting Machine, imported by Avalanche Industries, under HTSUS 8201.40.60, to be within the scope of the bars/wedges order, and (9) on July 27, 2006, the Department found that the gooseneck claw wrecking bar which has a length of 17 7/8'' not including the curvature portion of the bar stock, imported by Central Purchasing, LLC. to be outside the scope of the order for bars and wedges.

Separate Rates

TMC, SMC, Huarong, and Iron Bull have requested separate, company–specific antidumping duty rates. In the *Preliminary Results*, we determined that TMC, SMC, Huarong, and Iron Bull met the criteria for the application of a separate antidumping duty rate. *See Preliminary Results* at 11583. For the final results, we continue to find that the evidence placed on the record of the instant review by TMC, SMC, Huarong, and Iron Bull demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the subject merchandise, and, thus all four companies are eligible for separate rate status. *See Final Decision Memo* at Comment 3.

Rescission of Review

In our *Preliminary Results*, in accordance with 19 CFR 351.213(d)(1), we preliminarily rescinded the review for all four orders for Shanghai Xinike Trading Company (''SXT''). Additionally, in accordance with 19 CFR 351.213(d)(3), we preliminarily rescinded the orders on hammers/sledges and picks/mattocks for Huarong and Iron Bull, and also the order on axes/adzes for Iron Bull. *See Preliminary Results*, 71 FR 11583.

In accordance with 19 CFR 351.213(d)(1), we are rescinding these administrative reviews with respect to all four orders for SXT. The Department reviewed data from Customs and Border Protection (''CBP'') for Huarong and Iron Bull, which supports the claims that these companies did not export subject merchandise during the POR. Furthermore, no party placed evidence on the record demonstrating that Huarong or Iron Bull exported the merchandise identified above during the POR since the issuance of the *Preliminary Results*. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are rescinding these administrative reviews with respect to the hammers/sledges and picks/mattocks orders for Huarong and Iron Bull, and also the order on axes/adzes for Iron Bull.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum (''*Final Decision Memo*''), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this administrative review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit (CRU), room B–099 of the main Department building. In addition, a copy of the *Final Decision Memo* can be accessed directly on our website at http://ia.ita.doc.gov/. The paper copy and electronic version of the *Final Decision Memo* are identical in content.

Changes Since the Preliminary Results

Based on a review of the record as well as comments received from parties regarding our *Preliminary Results*, we have made revisions to the margin calculations for the final results. Specific changes to SMC's margin calculation include a recalculation of the international freight expenses and truck freight in the margin programs for both the hammers/sledges and bars/wedges orders and a revision to the calculation of one packing freight factor, packing weight, and normal value in the margin program for the hammers/sledges order. *See Final Decision Memo at Comment 8; see also Analysis for the Final Results of the 14th Administrative Review of Heavy Forged Hand Tools from the Peoples' Republic of China: Shandong Machinery Import & Export Company (''SMC'') - Hammers/Sledges (''SMC Final Hammers/Sledges Analysis Memo''); Analysis for the Final Results of the 14th Administrative Review of Heavy Forged Hand Tools from the Peoples' Republic of China: Shandong Machinery Import & Export Company (''SMC'') - Bars/Wedges (''SMC Final Bars/Wedges Analysis Memo'')*. Specific changes to Huarong's axes/adzes calculation program include a recalculation of international freight expenses and truck freight. *See Final Decision Memo* at Comment 8; *see also Analysis for the Final Results of the 14th Administrative Review of Heavy Forged Hand Tools from the Peoples' Republic of China: Huarong (''Huarong Final Analysis Memo'')*. Specific changes to TMC's margin calculation in the picks/mattocks order include a recalculation of truck freight in the margin program. *See Final Decision Memo at Comment 8; see also Analysis for the Final Results of the 14th Administrative Review of Heavy Forged Hand Tools from the Peoples' Republic of China: TMC (''TMC Final Analysis Memo'')*.

The Department also notes that in the *Preliminary Results* the brokerage and handling value for Pidilite Industries Ltd. (''Pidilite'') was incorrectly labeled November 1, 2002, through September 30, 2003. *See Memorandum from Matt Renkey, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to the File, 14th Administrative Review of HFHTs from the People's Republic of China (''PRC''): Surrogate Values for the Preliminary Results*, dated February 28, 2006 (''*Surrogate Values Memo*'') at Exhibits 2 and 12. The Department also notes that the average brokerage and handling surrogate value was incorrectly calculated. *See Id*. The Department has corrected the brokerage and handling value for these final results. *See Memorandum from Matthew Renkey, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to the File, 14th Administrative Review of HFHTs from the People's Republic of China (''PRC''): Selection of Surrogate Values for the Final Results*, dated September 5, 2006.

Affiliation

The Department preliminarily determined that SMC is affiliated with one of its U.S. customers, Customer A. *See Preliminary Results*, at 11584. Specifically, the Department determined

that SMC and Customer A are affiliated through their joint ownership of another PRC company involved in the production and export of subject merchandise. *See Memorandum from Nicole Bankhead, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Director, Office 9, 14th Administrative Review of the Antidumping Duty Order on Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Affiliation*, dated February 28, 2006 (''*SMC Affiliation Memo*'') for further details regarding this issue. The Department continues to find that SMC is affiliated with Customer A. *See Final Analysis Memo* at Comment 10A and Facts Available (''FA'') Section Below.

Facts Available

In the *Preliminary Results*, we determined that the use of partial neutral facts available was appropriate for SMC's constructed export price (''CEP'') sales through Customer A in accordance with sections 776(a)(2)(A) and 776(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act''). In addition, we preliminarily based the dumping margins for SMC, Huarong, TMC, and Iron Bull on total adverse facts available (''AFA'') for their sales of merchandise subject to certain HFHTs orders pursuant to sections 776(a) and 776(b) of the Act. *See Preliminary Results*, 71 FR 11580 at 11584–87.

For these final results, in accordance with sections 776(a)(2)(A), 776(a)(2)(B) and 776(b) of the Act, we have determined that the use of partial AFA, rather than neutral facts available, is appropriate for SMC's CEP sales through Customer A. *See Final Decision Memo* at Comment 10B. As partial AFA, we are applying the highest transaction margin from SMC's sales to its other U.S. customers to those sales it made to Customer A. *See SMC Hammers/Sledges Final Analysis Memo* and the *SMC Bars/Wedges Final Analysis Memo*. We also continue to find that the application of total AFA to SMC for axes/adzes and picks mattocks; Huarong for bars/wedges; to TMC for axes/adzes, hammers/sledges, and bars/wedges; and Iron Bull for bars/wedges is appropriate because each respondent significantly impeded our ability to (1) conduct the reviews of these orders, and (2) instruct CBP to assess the correct antidumping duties, as mandated by section 731 of the Act.

For the final results the Department is basing SMC's sales through Customer A on partial AFA, using SMC's own data. A complete explanation of the selection, corroboration, and application of AFA for all other AFA rates can be found in the *Preliminary Results*. *See Preliminary Results*, 71 FR 11580 at 11587. The Department received comments and rebuttal comments with regard to certain aspects of our selection and application of AFA. *See Final Decision Memo*, at Comments 2, 3, 8, 9 and 10. The Department has made no changes since the *Preliminary Results* that would affect the Department's selection, corroboration, and application of facts available for the other companies receiving AFA. Accordingly, for the final results, we continue to apply AFA as noted above.

Final Results of Review

The weighted–average dumping margins for the POR are as follows:

HEAVY FORGED HAND TOOLS FROM THE PRC: AXES/ADZES

Manufacturer/Exporter	Weighted–Average Margin (Percent)
TMC	189.37
Huarong	189.37
SMC	189.37
PRC–Wide Rate	189.37

HEAVY FORGED HAND TOOLS FROM THE PRC: HAMMERS/SLEDGES

Manufacturer/Exporter	Weighted–Average Margin (Percent)
TMC	45.42
SMC	34.56
PRC–Wide Rate	45.42

HEAVY FORGED HAND TOOLS FROM THE PRC: PICKS/MATTOCKS

Manufacturer/Exporter	Weighted–Average Margin (Percent)
TMC	53.04
SMC	98.77
PRC–Wide Rate	98.77

HEAVY FORGED HAND TOOLS FROM THE PRC: BARS/WEDGES

Manufacturer/Exporter	Weighted–Average Margin (Percent)
TMC	139.31
Huarong	139.31
SMC	104.54
Iron Bull	139.31
PRC–Wide Rate	139.31

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of certain HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above; (2) for any previously reviewed or investigated PRC or non–PRC exporter, not covered in this review, with a separate rate, the cash deposit rate will be the company–specific rate established in the most recent segment of those proceedings; (3) for all other PRC exporters, the cash deposit rates will be the PRC–wide rates established in the final results of this review; and (4) the cash deposit rate for any non–PRC exporter of subject merchandise from the PRC who does not have its own rate will be the rate applicable to the PRC exporter that supplied the non–PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Assessment Rates

The Department will issue appraisement instructions directly to CBP within 15 days of publication of the final results of this administrative review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer–specific assessment rates for merchandise subject to this review. For SMC, TMC, and Huarong, we divided the total dumping margins of its reviewed sales by the total entered value of its reviewed sales for each applicable importer to calculate *ad valorem* assessment rates. We will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on SMC, TMC and Huarong's entries under the relevant order during the POR. Where an importer–specific *ad valorem* rate is *de minimis*, we will order CBP to liquidate appropriate entries without regard to antidumping duties.

Lastly, for the respondents receiving dumping rates based upon AFA, the Department will instruct CBP to liquidate entries according to the AFA *ad valorem* rate. The Department will issue appraisement instructions directly to CBP upon the completion of the final results of this administrative review.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to

comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a) and 777(i) of the Act.

Dated: September 5, 2006.

David M. Spooner,

Assistant Secretary for Import Administration,

Appendix I Decision Memorandum

I. CHANGES SINCE THE PRELIMINARY RESULTS

II. GENERAL COMMENTS:

Comment 1: Adverse Facts Available (''AFA'') for ''Agent'' Sales
Comment 2: AFA Rate for the Bars/Wedges Order
Comment 3: Separate Rates for TMC and SMC
Comment 4: Rejecting the Respondents' Case Brief
Comment 5: Addition of an HTS Number to the Scope of the Order
Comment 6: Application of Packing Materials and the By–product Offset in the Calculation of Normal Value
Comment 7: Referral to Customs and Border Protection (''CBP'') Regarding Evasion of These Orders by Huarong, TMC and Iron Bull
Comment 8: Clerical Errors from the Preliminary Results
A. Calculation of per unit Importer Assessment Rates
B. SMC Missing Packing Variable
C. CBP Instructions

III. COMPANY–SPECIFIC ISSUES:

Comment 9: Huarong
A. Axes/Adzes Rate
B. Bars/Wedges Rate
Comment 10: SMC
A. Affiliation Determination
B. Partial Adverse Facts Available for Constructed Export Price (''CEP'') Sales

C. Rate to Apply to SMC
D. AFA for SMC's Non–Reported Sales
Comment 11: AFA for Iron Bull's Sales of Bars/Wedges

[FR Doc. E6–15277 Filed 9–13–06; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–351–824, A–823–805, A–570–828)

Silicomanganese from Brazil, Ukraine, and the People's Republic of China: Continuation of Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China (PRC) 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 these antidumping duty orders.

EFFECTIVE DATE: September 14, 2006.

FOR FURTHER INFORMATION CONTACT: Janis Kalnins 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) 482–1392 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2006, the Department initiated and the ITC instituted the second sunset reviews of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the PRC pursuant to section 751(c) of the Act of 1930, as amended (the Act). See *Initiation of Five-year (Sunset) Reviews*, 71 FR 91 (January 3, 2006).

As a result of our review, the Department found that revocation of the antidumping duty orders 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 orders to be revoked. See *Silicomanganese from Brazil, Ukraine, and the People's Republic of China; Five-year Sunset Reviews of Antidumping Duty Orders; Final Results*, 71 FR 26927 (May 9, 2006). On September 1, 2006, the ITC determined pursuant to section 751(c) of the Act that revocation of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the PRC 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 *Silicomanganese from Brazil, China, and Ukraine*, 71 FR 52145 (September 1, 2006), and ITC Publication 3879 (August 2006) entitled *Silicomanganese from Brazil, China, and Ukraine: Investigation Nos. 731–TA–311–314, 317, and 379 (Second Review)*.

Scope of the Orders

The merchandise covered by these orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon, and not more than 3 percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the orders, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.0000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040. These orders cover all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of these orders remains dispositive.

Determination

As a result of the determinations by the Department and ITC that revocation of these antidumping duty orders 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 orders on silicomanganese from Brazil, Ukraine, and the PRC.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of these orders not later than January 2011.

This notice is in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: September 7, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–15280 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091106A]

Atlantic Trawl Gear Take Reduction Team Meeting

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

ACTION: Notice of establishment of an Atlantic Trawl Gear Take Reduction Team and meeting.

SUMMARY: NMFS is establishing a Take Reduction Team (TRT) to address incidental mortality and serious injury of long-finned pilot whales (*Globicephala melas*), short-finned pilot whales (*Globicephala macrorhynchus*), white-sided dolphins (*Lagenorhynchus acutus*), and common dolphins (*Delphinus delphis*) in several trawl gear fisheries in the Atlantic Ocean. The TRT will develop a Take Reduction Plan (TRP) as required by section 118 of the Marine Mammal Protection Act (MMPA). NMFS will seek input from the Atlantic Trawl Gear TRT on all scientific data related to stock structure, abundance, and human-caused mortality and serious injury of pilot whales, white-sided dolphins, and common dolphins. The TRT will focus on developing a plan to reduce incidental catch of these species in Atlantic trawl gear fisheries to a level less than the Potential Biological Removal (PBR) level within 6 months of implementation of the plan and to a level approaching a zero mortality and serious injury rate within 5 years of implementation of the plan.

DATES: The meeting will be held on September 19, 2006, from 10 a.m. to 5 p.m., on September 20–21, 2006, from 8:30 a.m. to 5 p.m., and on September 22, 2006, from 8:30 a.m. to 2 p.m. in Providence, RI.

ADDRESSES: The Atlantic Trawl Gear TRT meeting will be held at the Providence Courtyard Marriott Downtown, 32 Exchange Terrace, Providence, RI 02903. Phone: (401) 272–1191, Fax: (401) 272–1416.

FOR FURTHER INFORMATION CONTACT: Mark Minton, NMFS, Northeast Region, 978–281–9300 Ext. 6534, *Mark.Minton@noaa.gov* or Melissa Andersen, NMFS, Office of Protected Resources, 301–713–2322 Ext. 173, *Melissa.Andersen@noaa.gov*.

SUPPLEMENTARY INFORMATION: The MMPA defines the Potential Biological Removal (PBR) level of a marine mammal stock as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The PBR level is the product of the following factors: the minimum population estimate of the stock; one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size; and a recovery factor of between 0.1 and 1.0.

The Western North Atlantic stocks of long-finned and short-finned pilot whales (*Globicephala* sp.) were designated as non-strategic in the 2005 marine mammal stock assessment report (Waring *et al.*, 2006) because fishery-related serious injuries and mortalities are less than PBR. The 2005 stock assessment report indicates that the PBR for the combined stock of long-finned and short-finned pilot whales (*Globicephala* sp.) is 239, and that total fishery-related mortality and serious injury is 210. The Western North Atlantic (WNA) stock of white-sided dolphin (*Lagenorhynchus acutus*) is designated as non-strategic in the 2005 marine mammal stock assessment report (Waring *et al.*, 2006) because fishery-related serious injuries and mortalities are less than PBR. The 2005 stock assessment report indicates that the PBR for the WNA stock of white-sided dolphins is 364 and that total fishery-related mortality and serious injury is 38.

The Western North Atlantic stock of common dolphin (*Delphinus delphis*) is designated as non-strategic in the 2005 marine mammal stock assessment report (Waring *et al.*, 2006) because fishery-related serious injuries and mortalities are less than PBR. The 2005 stock assessment report indicates that the PBR for the WNA stock of common dolphin is 960 and that total fishery-related mortality and serious injury is 119.

For non-strategic stocks, section 118 of the MMPA calls for a take reduction plan to be completed within 11 months of the establishment of the team, and to focus in this case, on reducing incidental mortalities and serious injuries of pilot whales, white-sided dolphins and common dolphins to a level approaching a zero mortality and serious injury rate within 5 years of implementation of the plan.

All three species of marine mammals are known to interact with the Mid-Atlantic Mid-water Trawl fishery, which is classified on the MMPA List of Fisheries (LOF) as a Category I fishery (i.e., one that has frequent incidental mortalities or serious injuries of marine mammals). All three species of marine mammals are also known to interact with the Mid-Atlantic Bottom Trawl, Northeast Mid-water Trawl, and the Northeast Bottom Trawl fisheries, which are classified as Category II fisheries (i.e., those that have annual mortality and serious injury greater than 1 percent and less than 50 percent of the PBR level) on the MMPA LOF.

Other commercial fisheries known to occasionally cause incidental mortality and serious injury of pilot whales, white-sided dolphins, and common dolphins include the pelagic longline fishery (excluding the Northeast distant water fishery) and the Northeast Multispecies Sink Gillnet fishery.

Section 118 (f)(8) of the MMPA calls on the TRT to develop a draft TRP by consensus, and to submit this draft TRP to NMFS not later than 11 months after the date of the establishment of the TRT. The Secretary is then to consider the TRP, and no later than 60 days after the submission of the draft TRP, NMFS is to publish in the **Federal Register** the TRP and any implementing regulations proposed by the team for a public comment period not to exceed 90 days. Within 60 days of the close of the comment period, NMFS is to issue a final TRP and any implementing regulations.

List of invited participants: MMPA section 118 (f)(6)(c) requires that members of TRTs have expertise regarding the conservation or biology of the marine mammal species that the TRP will address, or the fishing practices that result in the incidental mortality or serious injury of such species. Section 118 requires that TRTs, to the maximum extent practicable, consist of an equitable balance among

representatives of resource user and non-user interests.

NMFS has asked the following individuals to serve as members on this TRT:

Melissa Andersen, NMFS; David Beutel, University of Rhode Island; William Bright, Fishing Vessel Retriever; Brendan Cummings, Center for Biological Diversity; Glenn Delaney, Northeast Seafood Coalition; Gregory DiDomenico, Garden State Seafood Association; Pat Fiorelli, Northeast Fishery Management Council; Damon Gannon, Mote Marine Laboratory; Mike Genovese, Fishing Vessel White Dove; Glen Goodwin, Fishing Vessel Relentless; Elizabeth Griffin, Oceana; Nick Jenkins, Fishing Vessels Isabelle Taylor and Jean McCausland; Jessica Koelsch, The Ocean Conservancy; Robert Lane, Fishing Vessels Isabel S. and Melissa Jayne; Stephen Lee, Fishing Vessel Kristen Lee; Jim Lovgren, Fishing Vessel Sea Dragon; Rick Marks, Garden State Seafood Association; William McLellan, University of North Carolina, Wilmington; Mark Minton, NMFS; Peter Moore, American Pelagic Association; Gerry O'Neill, Fishing Vessel, Voyager, Challenger, Endeavor; Ryan Rabar, Fishing Vessel Providian; Eoin Rochefort, Northern Pelagic Group, LLC (NORPEL); Jim Ruhle, Fishing Vessel Darana R; Rich Seagraves, Mid-Atlantic Fishery Management Council; Michael Simpkins, Marine Mammal Commission; and Sharon Young, Human Society of the United States.

Other individuals from NMFS and state and Federal agencies may be present as observers or for their scientific expertise. Members of TRTs serve without compensation, but may be reimbursed by NMFS, upon request, for reasonable travel costs and expenses incurred in preforming their duties as members of the team. The TRT process will be facilitated by Robin Roberts and Dana Mason, RESOLVE, Washington, D.C. The ATGTRT will hold its first meeting from September 19-22, 2006, in Providence, RI (see **DATES** and **ADDRESSES**).

NMFS intends to conduct the TRT process in a way that provides for national consistency yet accommodates the unique regional characteristics of the fishery and marine mammal stocks involved. Take Reduction Teams are not subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings are open to the public.

Dated: September 11, 2006.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–15265 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090506B]

Advisory Committee and Species Working Group Technical Advisor Appointments

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

ACTION: Nominations.

SUMMARY: NMFS is soliciting nominations to the Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) as established by the Atlantic Tunas Convention Act (ATCA). NMFS is also soliciting nominations for technical advisors to the Advisory Committee's species working groups.

DATES: Nominations must be received by October 23, 2006.

ADDRESSES: Nominations to the Advisory Committee or for technical advisors to a species working group should be sent to Dr. William T. Hogarth, Assistant Administrator, National Marine Fisheries Service, NOAA, 1315 East-West Highway, Silver Spring, MD 20910. A copy should also be sent to Kelly Denit, Office of International Affairs, National Marine Fisheries Service, Room 12622, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Kelly Denit, 301–713–2276.

SUPPLEMENTARY INFORMATION: Section 971b of the ATCA (16 U.S.C. 971 *et seq.*) requires that an advisory committee be established that shall be composed of: (1) not less than five nor more than 20 individuals appointed by the U.S. Commissioners to ICCAT who shall select such individuals from the various groups concerned with the fisheries covered by the ICCAT Convention; and (2) the chairs (or their designees) of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Fishery Management Councils. Each member of the Advisory Committee appointed under paragraph (1) shall serve for a term of two years and shall be eligible for reappointment. Members of the Advisory Committee may attend all public meetings of the ICCAT Commission, Council, or any Panel and any other meetings to which they are invited by the ICCAT Commission, Council, or any Panel. The Advisory Committee shall be invited to attend all nonexecutive meetings of the U.S. Commissioners to ICCAT and, at such meetings, shall be given the opportunity to examine and be heard on all proposed programs of investigation, reports, recommendations, and regulations of the ICCAT Commission. Members of the Advisory Committee shall receive no compensation for such services. The Secretary of Commerce and the Secretary of State may pay the necessary travel expenses of members of the Advisory Committee.

There are currently 20 appointed Advisory Committee members. The terms of these members expire on December 31, 2006. New appointments will be made as soon as possible, but will not take effect until January 1, 2007.

Section 971b–1 of the ACTA specifies that the U.S. Commissioners may establish species working groups for the purpose of providing advice and recommendations to the U.S. Commissioners and to the Advisory Committee on matters relating to the conservation and management of any highly migratory species covered by the ICCAT Convention. Any species working group shall consist of no more than seven members of the Advisory Committee and no more than four scientific or technical personnel, as considered necessary by the Commissioners. Currently, there are four species working groups advising the Committee and the U.S. Commissioners: a Bluefin Tuna Working Group, a Swordfish Working Group, a Billfish Working Group, and a BAYS (Bigeye, Albacore, Yellowfin, and Skipjack) Tunas Working Group. Technical Advisors to the species working groups serve at the pleasure of the U.S. Commissioners; therefore, the Commissioners can choose to alter appointments at any time.

Nominations to the Advisory Committee or to a species working group should include a letter of interest and a resume or curriculum vitae. Letters of recommendation are useful but not required. Self-nominations are acceptable. When making a nomination, please clearly specify which appointment (Advisory Committee member or technical advisor to a species working group) is being sought. Requesting consideration for placement on both the Advisory Committee and a

species working group is acceptable. Those interested in a species working group technical advisor appointment should indicate which of the four working groups is preferred. Placement on the requested species working group, however, is not guaranteed.

Dated: September 11, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E6–15263 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090806B]

Marine Mammals; File No. 763–1845

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that the Smithsonian National Zoological Park (SNZP), 3001 Connecticut Avenue NW, Washington, DC 20008 (John Berry, Responsible Party) has been issued a permit to conduct research on Weddell seals (*Leptonychotes weddelliis*) and import marine mammal specimens for scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On May 3, 2006, notice was published in the **Federal Register** (71 FR 26073) that a request for a scientific research permit to take the species identified above had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The SNZP has been issued a permit to study maternal investment, maternal and pup diving behavior, and the onset of feeding by mother and pup Weddell seals in Antarctica. Over a 2-year period, researchers will capture mother-pup pairs and weaned pups for weighing, administering isotopes, collecting blood and milk samples, and attachment/removal of time-depth recorders and radio transmitters. Samples from Weddell seals and from non-endangered marine mammals may be imported into the U.S. and re-exported for scientific analysis over a 5-year period.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: September 8, 2001.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–15261 Filed 9–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF THE DEFENSE

Office of the Secretary

Missile Defense Advisory Committee (MDAC)

AGENCY: Missile Defense Agency (MDA).

ACTION: Notice of closed meeting.

SUMMARY: The Missile Defense Advisory Committee will meet in closed session on September 18–19, 2006, in Washington, DC.

The mission of the Missile Defense Advisory Committee is to provide the Department of Defense advice on all matters relating to missile defense, including system development, technology, program maturity and readiness of configurations of the Ballistic Missile Defense System (BMDS) to enter the acquisition process. At this meeting, the Committee will conduct classified discussions on capability-based acquisition.

FOR FURTHER INFORMATION CONTACT: COL David R. Wolf, Designated Federal Official (DFO) at *david.wolf@mda.mil*, phone/voice mail (703) 695–6438, or mail at 7100 Defense Pentagon, Washington, DC 20301–7100.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App II), it has been determined that this Missile Defense Advisory Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meeting will be closed to the public.

The need to conduct this meeting was identified with less than 15 calendar days prior to the schedule date. As a result, the meeting notice is being published with less than 15 calendar days notice.

Dated: September 8, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 06–7648 Filed 9–13–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability for the Draft Environmental Impact Statement for Hemet/San Jacinto Integrated Recharge and Recovery Project, Riverside County, CA

AGENCY: Department of the Army—U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Availability.

SUMMARY: The U.S. Army Corps of Engineers, Los Angeles District (Regulatory Branch), in coordination with the Eastern Municipal Water District (EMWD), has completed a Draft Environmental Impact Statement (EIS) for the Hemet/San Jacinto Integrated Recharge and Recovery Project. EMWD requires authorization pursuant to Section 404 of the Clean Water Act for 53.1 acres of fill into waters of the U.S. A public hearing will be held at the Simpson Center (305 East Devonshire Avenue, Hemet, CA 92543) on September 19, 2006 from 5:30 to 6:30 p.m.

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the Draft EIS should be directed to Dr. Daniel P. Swenson, Regulatory Branch, U.S. Army Corps of Engineers, P.O. Box 532711, Los Angeles, CA, 90053, (213) 452–3414. Comments should be submitted no later than October 20, 2006.

SUPPLEMENTARY INFORMATION: None.

Mark Durham,

Chief, South Coast Section, Regulatory Branch.

[FR Doc. 06–7649 Filed 9–13–06; 8:45 am]

BILLING CODE 3710–KF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability for Donation of the Test Craft Ex-SEA SHADOW (IX–529) and Hughes Mining Barge (HMB–1)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the availability for donation, under the authority of 10 U.S.C. 7306, of the Test Craft ex-SEA SHADOW (IX 529) and the Hughes Mining Barge (HMB–1), both located at the Maritime Administration's Suisun Bay National Defense Reserve Fleet, Benicia, CA. Ex-SEA SHADOW is contained inside HMB–1, which is a covered floating dry-dock, and is being offered for donation as a single unit. The donee may display the two vessels as currently configured as a single unit, or display them individually. In either case, the Navy intends to donate the two vessels as a single unit and the donee will be required to remove the two vessels from Navy custody as a unit. Eligible recipients include: (1) Any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof; (2) the District of Columbia; or (3) any organization incorporated as a non-profit entity under section 501 of the Internal Revenue Code.

The transfer of a vessel for donation under 10 U.S.C 7306 shall be made at no cost to the United States Government. The donee will be required to maintain ex-SEA SHADOW as a static museum/memorial in a condition that is satisfactory to the Secretary of the Navy.

Prospective donees must submit a comprehensive application that addresses the significant financial, technical, environmental, and curatorial responsibilities associated with donated Navy vessels. Further application information can be found on the Navy Ship Donation Program Web site at *http://www.navsea.navy.mil/ndp*.

All vessels currently in a donation hold status, including ex-SEA SHADOW (IX 529) and the Hughes Mining Barge (HMB–1), will be reviewed by the Chief of Naval Operations during the annual Ship Disposition Review process, at which time a determination will be made whether to extend donation hold status. If the Navy receives no interest by an eligible recipient within two years, the Navy reserves the right to remove the vessels from donation consideration and proceed with their disposal.

Other ships that are currently available for donation include:

(1) Patrol Combat ex-CANON (PG 90), Philadelphia, PA.

(2) Guided Missile Destroyer ex-CHARLES F. ADAMS (DDG 2), Philadelphia, PA.

(3) Destroyer ex-CONOLLY (DD 979), Philadelphia, PA.

(4) Destroyer ex-EDSON (DD 946), Philadelphia, PA.

(5) Submarine ex-TROUT (SS 566), Philadelphia, PA.

(6) Guided Missile Cruiser ex-TICONDEROGA (CG 47), Philadelphia, PA.

(7) Aircraft Carrier ex-RANGER (CV 61), Bremerton, WA.

For Further Information and Submission of Ship Donation Applications, Contact: Commander, Program Executive Office Ships (PEO SHIPS), PMS333, Navy Inactive Ship Program Office, Ship Donation Program, ATTN: Ms. Gloria Carvalho (PMS 333G), 300 M Street, SE., Suite 500, Washington, DC 20003, telephone number 202–781–0485.

Dated: September 7, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–15236 Filed 9–13–06; 8:45 am]

BILLING CODE 3810–FF–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Senior Executive Service Performance Review Board

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice.

SUMMARY: This notice announces the membership of the Defense Nuclear Facilities Safety Board (DNFSB) Senior Executive Service (SES) Performance Review Board. It also announces the DNFSB senior executives who are available to serve on the SES performance review boards of other small, independent Federal commissions, committees and boards.

EFFECTIVE DATE: September 14, 2006.

ADDRESS: Send comments concerning this notice to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2001.

FOR FURTHER INFORMATION CONTACT: Deborah Biscieglia by telephone at (202) 694–7041 or by e-mail at *debbieb@dnfsb.gov.*

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(c)(1) through (5) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial summary rating of the senior executive's performance, the executive's response, and the higher level official's comments on the initial summary rating. The DNFSB is a small, independent Federal agency; therefore, the members of the DNFSB SES Performance Review Board listed in this notice are drawn from the SES ranks of other agencies.

The following persons comprise a standing roster to serve as members of the Defense Nuclear Facilities Safety Board SES Performance Review Board:

Lawrence W. Roffee, Executive Director, United States Access Board.

Raymond Limon, Chief Human Capital Officer, Corporation for National & Community Service.

Christopher W. Warner, General Counsel, U.S. Chemical Safety and Hazard Investigation Board.

Leon A. Wilson, Jr., Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled.

The following DNFSB SES members comprise a standing roster to serve on the performance review boards of other small, independent Federal commissions, committees and boards:

Richard A. Azzaro, General Counsel.

Timothy J. Dwyer, Deputy Technical Director.

J. Kenton Fortenberry, Technical Director.

Matthew B. Moury, Group Lead for Nuclear Programs and Analysis.

Joel R. Schapira, Deputy General Counsel.

Dated: September 8, 2006.

Brian Grosner,

Chairman, Executive Resources Board.

[FR Doc. E6–15228 Filed 9–13–06; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of Final Open Meeting.

SUMMARY: This notice announces the final meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this final meeting be announced in the **Federal Register**.

DATES: Saturday, September 23, 2006, 8:30 a.m.–12 p.m.

ADDRESSES: Crosby Township Senior Center, 8910 Willey Road, Harrison, Ohio 45030.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, The Perspectives Group, Inc., 1055 North Fairfax Street, Suite 204, Alexandria, VA 22314, at (703) 837–1197, or e-mail: *djsarno@theperspectivesgroup.com*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

8:30 a.m.—Call to Order.
8:35 a.m.—Chair's Remarks and Liaison Announcements.
8:45 a.m.—Closure Status Update.
9:15 a.m.—Present Fernald Citizens' Advisory Board.
10:15 a.m.—Break.
10:30 a.m.—Review and approve final recommendation.
11:30 a.m.—Closing Issues and Remarks.
11:50 a.m.—Public Comment.
12 p.m.—Adjourn.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. Requests must be received five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to the Fernald Citizens' Advisory Board, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued at Washington, DC on September 11, 2006.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–15266 Filed 9–13–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting Correction.

On August 31, 2006, the Department of Energy published a notice of open meeting announcing a meeting of the Environmental Management Site-Specific Advisory Board, Idaho National Laboratory 71 FR 51809. In that notice, the meeting was scheduled for September 19, 2006 from 8 a.m.–6 p.m. and September 20, 2006 from 8 a.m.–6 p.m. In that notice, the opportunities for public participation on September 20, 2006 was scheduled from 11:45 to 12 p.m. Today's notice is announcing that the meeting will be September 19, 2006 from 8 a.m.–5 p.m. and September 20, 2006 from 8 a.m.–3 p.m.

The opportunities for public participation on September 20, 2006 will be from 9 to 9:15 a.m. In addition, two agenda topics are being added: Low-Level Waste Management, and Decontamination and Decommissioning of Sitewide Facilities (Engineering Evaluation/Cost Analysis).

Issued in Washington, DC on September 11, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–15267 Filed 9–13–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the State Energy Advisory Board (STEAB). The 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: Oct. 18, 2006 from 8 a.m. to 5:30 p.m., Oak Ridge National Laboratory (ORNL) on-site; Oct. 19, 2006 from 8 a.m. to 5:30 p.m., and Oct. 20, 2006 from 8 a.m. to 11:30 a.m.

ADDRESSES: Courtyard by Marriott, The Hotels at Cedar Bluff, 216 Langley Place, Knoxville, TN 37922.

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Assistant Manager, Office of Intergovernmental Projects & Outreach, Golden Field Office, Energy Efficiency and Renewable Energy (EERE), U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303/275–4801.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Briefings on, and discussions of:

- (Oct. 18, 2006) Tour of the ORNL and Presentations:

—The Electricity/Energy Efficiency Nexus of 2006.
—More-electric transportation.
—Nanomanufacturing-bringing science to energy efficient materials and systems.
—Laboratory R&D functions in the areas of:
  - Building Technologies;
  - Electricity Technologies; and
  - Bio-energy Technologies.

- (Oct. 19–20, 2006) Board Meeting:

—Discussion/response to lab visits.
—Discussion of and drafting the STEAB FY 06 Annual Report.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Requests to make oral presentations must be received five days prior to the meeting; reasonable provision will be made to include the statements in the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days at the Freedom

of Information Public Reading 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 September 11, 2006

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–15233 Filed 9–13–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–1218–001]

PJM Interconnection, LLC; Notice Clarifying Comment Deadline

September 12, 2006.

The purpose of this notice is to clarify that, notwithstanding prior notices issued in the above-captioned proceeding, all comments addressing the August 28, 2006 filing submitted by PJM Interconnection, LLC in this proceeding are due on September 18, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–15400 Filed 9–15–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0041; FRL–8218–9]

Agency Information Collection Activities; Proposed Collection; Comment Request; RadNet (Previously Known as ERAMS); EPA ICR No. 0877.09, OMB Control No. 2060–0015

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on February 28, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 13, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0041, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- E-mail: *petko.charles@epa.gov*.
- Fax: 334–270–3454.
- Mail: National Air and Radiation Environmental Laboratory, 540 South Morris Avenue, Montgomery, Alabama 36115–2601.
- Hand Delivery: Office of Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. 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–2003–0041. 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*.

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: Charles M. Petko, Office of Radiation and Indoor Air (ORIA), National Air and Radiation Environmental Laboratory (NAREL), 540 South Morris Avenue, Montgomery, Alabama 36115–2601. Tel: 334–270–3411; Fax: 334–270–3454; E-mail: *petko.charles@epa.gov*.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0041, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Office of Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Office of Air and Radiation Docket is 202–566–1742.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Docket ID No. EPA–HQ–OAR–2003–0041

Affected entities: Entities potentially affected by this action are sample collectors.

Title: RadNet.

ICR numbers: EPA ICR No. 0877.09, OMB Control No. 2060–0015.

ICR status: This ICR is currently scheduled to expire on February 28, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, 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.

Abstract: RadNet is a national network of stations collecting sampling media that include air, precipitation, drinking water, and milk. Samples are sent to EPA National Air and Radiation Environmental Laboratory (NAREL) in Montgomery, Alabama, where they are analyzed for radioactivity. RadNet provides emergency response/homeland security and ambient monitoring information on levels of environmental radiation across the nation. All stations, usually operated by state and local personnel, participate in RadNet voluntarily. Station operators complete information forms that accompany the samples. The forms request descriptive information pertaining to sample location, e.g., sample type, sample location, length of sampling period, and volume represented.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.3 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 249.

Frequency of response: From twice weekly to four times annually, depending upon type of medium being sampled.

Estimated total average number of responses for each respondent: 34.

Estimated total annual burden hours: 8,363 hours.

Estimated total annual costs: $254,890. This cost refers to respondent burden. The costs of capital investment, maintenance and operational costs are assumed by the Agency.

Are There Changes in the Estimates From the Last Approval?

There will be an increase in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's decision to upgrade and expand the air monitoring network of RadNet. Over the years covered by this ICR renewal, the air network will expand from existing 64 monitors to approximately 130 monitors, which will result in the addition of 66 respondents.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: September 6, 2006.

Michael Clark,

Acting Director, National Air and Radiation Environmental Laboratory (NAREL).

[FR Doc. E6–15250 Filed 9–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0740, EPA–HQ–OAR–2006–0741, and EPA–HQ–OAR–2006–0742; FRL–8219–8]

Agency Information Collection Activities; Proposed Collections; Comment Requests; Information Requirements for Importation of Nonconforming Vehicles; EPA ICR No. 0010.11, OMB Control No. 2060–0095; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program, EPA ICR No. 116.08, OMB Control No. 2060–0060; and Motor Vehicle and Engine Compliance Program Fees, EPA ICR 2080.03, OMB Control No. 2060–0545

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew three existing approved Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). These ICRs are scheduled to expire on March 31, 2007. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before November 13, 2006.

ADDRESSES: Submit your comments, identified by the Docket ID numbers provided for each item in the text, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Fax: (202) 566–1741.
- Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: Docket Center, (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. 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 identified by the Docket ID numbers provided for each item in the text. 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.*

FOR FURTHER INFORMATION CONTACT: Lynn Sohacki, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4851; fax number: 734–214–4869; e-mail address: *sohacki.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for each of the ICRs identified in this document (see the Docket ID numbers for each ICR that are provided in the text) which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number

assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Is the Next Step in the Process for These ICRs?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

What Information Collection Activities or ICRs Does This Apply to?

Docket ID No. EPA–HQ–OAR–2006–0740

Affected entities: Importers (including Independent Commercial Importers) of light duty vehicles or engines, light duty trucks or engines, and highway motorcycles or engines.

Title: Information Collection Request Renewal for Importation of Nonconforming Vehicles.

ICR numbers: EPA ICR No. 0010.11, OMB Control No. 2060–0095.

ICR status: This ICR is currently scheduled to expire on March 31, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and 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.

Abstract: Importers into the U.S. of light duty vehicles, light duty trucks, and on road motorcycles, or the corresponding engines, are required to report and keep records regarding the imports. The collection of this information is mandatory to insure compliance with Federal emissions requirements. Joint EPA and U.S. Customs Service regulations at 40 CFR 85.1501 *et seq.*, 19 CFR 1273, and 19 CFR 1774, promulgated under the authority of Clean Air Act sections 203 and 208, give authority for the collection of this information. The information is used by program personnel to ensure that all Federal emissions requirements are met, and by State regulatory agencies, businesses, and individuals to verify whether vehicles are in compliance. Any information submitted to the Agency for which a claim of confidentiality is made is safeguarded according to policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2), and the public is not permitted access to information containing personal or organizational identifiers.

Burden Statement

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 12,000.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 10,216 hours.

Estimated total annual costs: $538,335. This includes an estimated burden cost of $431,765 and an estimated cost of $106,570 for capital investment or maintenance and operational costs.

Docket ID No. EPA–HQ–OAR–2006–0741

Affected entities: Manufacturers or builders of automotive aftermarket parts who seek voluntary EPA certification of an aftermarket part or parts.

Title: Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program.

ICR numbers: EPA ICR No. 0116.07, OMB Control No. 2060–0060.

ICR status: This ICR is currently scheduled to expire on May 31, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and 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.

Abstract: Under Section 206(a) of the Clean Air Act (42 U.S.C. 7521), on-highway engine and vehicle manufacturers may not legally introduce their products into U.S. commerce unless EPA has certified that their production complies with applicable emission standards. Per section 207(a), original vehicle manufacturers must warrant that vehicles are free from defects in materials and workmanship that would cause the vehicle not to comply with emission regulations during its useful life. Section 207(a) directs EPA to provide certification to those manufacturers or builders of automotive aftermarket parts that demonstrate that the installation and use of their products will not cause failure of the engine or vehicle to comply with emission standards. An aftermarket part is any part offered for sale for installation in or on a motor vehicle after such vehicle has left the vehicle manufacturer's production line (40 CFR 85.2113(b)). Participation in the aftermarket certification program is voluntary. Aftermarket part manufacturers or builders (manufacturers) electing to participate conduct emission and durability testing as described in 40 CFR part 85, subpart V, and submit data about their products and testing procedures.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 1.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 547.

Estimated total annual costs: $19,519. This includes an estimated burden cost of $18,209 and an estimated cost of $1,519 for capital investment or maintenance and operational costs.

Docket ID No. EPA–HQ–OAR–2006–0742

Affected entities: Manufacturers or importers of passenger cars, motorcycles, light trucks, heavy duty truck engines, and non-road vehicles or engines required to receive a certificate of conformity from EPA prior to selling or introducing these products into commerce in the U.S.

Title: Information Collection Request Renewal for Motor Vehicle and Engine Compliance Program Fees.

ICR numbers: EPA ICR No. 2080.03, OMB Control No. 2060–0545.

ICR status: This ICR is currently scheduled to expire on March 31, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for

EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and 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.

Abstract: As required by the Clean Air Act, EPA has regulations establishing emission standards and other requirements for various classes of vehicles and engines. These regulations require that compliance be demonstrated prior to EPA granting a ''Certificate of Conformity''. EPA charges fees for administering this certification program; in 2004 the fees program was expanded to include non-road categories of vehicles and engines, such as several categories of marine engines, locomotives, non-road recreational vehicles, and many non-road compression-ignition and spark-ignition engines. Manufacturers and importers of covered vehicles and engines are required to pay the applicable certification fees prior to their certification applications being reviewed. This ICR estimates the paperwork burden of complying with this fees requirement.

Burden Statement

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 290.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 7.35.

Estimated total annual burden hours: 2,132 hours.

Estimated total annual costs: $85,541. This includes an estimated burden cost of $76,840 and an estimated cost of $8,701 for maintenance and operational costs.

Dated: September 6, 2006.

Janet Cohen,

Acting Director, Compliance and Innovative Strategies Division.

[FR Doc. E6–15253 Filed 9–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–0384; FRL–8219–7]

Human Studies Review Board (HSRB); Notification of a Public Teleconference To Review Its Draft Report From the June 27–30, 2006 HSRB Meeting; Correction of EPA Contact Telephone Number

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: On September 5, 2006, the U.S. Environmental Protection Agency's (EPA or Agency) Office of the Science Advisor (OSA) announced a public teleconference of the Human Studies Review Board (HSRB) to be held September 26, 2006 from 1–4 p.m., eastern time. Please be advised that the contact telephone number for the DFO was incorrect.

FOR FURTHER INFORMATION CONTACT: Maria Szilagyi, Designated Federal Officer (DFO), EPA, Office of the Science Advisor, (8105), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460: telephone number (202) 564–6809; e-mail address: *szilagyi.maria@epa.gov*. General information concerning the EPA HSRB can be obtained from the EPA Web site at *http://www.epa.gov/osa/hsrb/*.

Correction: In the **Federal Register** of September 5, 2006, in FR Doc. E6–14644, on page 52326 (2nd column), correct the entry for telephone/voice mail to read telephone/voice mail at (202) 564–6809.

Dated: September 8, 2006.

George Gray,

EPA Science Advisor.

[FR Doc. E6–15255 Filed 9–13–06; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Thursday, September 21, 2006, 10 a.m., eastern time.

PLACE: Clarence M. Mitchell, Jr. Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Open Session:

1. Announcement of Notation Votes, and
2. Obligation of Funds to Conduct Surveys to Measure Results for Strategic Plan Performance Measures and Other Measures of Service.

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings. The EEOC provides sign language interpretation at Commission meetings for the hearing impaired. Requests for other reasonable accommodations may be made by using the voice and TTY numbers listed above.

CONTACT PERSON FOR MORE INFORMATION: Stephen Llewellyn, Acting Executive Officer on (202) 663–4070.

Dated: September 12, 2006.

Stephen Llewellyn,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 06–7707 Filed 9–12–06; 1:32 pm]

BILLING CODE 6570–06–M

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 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

Best Freight Bridge Inc. dba Best Freight Bridge, 9050 Pines Boulevard, Suite 480–410, Pembroke Pines, FL 33024. Officers: Lillian R. Stewart, President (Qualifying Individual), Ron Sonbeek, Vice President.

Asia Forwarders, Inc., 13434 Village Drive, Cerritos, CA 90703. Officer:

Sang Min, Chun, President (Qualifying Individual).
Safe Harbor Logistics, Inc. , 5506 Fountain Bridge Lane, Houston, TX 77069. Officers: Marc J. Lawrence, President (Qualifying Individual), Melinda S. Lawrence, Director.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

MBM International Logistics, LLC, 650 Atlanta South Parkway, Atlanta, GA 30349. Officers: Harold Hagans, Vice President (Qualifying Individual), Xiao Yan Mers, President.
Globe Shipping, Inc., 820 S. Garfield Ave., #202, Alhambra, CA 91801. Officers: Eric Qian, CEO (Qualifying Individual), Meili Ho, Secretary.
Marserve Inc., 15421 Vantage Pkwy West, #116, Houston, TX 77032. Officers: Michael Henley, Vice President (Qualifying Individual, Einar Eikrem, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Infinity Logistics LLC, 100 N, Charles St., Suite 1200, Baltimore, MD 21201. Officers: Marjorie Shapiro, President (Qualifying Individual), James Shapiro, Vice President.
T & T Shipping Services of New York Inc., 820 Glenmore Avenue, Brooklyn, NY 11208. Officers: Patricia Williams, Vice President (Qualifying Individual), Patrick Turner, President.

Dated: September 8, 2006.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E6–15217 Filed 9–13–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notification listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 29, 2006.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Steve Burrage, Antlers, Oklahoma; as co–trustee of the John L. Massey 2003 Family Trusts, to acquire voting shares of Durant Bancorp, Inc., and thereby indirectly acquire voting shares of First United Bank & Trust Company, both in Durant, Oklahoma.

Board of Governors of the Federal Reserve System, September 11, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–15243 Filed 9–13–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Confidentiality, Privacy, and Security Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the second meeting of the American Health Information Community (''the Community'') Confidentiality, Privacy, and Security Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.)

DATES: September 29, 2006 from 10 a.m. to 4:30 p.m.

Place: Hubert H. Humphrey Building (200 Independence Avenue, SW., Washington, DC 20201), Conference room 800 (you will need a photo ID to enter a Federal building).

Status: Open.

Purpose: At this meeting, the Community Confidentiality, Privacy, and Security Workgroup will receive information on identity proofing and user authentication as it relates to the breakthroughs currently being discussed by the Community's Consumer Empowerment, Chronic Care, and Electronic Health Record Workgroups.

The meeting will be conducted in hearing format, and the Workgroup will invite representatives who can provide information relevant to identity proofing and user authentication as it relates to the breakthroughs currently being discussed by the Community's Consumer Empowerment, Chronic Care, and Electronic Health Record Workgroups. The format for the meeting will include multiple invited panels and time for questions and discussion. The meeting will include a time period during which members of the public may deliver brief (3 minutes or less) oral public comment. Slots for oral comments by the public will be filled on the day of the meeting as time permits. To submit comments via e-mail, please send them to *Michele.Rollins@hhs.gov* (to ensure that your e-mail is received and appropriately filed, we ask that your explicitly put *''CPS Public Comment''* in the subject line of your e-mail) or mail your comments to Michele Rollins, Office of the National Coordinator (ONC), 330 C Street, SW., Suite 4090, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: The Community's Confidentiality, Privacy, and Security (CPS) Workgroup will undertake steps to evaluate instances where health information technology (health IT) has shifted the CPS paradigm, as well as where policy (due to evolving technology) have become unclear or allow for varied interpretation.

The first two issues before the CPS workgroup (identity proofing and user authentication) were chosen because of their foundational importance to any security initiative. Inextricably linked, both issues need discussion in order to determine how authorized entry is governed to a new technology product, service, or infrastructure. In typical workflows, identity proofing and user authentication are the first of many processes completed in health care environments, followed shortly thereafter by other more complex activities such as access control, data management, information matching and transmission, and information assurance (data integrity, business continuity, etc.).

There is no one solution for identity proofing and user authentication. As health IT evolves, we expect that methods for identity proofing and user authentication will evolve as well. Certain types of health IT products may require more stringent methods while others may not, and understanding these tradeoffs will be critical to determining CPS policies. Deciding how to prove (with some degree of confidence) that someone is who they claim to be, followed by a repeatable authentication process, are necessary steps to ensure that an authorized person or entity can access a health IT product or service in a private and secure manner.

In an effort to inform members of the public responding to the questions posed for testimony, we are defining

identity proofing and user authentication. For the purposes of the CPS hearing, identify proofing should be understood to mean *the process of providing sufficient information (e.g., identity history, credentials, and documents) to correctly and accurately verify and establish an identity to be used in an electronic environment (e.g., over the Internet).* For many everyday processes such as applying for a passport or driver's license, identity proofing takes place. To be granted the rights associated with a passport or driver's license, one first needs to provide documents to prove one's identity (*e.g.,* birth certificate). This same principal exists to control access to electronic systems, and it is the intent of this hearing to discuss the types of identity proofing used or recommended to gain access to certain health IT products or services.

For the purposes of the CPS hearing, user authentication should be understood to mean *the process of reliably verifying a claimed or presented identity, often used as way to grant authorized access to data, resources, and other network services.* User authentication takes place after an identity has been successfully proofed (verified by the appropriate authority) and a credential representing that proofed identity has been assigned to an individual. This does not mean the assignment of a unique identifier, but rather it refers to the method any system uses (in a unique way) to differentiate its users (*e.g.,* a separate username) and challenge the user's ability to prove that they are who they claim to be (*e.g.,* knowledge of a password associated with the username).

While responding to the questions below, it is recommended that each response identify (1) The risks and benefits associated with a particular identity proofing and/or user authentication method; (2) the potential costs and/or barriers associated with the method's implementation; and (3) if feasible, quantify the risks, benefits, costs, or barriers discussed in parts 1 and 2, with respect to a health care consumer, provider, other entity, or all. *Responses should be particularly focused on the Community's breakthroughs (pre-populated and consumer-directed medication history and registration summary as part of a personal health record (PHR), access to current and historical laboratory results and interpretations in an electronic health record (EHR), and secure messages between patients and their clinicians).* Where possible, please provide references to any peer reviewed literature that has informed your response.

1. Does an in-person identity proofing process provide greater benefit than automated, on-line processes, or vice-versa? Please explain.

2. Identify and particular concerns regarding the type of information collected for identity proofing or the storage of such information.

3. Should there be different identity proofing and user authentication processes for:

a. A patient versus a clinician. If yes, please explain and identify the scenario;

b. The primary user of a PHR versus a proxy for that user?

4. Are there other industry policies and practices related to identity proofing and user authentication and could be used successfully in any of the Community identified breakthroughs (see above)? If so, please described these policies and specify how these could be implemented in a way that would minimize the risks and maximize the benefits as well as how they would compare to alternative methods in terms of risks, benefits and feasibility of implementation.

5. What is the appropriate balance of access to medical information in electronic form (through the use of stronger identity proofing and user authentication) against the privacy concerns of the consumer/patient? If possible, please discuss comparable programs/efforts in the past that have been successful in doing this?

6. What/how do you see the HHS's role, if any, in establishing guidelines for the health care industry with respect to identity proofing and user authentication? Or should the industry self-police in this area?

7. If private industry EHR or PHR services were to import data from Federal agencies (who are required either by statute or policy to protect data in certain ways), would it be reasonable to expect that the EHR or PHR service provided would comply with Federal information security practices?

8. Should the health care industry adopt the concept of multiple assurance levels when performing identity proofing and user authentication functions, similar to what OMB has defined for the Federal Government in OMB Memorandum M–04–04? When responding to this question, please cite, if possible other models that may exist specifically for health care?

9. Based on your experience (personal/organizational) discuss how identity proofing and user authentication are currently addressed in the Personal Health Record (PHR) market from a technical, policy, and implementation perspective. Please ensure that your answers identify:

a. How the type of PHR (i.e., who provides/sponsors the PHR) could impact the identity proofing and user authentication method chosen;

b. Who is capable of providing data to the PHR;

c. The potential impact the type of data (which may vary in levels of perceived sensitivity, e.g., a medication history that lists a drug for an ear infection versus a drug for HIV) could have on the identity proofing and user authentication method chose; and

d. How data is entered into the PHR, for example, by a health care consumer, or from a provider through a ''push model'' where data is automatically sent to the PHR without a request by the consumer.

10. Based on your experience (personal/organizational) with EHR technology, that can at a minimum provide access to current and historical laboratory results and interpretations, should identify proofing and user authentication methodologies (technical, policy, and implementation) differentiate based upon:

a. The reception method of the data

i. For example: Accessing a laboratory's secure Web site for results and typing them into a patient's EHR vs. automatic population from the lab to the EHR; and

b. The interconnectivity of the EHR

i. For example: A doctor in a large health care system may be able to query another provider's EHR for data as opposed to querying the lab directly.

Written testimony submitted by the public is not required to address all of the questions listed above, and answers to any or all of the questions will be accepted so long as they comply with the following testimony guidelines. Persons wishing to submit written testimony (*which should not exceed eight double-spaced typewritten pages*) should endeavor to submit it by September 29, 2006.

If you have special needs for the meeting or require further assistance, please contact (202) 690–7151 and reference the CPS meeting.

The meeting will be available via Web cast at *www.eventcenterlive.com/cfmx/ec/login/login1.cfm?BID=67* [Room Number: 8285166].

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 06–7657 Filed 9–13–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-06–06BO]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and

Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Survey of Surgeons on Occupational Exposure to Blood and Body Fluids—New—National Center for Infectious Diseases (NCID), Division of Healthcare Quality Promotion (DHQP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Healthcare Quality Promotion (DHQP), CDC, defines as its primary mission the protection of patients and healthcare personnel through the promotion of safety, quality, and value in the healthcare delivery system. One priority is preventing transmission of blood borne pathogens to healthcare personnel during delivery of medical care. The purpose of this project is to conduct a survey of surgeons regarding the occurrence, reporting, and management of occupational exposures to blood and body fluid in the operating room (OR) setting. Respondents will also be asked about safety perceptions and practices during surgery.

The survey is intended to assess the knowledge, attitudes, and behaviors of surgeons regarding sharps injuries and blood exposures in the operating room setting, post exposure management and treatment of blood and body fluid exposures, and safety culture and practices. Data from the National Surveillance System for Health Care Workers (NaSH) indicate that surgeons are at high risk for sharps injuries and/or blood and body fluid exposures. However, they have the lowest rates of exposure reporting. The results of the proposed survey will be used to determine the nature and frequency of blood exposures in the operating room setting and to make recommendations about mechanisms for improving safety culture and practices in this setting.

The questionnaire will be sent to a 5% sample of the 99,042 U.S. surgeons in the American Medical Association's physician masterfile. The survey sample will be stratified by sub-specialty and geographic region. Assuming a 20% response rate, the total number of respondents would be 990. The survey will take a maximum of 10 minutes to complete. Therefore, the maximum total burden hours may reach 165. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (hours)
Surgeons	990	1	10/60	165

Dated: September 7, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–15235 Filed 9–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

FDA 225–06–8402

Memorandum of Understanding Between the United States Food and Drug Administration and the National Cancer Institute

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The purpose of this Memorandum of Understanding (MOU) is to set forth an agreement between the National Cancer Institute (NCI) and the Food and Drug Administration (FDA) (collectively ''the Parties'', or individually as a ''Party'') to develop and implement the Federal Investigator Registry of Biomedical Information Research Data (FIREBIRD), which will enable clinical investigators, NCI, FDA, and industry entities sponsoring clinical trials of investigational drugs (''Sponsors of Drugs and Biologics'' or ''Sponsors'') to manage clinical investigator information electronically in a fully secure manner.

DATES: The agreement became effective August 10, 2006.

FOR FURTHER INFORMATION CONTACT:

For FDA: Randy Levin, Center for Drug Evaluation and Research (HF–18), Food and Drug Administration, 5600 Fishers Lane, rm. 14B–45, Rockville, MD 20857, 301–827–7784, FAX: 301–827–1540.

For NCI: Peter Covitz, National Cancer Institute, 6116 Executive Blvd., rm. 705, Rockville, MD 20892, 301–402–0326.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOUs between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: September 6, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

BILLING CODE 4160–01–S

Serial number 225-06-8402

MEMORANDUM OF UNDERSTANDING
between the

NATIONAL CANCER INSTITUTE
and the

FOOD AND DRUG ADMINISTRATION
on

FIREBIRD

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish a formal collaboration between the U.S. Department of Health and Human Services, Food and Drug Administration (FDA) and the U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute (NCI) to develop and implement the Federal Investigator Registry of Biomedical Information Research Data (FIREBIRD), which will enable clinical investigators, NCI, FDA, and industry entities sponsoring clinical trials of investigational drugs ("Sponsors of Drugs and Biologics" or "Sponsors") to manage clinical investigator information electronically in a fully secure manner. FIREBIRD is one of several modules under development as part of an NCI effort in its Center for Bioinformatics (NCICB) to facilitate the exchange of clinical research information between NCI and FDA. To accomplish this objective, NCICB will make use of the cancer Biomedical Informatics Grid (caBIG™), which is a common infrastructure for sharing data, tools, and other resources among all entities engaged in cancer research. FIREBIRD will adhere to the caBIG™ principles of open source, open access, open development, and federation and will be compatible with caBIG™ technical standards. Upon the successful implementation of FIREBIRD, FDA intends to encourage Sponsors of Drugs and Biologics to make official submissions and amendments directly to FIREBIRD and to provide appropriate assistance to such users, which may include the issuance of guidance regarding FIREBIRD.

II. Background

The FDA/NCI Interagency Oncology Task Force (IOTF) was established in 2003 to enhance the efficiency of clinical research and the scientific evaluation of new cancer medications and diagnostics. The FDA and NCI both have interests in expediting the development of new drugs. One of the central goals of the IOTF is to implement an electronic drug application submission system that will help reduce the delays, errors, and costs associated with drug development. Such a system is expected to speed the discovery and delivery of new therapies.

FIREBIRD, the first module of such a system, is envisioned as a common electronic infrastructure that will help accelerate and streamline interactions between sponsors, including NCI, and FDA by facilitating the exchange of clinical investigator information required by FDA to be submitted on

Form FDA - 1572. Once implemented, FIREBIRD is intended to enable sponsors, including NCI, and FDA to manage clinical investigator information electronically in a fully secure manner. This MOU relates solely to FIREBIRD. NCI and FDA will work together to develop subsequent MOUs (or addenda to this MOU) related to other modules of an electronic drug application submission system.

III. Substance of Agreement; Responsibilities of NCI and FDA

This MOU addresses activities related to the development and implementation of FIREBIRD. Information in FIREBIRD will fall into two categories, which, for the purposes of this MOU are referred to as "FDA records" and "non FDA records." "FDA records" refers to any information entered into FIREBIRD by or on behalf of FDA, as well as any information, regardless of who enters it into FIREBIRD, once it is electronically submitted to FDA. In order for any information entered into FIREBIRD by a sponsor, including NCI, or a clinical investigator to become an "FDA record," the system will require the submitter, whether sponsor or clinical investigator, to take an affirmative step acknowledging the fact that the data are now accessible by the FDA. This will be considered a submission to FDA. Once so submitted to FDA, the information becomes available to the FDA and becomes an FDA record. Non FDA records are any information not entered into FIREBIRD by or on behalf of FDA, as well as information entered into FIREBIRD by a sponsor or clinical investigator prior to taking the affirmative step that constitutes submission to FDA.

FDA and NCI will establish a Change Management Board, comprised of representatives of both agencies, to discuss FIREBIRD's technical requirements, and to discuss and decide on changes or enhancements to the technical capabilities of FIREBIRD.

Development of FIREBIRD will occur in four phases: (1) development and testing (2) operational pilot testing (3) production deployment; and (4) actual production. During Phases 1, 2, and 3 of the project, FDA will transfer certain existing FDA information related to clinical investigators to NCI for the sole purpose of preparing such records for entry into FIREBIRD. In order to get FIREBIRD established, during Phases 1, 2 and 3, both FDA and NCI will have access to these FDA records and NCI's access to FDA records during this period is subject to the restrictions enumerated in III.A. of this agreement. After the conclusion of Phase 3, NCI will not seek to access records in the FDA records component of FIREBIRD. During the first 6 months of phase 4 of FIREBIRD, the system will limit access to FDA records solely to FDA and the contractor functioning as NCI's database administrator for FIREBIRD, and the contractor will be bound by the same restrictions set forth in III.A. of this agreement. Thereafter only FDA will have access to "FDA records." Information entered into FIREBIRD by or on behalf of FDA will reside only in the "FDA records" component. FIREBIRD will also facilitate access to limited data that will be published by the FDA to the public. Notwithstanding all of the foregoing, however, it is understood that NCI may be required to access records on its server if so required by law.

The specific responsibilities of the two parties to this MOU are as follows:

A. The National Cancer Institute (NCI)

- NCI will lead the development of FIREBIRD and provide for the maintenance of all hardware, software, and databases.
- NCI will design FIREBIRD to meet the requirements identified for the implementation of FIREBIRD. Changes or enhancements to the technical capabilities of FIREBIRD will only be made upon the approval of the Change Management Board.
- NCI will ensure that the data collected, stored, and exchanged through FIREBIRD meet applicable FDA requirements set forth in 21 CFR Part 11.
- NCI will not seek to access to any FDA record once the record has been submitted to FDA during phase 4, except as already permitted in accordance with FDA Privacy Act System Notice 09-10-0010 (Bioresearch Monitoring Information System, HHS/FDA (BIMO) or the FDA disclosure regulations set forth in 21 CFR Part 20 or otherwise required by law. However, the system may be designed to permit sponsors, including NCI, or a clinical investigator to create a mirror or duplicate of the record in the non FDA records component of FIREBIRD. NCI will protect all FDA records from disclosure in accordance with applicable laws and regulations.
- For information transferred by FDA to NCI for preparation and entry into FIREBIRD during Phases 1, 2 and 3, NCI agrees that, except as necessary for facilitating the information's entry into FIREBIRD, NCI will not use or disclose such information outside the Department of Health and Human Services without FDA's express written permission, except to the extent required by law. Further, before giving its contractor access to any information transferred by FDA to NCI for preparation and entry into FIREBIRD, NCI will procure written agreement from its contractor not to further use or disclose such information, except to the extent required by law.
- If for any reason NCI plans to discontinue the maintenance of FIREBIRD, NCI will give FDA 60 days' advanced notice of this decision and transfer the system, software, and FDA records, as well as documentation, procedures and instructions concerning the normal and emergency operation of the FIREBIRD software, to FDA, or another party mutually agreed upon and in compliance with all applicable laws and regulations, in a timely fashion.

B. The Food and Drug Administration (FDA)

- FDA will inform NCI of all necessary server security requirements.
- FDA will work with NCI to ensure that FIREBIRD contains all necessary server security requirements.
- FDA will develop a transition plan to migrate FDA's current clinical investigator data to the FIREBIRD system, which is intended to eventually become FDA's repository for storing and obtaining access to clinical investigator data required under 21 CFR 312.
- FDA staff will enter into FIREBIRD relevant clinical investigator-related data submitted to FDA as well as other data generated by FDA (e.g., completed inspection dates and disqualification determinations).

- FDA will encourage sponsors and clinical investigators to submit appropriate information to FDA using FIREBIRD.

IV. Funds

None of the activities outlined above currently requires the exchange of funds between NCI and FDA. In the event that the transfer of funds is deemed to be required in the future, the parties may enter into an interagency agreement pursuant to Section 601 of the Economy Act of 1932, as amended (31 U.S.C. 1535).

V. Information-Sharing, Reports, and Notices

FDA shall determine, in compliance with applicable law, whether to disclose information in the FDA records component of FIREBIRD. Proprietary and/or nonpublic information submitted by sponsors, including NCI, or clinical investigators, to the "Non FDA records" component of FIREBIRD will not be publicly disclosed by NCI, unless such disclosure is governed by appropriate confidentially disclosure agreements, or to the extent such disclosure is required by law. If NCI receives a request, order or demand for FDA records, including a request under the Freedom of Information Act, 5 U.S.C. 552, NCI will refer that request to FDA for response.

VI. Liaison Officers

Randy Levin
Director for Health and Regulatory Data Standards
Food and Drug Administration
Tel: 301-827-7784

NCI Project Officer
Peter Covitz
Chief Operating Officer
Center for Bioinformatics
National Cancer Institute
Tel: 301-402-0326

VII. Duration of MOU; Modifications; Termination

This MOU shall become effective on the date of signature by the parties and shall remain in effect for two (2) years unless modified by the mutual agreement of the parties upon sixty (60) days' notice in writing, or until such time as the system and software have been transferred to the FDA or a mutually agreed upon third party. If either party wishes to terminate this MOU, it may do so by giving 60 days' advance notice of this decision to the other party and must ensure that records belonging to the other party are transferred to the other party in a timely fashion.

VIII. SIGNATURES OF RESPONSIBLE PARTIES

We, the undersigned, agree to abide by the terms and conditions of this MOU.

APPROVED AND ACCEPTED FOR THE FOOD AND DRUG ADMINISTRATION

Date 8/10/06

Janet Woodcock, M.D.
Deputy Commissioner for Operations
and Chief Operating Officer (COO)
U.S. Food and Drug Administration

APPROVED AND ACCEPTED FOR THE NATIONAL CANCER INSTITUTE

Date August 10, 2006

John E. Niederhuber, M.D.
Acting Director, NCI and
Deputy Director for Translational
and Clinical Sciences
National Cancer Institute

[FR Doc. 06–7630 Filed 9–13–06; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: August 2006

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of August 2006, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.,* a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, name, address	Effective date
PROGRAM-RELATED CONVICTIONS	
ABERGEL-NAHON, SUZANNE MIAMI, FL	9/20/2006
ADAM, SALAH MIDLOTHIAN, VA	9/20/2006
ADAMSHICK, WILLIAM FORKED RIVER, NJ	9/20/2006
BALLOU, ROBERT ROOSEVELT, UT	9/20/2006
BENJAMIN, BARBARA EDINA, MN	9/20/2006
BRECKENRIDGE, SHELIA WESTERVILLE, OH	9/20/2006
BROWN, TAWANA ROOSEVELT, NY	9/20/2006
BUSSELMAN, SHERRIE LINCOLN, NE	2/8/2006
COCHRAN, KORENA KELLOGG, ID	9/20/2006
COLLEY, PHILLIP LINCOLN, NE	2/8/2006
CONDRA, BERNICE MAIN, CA	9/20/2006
DENNY, BRIAN MINNEAPOLIS, MN	4/12/2005
DULEY, DANIEL HAMMOND, IN	9/20/2006
FANG, YI ARCADIA, CA	9/20/2006
FARRELL, SHELDON FRESNO, CA	9/20/2006
FRIEDMAN, VICTOR LONGVIEW, WA	9/20/2006
GRITTEN, LYNETTE BAYSHORE, NY	9/20/2006
HALICKI, JANET BOARDMAN, OH	9/20/2006
HART, ROSE SHERMAN OAKS, CA	9/20/2006
HILSENDEGER, DANIEL	9/20/2006

Subject, name, address	Effective date
BILLINGS, MT	
IMEX MEDICAL EQUIPMENT & SUPPLIES, LLC ..... SOUTHFIELD, MI	9/20/2006
JOBE, TAMI ..... JONESBOROUGH, TN	9/20/2006
KESHISHIAN, HOVSEP ..... GLENDALE, CA	9/20/2006
KNOX, CECIL ..... ROANOKE, VA	9/20/2006
KUNZ, STEVEN ..... FAIRBANKS, AK	7/17/2006
LESLIE, LARRY ..... MEMPHIS, TN	9/20/2006
LONERGAN, JOHN ..... CLEVELAND, OH	9/20/2006
LONG, SYLVIA ..... WAXAHACHIE, TX	9/20/2006
LUDAN, DELIA ..... MILLBRAE, CA	9/20/2006
LUDAN, JOSE ..... MILLBRAE, CA	9/20/2006
MARTINEZ, DEANA ..... PEARL, MS	9/20/2006
MASSEY, ANDREW ..... CHAMPLIN, MN	9/20/2006
MATTHEWS, JAMES ..... EL DORADO, KS	9/20/2006
MATTHEWS, SALLERY ..... COFFEYVILLE, KS	9/20/2006
MAY, BILLIE ..... BURR OAK, KS	9/20/2006
MAY, LINDA ..... BURR OAK, KS	9/20/2006
MENA, DAISY ..... WHITTIER, CA	9/20/2006
MESSERLY, TERRY ..... SMELTERVILLE, CA	9/20/2006
MEZIL-THOMAS, YOLANDE ... PETERSBURG, VA	9/20/2006
NELSON, STEVE ..... HOBBS, NM	9/20/2006
OKON, SAMUEL ..... LAGRANGEVILLE, NY	9/20/2006
OKORONKWO, COMFORT ..... DAYTON, TX	9/20/2006
OLSON, THELMA ..... GREEN BAY, WI	9/20/2006
PAKDELAN, MOHAMMAD ..... VERDES, CA	9/20/2006
RIZVI, SYED ..... HEWLETT, NY	9/20/2006
ROWSER, BOBBIE ..... ROSEDALE, NY	9/20/2006
SHAMEEM, SHAMAIL ..... HUNTINGTON STATION, NY	9/20/2006
SHANIDZE, IRAKLY ..... GROSSE POINTE PARK, MI	9/20/2006
SHANIDZE, MICHAEL ..... SHERMAN OAKS, CA	9/20/2006
SHERIDAN, MICHELLE ..... MANASSA, CO	9/20/2006
STACEY, BRICE ..... HELENA, MT	9/20/2006
STRAUCH, VERNON ..... ROCHESTER, MN	2/8/2006
SWAN, SEUTTER ..... TERRE HAUTE, IN	9/20/2006
SWAN, SHELIA ..... PEKIN, IL	9/20/2006
THELEN, SHEILA ..... VIROQUA, WI	9/20/2006
TOWNSEND, WADE ..... MORGANTOWN, WV	9/20/2006
UGARTE, MIGUEL ..... PENSACOLA, FL	9/20/2006
VASQUEZ, FRANCISCA ..... NOVATO, CA	9/20/2006
VOSPER, TRUDY ..... ROCKY POINT, NY	9/20/2006
WALLED, ROSA ..... MIAMI, FL	7/5/2006
WEXLER, DAVID ..... WHITE DEER, PA	9/20/2006
WILSON, DEONA ..... GRENADA, MS	9/20/2006

FELONY CONVICTION FOR HEALTH CARE FRAUD

BARTON, MICHELLE ..... TOOELE, UT	9/20/2006
BRADLEY, REGINA ..... TEMPLE, TX	9/20/2006
CARMICHAEL, SHAREL ..... WACO, TX	9/20/2006
DOUGHERTY, MICHAEL ..... LAKEWOOD, CO	9/20/2006
EGGEBRAATEN, MARILYN .... CASCO, WI	9/20/2006
HELMS, JEREMY ..... NEWELL, WV	9/20/2006
JACKSON, CARLA ..... MIDDLETOWN, IN	9/20/2006
MALLETT, STACIE ..... BYESVILLE, OH	9/20/2006
MARCUS, LAURA ..... MANCHESTER, NH	9/20/2006
MASTERS, WANITA ..... HOWARD, OH	9/20/2006
MITCHELL, RITA ..... BILLINGS, MT	9/20/2006
OREM, SUSAN ..... MANVILLE, NJ	9/20/2006
POTACCO, PHILIP ..... KINNELON, NJ	9/20/2006
REED, JASON ..... NAPOLEON, OH	9/20/2006
SAPP, LORI ..... FUQUAY-VARINA, NC	9/20/2006
SHACK, DANIEL ..... TITUSVILLE, NJ	9/20/2006
TAGANYI, GABRIEL ..... LISBON, OH	9/20/2006
TINKHAM, WENDY ..... NEWBURYPORT, MA	9/20/2006
TORGERSON, MICHELLE ..... PEKIN, IL	9/20/2006
VALENTINE, LYNNE ..... LAKEWOOD, CO	9/20/2006
WOLLET, JOYCE ..... CUYAHOGA FALLS, OH	9/20/2006
WYATT, KACEE ..... DOWNSVILLE, LA	9/20/2006
ZAWAHIR, MEEYAPILLAI ..... TENAFLY, NY	9/20/2006

FELONY CONTROL SUBSTANCE CONVICTION

ARNOLD, ARTHUR ..... TYLER, TX	9/20/2006
COCHRAN, HEATHER ..... NORMAN, OK	9/20/2006
DAYANANDA, DEWUNDARA .. BLOOMFIELD HILLS, MI	9/20/2006
DEANDRA, SUBADRA ..... BLOOMFIELD HILLS, MI	9/20/2006
FEINGOLD, JEFFREY ..... ANTHONY, TX	9/20/2006
FERRERA, JESSICA ..... CINCINNATI, OH	9/20/2006
IVEY, CAROL ..... YANTIS, TX	9/20/2006
KISH, BEVERLY ..... AURORA, CO	9/20/2006
LOPER, TESSA ..... SUNRAY, TX	9/20/2006
MARCUS, EDWARD ..... LAKEWOOD, CO	9/20/2006
NORMAN, AUDREY ..... TAMPA, FL	9/20/2006
PENNINGTON, SHELLY ..... CAMDEN, AR	9/20/2006
POUSH, JOHN ..... BILLINGS, MT	9/20/2006
RITTER, KIMBERLY ..... CLAREMONT, NH	9/20/2006
STEWART, MISTY ..... AMARILLO, TX	9/20/2006
TOLEDO, KAREN ..... SPURGER, TX	9/20/2006
UHLIG, CYNTHIA ..... WESTFIELD, NJ	9/20/2006
WAGGONER, KIMBERLEY ..... SEGUIN, TX	9/20/2006
WEINBERG, MAX ..... GRAND JUNCTION, CO	9/20/2006
WEISS, ANDREW ..... MIAMI, FL	9/20/2006
WHITED, DAPHNE ..... CANTONMENT, FL	9/20/2006
WILLIAMS, MARLENE ..... THORNTON, CO	9/20/2006
WRIGHT, KIMBERLY ..... HERNANDO, MS	9/20/2006
YAP, PEDRO ..... WARREN, OH	9/20/2006

PATIENT ABUSE/NEGLECT CONVICTIONS

ALDABA, REBECCA ..... PERALTA, NM	9/20/2006
ANGLEMYER, RICHARD ..... RHINELANDER, WI	9/20/2006
BEAVO, ROBERT ..... BATTLE CREEK, MI	9/20/2006
BILLINGSLEY, JANICE ..... SANTA MARIA, CA	9/20/2006
BROADWAY, DONALD ..... OKLAHOMA CITY, OK	9/20/2006
BUSH, COVERSON ..... TEMPLE, TX	9/20/2006
CAVES, PEGGY ..... ANTLERS, OK	9/20/2006
CITIZEN, JENINE ..... ABBEVILLE, LA	9/20/2006
COLEMAN, KIMBERLY ..... N LITTLE ROCK, AR	9/20/2006
CROSS, NATALIE ..... YODER, CO	9/20/2006
CSEKE, LOUIS ..... FORT COLLINS, CO	9/20/2006
DEAL, BERNETTA ..... ALEXANDRIA, LA	9/20/2006
FIELDS, PRESTON ..... CANYON COUNTRY, CA	9/20/2006
FOWLER, HARRY ..... CONWAY, AR	9/20/2006
HALLMARK, KELLY	9/20/2006

Subject, name, address	Effective date
PAULS VALLEY, OK	
HARTLEY, DENNIS ..... PERRY, FL	9/20/2006
KIRK, JANICE ..... GARY, IN	9/20/2006
LYNCH, GUSTANUS ..... DELHI, LA	9/20/2006
MOMAH, CHARLES ..... MONROE, WA	9/20/2006
PARKS, WILLIAM ..... ENDICOTT, NY	9/20/2006
PARSONS, MICHELE ..... NORTH BRANCH, MN	9/20/2006
PARSONS, TINA ..... BROOKLYN, NY	9/20/2006
SAPP, KRISTY ..... ATLANTA, LA	9/20/2006
SLEEZER, NATASHA ..... MORRISON, CO	9/20/2006
SMITH, PAMELA ..... BEAUMONT, TX	9/20/2006
SMITH, WILLIAM ..... FULTONVILLE, NY	9/20/2006
SVOBODA, MARIA ..... ELCAMPO, TX	9/20/2006
TAYLOR, ESTERLYNN ..... LAUREL, MD	9/20/2006
THOMPSON, BEULAH ..... CUSHING, OK	9/20/2006
THOMPSON, BRANDY ..... SHREVEPORT, LA	9/20/2006
VAUGHN, BARBARA ..... BLOUNTVILLE, TN	9/20/2006
WALL, KATHY ..... WELLSTON, OK	9/20/2006
WILLIS, LAURENCE ..... W PALM BEACH, FL	9/20/2006
CONVICTION FOR HEALTH CARE FRAUD	
DUDLEY-RICHARDSON, LYNETTE ..... BALTIMORE, MD	9/20/2006
LICENSE REVOCATION/SUSPENSION/ SURRENDER	
ALLEN, SHELLY ..... CARROLLTON, TX	9/20/2006
ARIDA, EDWARD ..... POMPANO BEACH, FL	9/20/2006
ASKEY, JOLYNN ..... PHOENIX, AZ	9/20/2006
BADESCU, SMARANDA ..... N HOLLYWOOD, CA	9/20/2006
BALICANTA, ALFRED ..... BUSHNELL, FL	9/20/2006
BARRETT, DAVID ..... ATHENS, TX	9/20/2006
BASSETT, DAVID ..... SILVER SPRING, MD	9/20/2006
BATHURST, DAVID ..... APPLE VALLEY, CA	9/20/2006
BELL, JIMMIE ..... WACO, TX	9/20/2006
BENTLEY, RODNEY ..... GULFPORT, MS	9/20/2006
BISHOP, UNISA ..... COLUMBUS, MS	9/20/2006
BLAIR, MICHELE ..... BRATTLEBORO, VT	9/20/2006
BLAZAK, DAVID ..... MERRILLVILLE, IN	9/20/2006
BLODGETT, JOHN ..... LANCASTER, CA	9/20/2006
BLY, TERRY ..... CORPUS CHRISTI, TX	9/20/2006
BOWMAN, ROSA ..... BEREA, KY	9/20/2006
BRADSHAW, ANTHONY ..... PASO ROBLES, CA	9/20/2006
BRAZIER, MARY ..... PHOENIX, AZ	9/20/2006
BRICKER, ANGELA ..... YORK, PA	9/20/2006
BRIGGS, GLORIA ..... HARLINGEN, TX	9/20/2006
BROWN, CHARMAINE ..... AVONDALE, AZ	9/20/2006
BROWN-DIAZ, COREEN ..... HOLLYWOOD, FL	9/20/2006
BUNFILL, DARICE ..... APACHE JUNCTION, AZ	9/20/2006
CAPASSO, ANTHONY ..... PALM BAY, FL	9/20/2006
CARPENTER, AMBER ..... JACKSON, TN	9/20/2006
CASTALANO, TRACEY ..... THIBODAUX, LA	9/20/2006
CASTLE, CARLA ..... PEYTON, CO	9/20/2006
CAUBLE, KAREN ..... YORKTOWN, TX	9/20/2006
CHAPPELL, DEBORAH ..... EMPORIA, VA	9/20/2006
CHEWNING, CHARLES ..... EL PASO, TX	9/20/2006
CHOI, SEI YOUNG ..... POUGHKEEPSIE, NY	9/20/2006
CHURCH, JEANE ..... ATASCADERO, CA	9/20/2006
COLON, MARIBEL ..... SAINT ALBANS, VT	9/20/2006
CONSOLVER, JAY ..... WEST HILLS, CA	9/20/2006
CORRAL, MELISSA ..... MESQUITE, NV	9/20/2006
COVINGTON, RHONDA ..... VALLEY VIEW, TX	9/20/2006
CROSS, SHERRY ..... TUCSON, AZ	9/20/2006
CURTIS, ANITA ..... SEATTLE, WA	9/20/2006
DAVIS, CAROL ..... SHAWSVILLE, VA	9/20/2006
DEERING, TINIKA ..... MARTINSVILLE, VA	9/20/2006
DELUNA, CELINDA ..... MCALLEN, TX	9/20/2006
DEROUIN, STACEY ..... WARWICK, RI	9/20/2006
DESCHAINE, TRACEY ..... MALVERN, PA	9/20/2006
DIENST, DEBRA ..... LAKELAND, FL	9/20/2006
DIXON, SHEMEKA ..... DALLAS, TX	9/20/2006
DOWDY, SUMMER ..... STROUD, OK	9/20/2006
DRAGON, SUSAN ..... NARRAGANSETT, RI	9/20/2006
DUQUETTE, WILLIAM ..... PLYMOUTH, MA	9/20/2006
ELLIS, DORIS ..... WILLIAMSBURG, VA	9/20/2006
FARRELL, ANNIE ..... UNION SPRINGS, AL	9/20/2006
FERNANDEZ, JULIE ..... SCOTTSDALE, AZ	9/20/2006
FIMBRES, ANA ..... TUCSON, AZ	9/20/2006
FLOWERS, MARY ..... TERRY, MS	9/20/2006
FOX, JANET ..... ANNANDALE, VA	9/20/2006
FRANKE, KEITH ..... CONVERSE, TX	9/20/2006
GALLOWAY, CANDACE ..... TUPELO, MS	9/20/2006
GARCIA, JESSE ..... SAN ANTONIO, TX	9/20/2006
GARCIA, MARTINA ..... BULLHEAD CITY, AZ	9/20/2006
GARDNER, LEAH ..... SPARKS, NV	9/20/2006
GARNER, CURT ..... PHOENIX, AZ	9/20/2006
GARNER, LAURA ..... TAR HEEL, NC	9/20/2006
GILLILAND, STANLEY ..... OLIVE BRANCH, MS	9/20/2006
GISH, AERIKA ..... OXNARD, CA	9/20/2006
GODDARD, SHEILA ..... CHRISTIANSBURG, VA	9/20/2006
GOTTSCHALL, MARK ..... WEST JORDAN, UT	9/20/2006
GOUGH, SHANNON ..... LITTLETON, CO	9/20/2006
GOULD-GATINEAU, JOAN ..... PHILADELPHIA, PA	9/20/2006
GRAHAM, RODAWNA ..... YUKON, OK	9/20/2006
GRIFFIN, SHARON ..... LAS VEGAS, NV	9/20/2006
GROSSENBACHER, KATHI .... BERN, KS	9/20/2006
GUYER-PYLE, ASHLEY ..... STERLING, VA	9/20/2006
HAIR, KELLEY ..... BOSSIER CITY, LA	9/20/2006
HAMILTON, DARREL ..... GRAND PRAIRIE, TX	9/20/2006
HANSFORD, MARYANNE ..... PUNTA GORDA, FL	9/20/2006
HARMAN, AUDREY ..... HOUSTON, TX	9/20/2006
HASSETT, MARY ..... WARWICK, RI	9/20/2006
HAYNES, GERALYNN ..... LAS VEGAS, NV	9/20/2006
HERNANDEZ, SUSAN ..... REVERE, MA	9/20/2006
HOLLOWAY, MARGO ..... MAYSVILLE, KY	9/20/2006
HORSMANN, ROBERT ..... SONOITA, AZ	9/20/2006
HOWARD, KIMA ..... PROVIDENCE, RI	9/20/2006
HUBBARD, ELLA ..... ORLANDO, FL	9/20/2006
HUNTER, MELISSA ..... NEW CASTLE, IN	9/20/2006
HUNTRESS-LEGERE, AMY .... NEWTON, NH	9/20/2006
JACKSON, YEVETTE ..... PHOENIX, AZ	9/20/2006
JEAN-PHILLIPPE, GINA ..... CRANSTON, RI	9/20/2006
JETER, RACHEL ..... GURDON, AR	9/20/2006
JOHNSON, PEGGY	9/20/2006

Subject, name, address	Effective date
SHREVEPORT, LA	
KASTANTIN, BRONY ..... WHEATLAND, IA	9/20/2006
KEELEY, MARIE ..... MANCHESTER, NH	9/20/2006
KERSH, SHIRLEY ..... JACKSON, MS	9/20/2006
KILLEN, DAWN ..... SOMERDALE, NJ	9/20/2006
KIM, STEVEN ..... HAMBURG, NY	9/20/2006
KING, KELLI ..... WELLS RIVER, VT	9/20/2006
KING, KRYSTAL ..... NAPLES, FL	9/20/2006
KOROMA, ZAINAB ..... MESA, AZ	9/20/2006
KRIGBAUM, BILLY ..... SHERIDAN, AR	9/20/2006
KRUEGER, JONATHAN ..... GREELEY, CO	9/20/2006
LEE, HA ..... LOS ANGELES, CA	9/20/2006
LIBBY, CAROL ..... LAND O LAKES, FL	9/20/2006
LICKLITER, DEBORAH ..... FERNANDINA BEACH, FL	9/20/2006
LIMLAW, PATRICIA ..... HYDE PARK, VT	9/20/2006
LOCKHOFF, RUTH ..... WESTMINSTER, CO	9/20/2006
LYONS, PATRICIA ..... SPLENDORA, TX	9/20/2006
MACIAS, FERNANDO ..... PHOENIX, AZ	9/20/2006
MAIORIELLO, NICHOLAS ..... BETHLEHEM, PA	9/20/2006
MANNING, SHERRI ..... ELBA, AL	9/20/2006
MARTIN, JANET ..... FALLS CHURCH, VA	9/20/2006
MCCREARY-HALL, ANN ..... SEFFNER, FL	9/20/2006
MCFADDEN, SHAWN ..... GLENDALE, AZ	9/20/2006
MCINTOSH, TERRELL ..... TULSA, OK	9/20/2006
MCLAIN, JUDI ..... MERIDIAN, MS	9/20/2006
METCALF, JAN ..... KENNESAW, GA	9/20/2006
MITCHELL, DEBRA ..... ROYSE CITY, TX	9/20/2006
MITCHELL, MEEGAN ..... HOUSTON, TX	9/20/2006
MOON, CHAE ..... REDDING, CA	9/20/2006
MOORE, KEITH ..... JACKSONVILLE, FL	9/20/2006
MOOREFIELD, FRANK ..... GREEN COVE SPRING, FL	9/20/2006
MUSIKABHUMMA, ANCHALEE PIKESVILLE, MD	9/20/2006
NASH, JACQUELINE ..... PHOENIX, AZ	9/20/2006
OBENG, ESTHER ..... ALEXANDRIA, VA	9/20/2006
OOST, RICHARD ..... NAPLES, FL	9/20/2006
OROZCO, MELISSA ..... INDIO, CA	9/20/2006
OSBORNE, DEBORAH ..... GUSTINE, CA	9/20/2006
OSTWALD, ALICE	9/20/2006
WHITEHOUSE STATION, NJ	
OVERSTREET, BETTY ..... PALATKA, FL	9/20/2006
PARRA, SALLEY ..... ISSAQUAH, WA	9/20/2006
PARTIN, LISA ..... PINEVILLE, KY	9/20/2006
PAVLOV, ANDREY ..... TUSTIN, CA	9/20/2006
PAYNE, JOHN ..... LOUISVILLE, KY	9/20/2006
PEOPLES, ASHLEY ..... BENTON, AR	9/20/2006
PEREZCASSAR, JOSE ..... LAKE MARY, FL	9/20/2006
PESCIOTTA, ROY ..... TOMS RIVER, NJ	9/20/2006
PHILLIPS, ROBIN ..... ALVARADO, TX	9/20/2006
PITTS, TAMMY ..... VOSSBURG, MS	9/20/2006
POSTL, PATRICIA ..... FAYETTEVILLE, NC	9/20/2006
PREUSS, SONIA ..... SCOTTSDALE, AZ	9/20/2006
PRINCE, PHOEBE ..... JACKSONVILLE, FL	9/20/2006
RAINEY, IRENE ..... GOULD, AR	9/20/2006
RAMIREZ, SABRINA ..... LOSANTVILLE, IN	9/20/2006
READ, KATHLEEN ..... KOUTS, IN	9/20/2006
REESE, JOSEPH ..... ALBUQUERQUE, NM	9/20/2006
RICHTER, PATRICIA ..... PALM BEACH GARDENS, FL	9/20/2006
ROBERTSON, SHERRY ..... AVONDALE, AZ	9/20/2006
RODRIGUEZ, DANA ..... CENTRALIA, WA	9/20/2006
RUIZ, GAYLYLNN ..... FRUITA, CO	9/20/2006
SAWYER, HEATHER ..... ROGERSVILLE, TN	9/20/2006
SCHAIER, ARON ..... MARBLEHEAD, MA	9/20/2006
SCHIEFERDECKER, STEPHANIE ..... STAFFORD, VA	9/20/2006
SHARMA, PUJA ..... UNION CITY, CA	9/20/2006
SHAW, STACY ..... WABASH, IN	9/20/2006
SIMPSON, AMY ..... HOPKINSVILLE, KY	9/20/2006
SKERRITT, PATRICIA ..... HUNTER, NY	9/20/2006
SLAGLE-ELLIOTT, KAREN ..... CHESAPEAKE, VA	9/20/2006
SMOLARSKY, JASON ..... DEER PARK, NY	9/20/2006
STAINBACK, PATRICK ..... AURORA, CO	9/20/2006
STELL, VIRGINIA ..... HOT SPRINGS, AR	9/20/2006
SUGGS, FORREST ..... SCOTTSDALE, AZ	9/20/2006
TANDRON, JULIO ..... MIAMI, FL	9/20/2006
TAYLOR, CHRISTOPHER ..... WEWAHITCHKA, FL	9/20/2006
TAYLOR, JENNIFER	9/20/2006
HORN LAKE, MS	
THOMAS, FREDRICA ..... PHOENIX, AZ	9/20/2006
THOMAS, THOMAS ..... BRADENTON, FL	9/20/2006
THORNSBURG, LEAH ..... SAN ANTONIO, TX	9/20/2006
TOUPS, CAROL ..... HOUMA, LA	9/20/2006
TRENT, ELAINE ..... CLINTON, TN	9/20/2006
TRIMBATH, MELISSA ..... REPUBLIC, PA	9/20/2006
TRUDGEN, ANITA ..... JACKSBORO, TX	9/20/2006
ULRICH, CAROL ..... HARDIN, KY	9/20/2006
VACCARO, AUDREY ..... NATURAL BRIDGE STATION, VA	9/20/2006
VIGIL, GERALD ..... CLEARFIELD, UT	9/20/2006
VIKEN, KATHLEEN ..... CAMAS, WA	9/20/2006
VUKODER, SHERRY ..... E MIDDLEBURY, VT	9/20/2006
WALDROP, CYNTHIA ..... ADDISON, TX	9/20/2006
WILKINSON, PHYLLIS ..... NEPTUNE, NJ	9/20/2006
WILLIAMS, CRYSTAL ..... GEORGETOWN, TX	9/20/2006
WILSON, DEBRA ..... RICHMOND, VA	9/20/2006
WILSON, KENT ..... SANTA MARIA, CA	9/20/2006
WILTON, GARY ..... NAPLES, FL	9/20/2006
WOGAMAN, MERRI ..... NORTH PORT, FL	9/20/2006
WOOD, CAROLYN ..... ANGIER, NC	9/20/2006
WOODARD, SHAWN ..... LAS VEGAS, NV	9/20/2006
WORKS, WENDY ..... JONESBORO, AR	9/20/2006
WULF, ERIN ..... MESA, AZ	9/20/2006
YOUNG, PENNY ..... BULLHEAD CITY, AZ	9/20/2006

FEDERAL/STATE EXCLUSION/ SUSPENSION

CUESTAS, LUZ ..... UNIONDALE, NY	9/20/2006
DURNIEN, EDWARD ..... KEANSBURG, NJ	9/20/2006
FALOWO, YETUNDE ..... N. PLAINFIELD, NJ	9/20/2006
JOHNSON, ROBERT ..... ASBURY PARK, NJ	9/20/2006
RIVERA, JOSSELIN ..... CAMDEN, NJ	9/20/2006
WILSON, TASHA ..... SALEM, NJ	9/20/2006

OWNED/CONTROLLED BY EXCLUDED/ CONVICTED INDIVIDUAL

A AND A ORTHOPEDICS, INC MIAMI, FL	9/20/2006
STEVEN J KUNZ, DC, PC	7/17/2006

Subject, name, address	Effective date
FAIRBANKS, AK	
SUZANNE ABERGEL, DDS, PA ..... MIAMI, FL	9/20/2006
DEFAULT ON HEAL LOAN	
ALLEN, DANIEL ..... GRASS VALLEY, CA	9/20/2006
BARONE, ALICE ..... BRIDGEPORT, CT	9/20/2006
BIXBY, CHARLES ..... SAN FRANCISCO, CA	9/20/2006
DAVIS, KAREN ..... LONE TREE, CO	9/20/2006
DEBOLT, VICKI ..... ROSWELL, NM	9/20/2006
HEARD, GEOFFREY ..... REDWOOD CITY, CA	9/20/2006
KRYSTOSIK, JAMES ..... MANTUA, OH	9/20/2006
MCDONALD, VICTORIA ..... BLUFFTON, SC	8/1/2006
MITCHELL, ALAN ..... ST LOUIS, MO	9/20/2006
MOON, BETH ..... PAINESVILLE, OH	9/20/2006
NGUYEN, MICHAEL ..... MILPITAS, CA	9/20/2006
OHLER, JOY ..... RIDGELEY, WV	9/20/2006
SMITH, MERVYN ..... GRAND RAPIDS, MI	9/20/2006
SMITH-TRUAX, KIM ..... HILLIARD, OH	9/20/2006
STYCHNO, CHRISTOPHER .... WARREN, OH	8/1/2006

Dated: September 6, 2006.

Maureen R. Byer,

Director, Exclusions Staff, Office of Inspector General.

[FR Doc. E6–15237 Filed 9–13–06; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Date: September 26–28, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Barbara J. Nelson, Ph.D, Scientific Review Administrator, Office of Review, National Center for Research Resources, NIH, 6701 Democracy Blvd, Room 1080, 1 Democracy Plaza, Bethesda, MD 20892, (301) 435–0806.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: September 5, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7629 Filed 9–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the Public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Patient-Oriented Research (I–23,24,25) and Career Enhancement Award for Stem Cell Research (K–18).

Date: November 2–3, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Arlington Crystal City, Marriott Hotel, 2899 Jefferson Davis Hwy, Club Room, Arlington, VA 22202.

Contact Person: Mark Roltsch, Ph.D., Scientific Review Administrator, Review Branch, NHLBI, National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301 435–0287, *roltschm@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Mentored Scientist Award–K99.

Date: November 9–10, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Roy L. White, Ph.D., Scientific Review Administrator, Division of Extramural Affairs, Review Branch, National Heart, Lung, and Blood Institute, NIH, 6701 Rockledge Drive, Rm. 7202, Bethesda, MD 20892–7924, 301/435–0310, *whiterl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis, Panel; Mentored Scientist Award–K99.

Date: November 9–10, 2006.

Time: 8 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: William J. Johnson, Ph.D., Scientific Review Administrator, Review Branch, Division of Extramural Affairs, NIH/NHLBI, 6701 Rockledge Drive, Bethesda, MD 20892–7924, 301–435–0317, *johnsonw@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis, Panel; Research Scientist Development Award–K01.

Date: November 16–17, 2006.

Time: 8 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: YingYing Li-Smerin, Ph.D. MD, Health Scientist Administrator, Division of Extramural Affairs, Review Branch, National Heart, Lung, and Blood Institute, NIH, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20814, 301–435–0275, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Education Projects–R25.

Date: November 16–17, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: YingYing Li-Smerin, Ph.D., MD, Health Scientist Administrator, Division of Extramural Affairs, Review Branch, National Heart, Lung, and Blood Institute, NIH, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20814, 301–435–0275, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Institutional National Research Service Award–T32.

Date: November 28–29, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Four Points Sheraton by BWI Airport, 7032 Elm Road, Baltimore, MD 21240.
Contact Person: Charles Joyce, Ph.D., Scientific Review Administrator, Review Branch, NHLBI, National Institutes of Health, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0288, *cjoyce@nhlbi.nih.gov*.
Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 5, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7626 Filed 9–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Institute of Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: September 26–27, 2006.
Open: September 26, 2006, 1 p.m. to 5 p.m.
Agenda: Discussion of Program Policies and Issues.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.
Closed: September 27, 2006, 9 a.m. to Adjournment.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.
Contact Person: Mary E. Kerr, FAAN, RN, Ph.D., Deputy Director, National Institute of Nursing, National Institutes of Health, 31 Center Drive, Room 5B–05, Bethesda, MD 20892–2178, 301/496–8230, *kerrme@mail.nih.gov*.
Information is also available on the Institute's/Center's home page: *www.nih.gov/ninr/a_advisory.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: September 5, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7623 Filed 9–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Hand Therapy Clinical Trial.
Date: October 25, 2006.
Time: 5 p.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Michael Bloom, Ph.D., Scientific Review Administrator, EP Review Branch, NIH–NIAMS Institute, One Democracy Plaza, Room 820, MSC 4872, 6701 Democracy Blvd, Bethesda, MD 20892–487, 301–594–4953, Michael_Bloom@nih.gov.
Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7624 Filed 9–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Committee for Disorders Involving Children and Their Families.
Date: October 10, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Christopher S. Sarampote, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608. 301–443–1959. *csarampo@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group, Mental Health Services in Non-Specialty Settings.

Date: October 11–12, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608. 301–443–1225. *aschultemail.hih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Committee for Adult Mood and Anxiety Disorders.

Date: October 11, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, Pennsylvania Ave at 15th Street, NW., Washington, DC 20004.

Contact Person: David I. Sommers, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606. 301–443–7861. *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group, Mental Health Services in MH Specialty Settings.

Date: October 18, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Marina Broitman, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608. 301–402–8152. *mbroitma@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Committee for Disorders Related to Schizophrenia, Late Life, or Personality.

Date: October 20, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Tracy Waldeck, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6132, MSC 9608, Bethesda, MD 20852–9609. 301–435–0322. *waldeckt@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7625 Filed 9–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–18, Review R13s.

Date: October 13, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Park Clarion Hotel, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Kelly, Scientific Review Specialist, National Institute of Dental & Crainofacial Res., 45 Center Drive, Natcher Bldg., RM 4AN38J, Bethesda, MD 20892–6402, 301–594–4809, *mary_kelly@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–02, Review R25s.

Date: October 18, 2006.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sooyoun (Sonia) Kim, MS, 45 Center Dr, 4An 32B, Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institute of Health, Bethesda, MD 20892. (301) 594–4827. *kims@email.nidr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–05, Review R21s, R03s.

Date: October 19, 2006.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Mary Kelly, Scientific Review Specialist, National Institute of Dental & Crainofacial Res., 45 Center Drive, Natcher Bldg., RM 4AN38J, Bethesda, MD 20892–6402. (301) 594–4809. *mary_kelly@.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–20, Review RFA DE–07–003 & DE–07–004.

Date: October 31, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yujing, Liu, MD, Ph.D, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN38E, Bethesda, MD 20892. (301) 594–3169. *yujing_liu@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–10, Review of one R21 (Pain).

Date: November 2, 2006.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Yujing Liu, MD, Ph.D, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN38E, Bethesda, MD 20892. (301) 594–3169. *yujing_liu@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 5, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7627 Filed 9–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and discussions could disclose confidential

trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDCR Special Grants Review Committee, 07–01, Review RO3s, Ks, Fs.

Date: October 12–13, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Clarion Hotel Bethesda Park, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Raj K. Krishnaraju, Ph.D., MS, Scientific Review Administrator, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr. Rm 4AN 32J, Bethesda, MD 20892. 301–594–4864. *kkrishna@nidcr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS).

Dated: September 5, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7628 Filed 9–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of a Complete T-Cell Receptor Recognizing MART–1 Peptide Restricted by HLA–A2, Incorporated in a Continuous T-Lymphocyte Cell Line Developed or Owned by Licensee To Treat Cancer

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in U.S. patent 5,830,755 filed March 27, 1995 [HHS Ref. No. E–093–1995/0–US–01] and Australian Patent 709122 filed March 27, 1996 [HHS Ref. No. E–093–1995/0–AU–03], entitled *T-Cell Receptors and Their Use in Therapeutic and Diagnostic Methods,* to CellCure A/S, which is located in Aarhus, Denmark. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the use of a complete T-cell receptor MART–1 peptide restricted by HLA–A2 incorporated into a continuous T-Lymphocyte cell line developed or owned by licensee to treat cancer.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before November 13, 2006 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Michelle A. Booden, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; telephone: (301) 451–7337; facsimile: (301) 402–0220; e-mail: *boodenm@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The technology describes the composition and use of nucleic acid sequences that encode polypeptides capable of forming a T-cell receptor (TCR) in a genetically engineered cell. Specifically, these nucleic acid sequences will encode TCR's specific to tumor associated antigens (TAA), MART–1. T-Cells engineered with these tumor associated antigen specific TCRs show specific immune responses against TAA expressing cancer cells. Additionally, a method of treating or preventing cancer by administrating the above described TCRs is also disclosed.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Date: September 7, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–15216 Filed 9–13–06; 8:45 am]

BILLING CODE 4167–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Measures of Co-Occurring Infrastructure—NEW

SAMHSA's Center for Mental Health Services and Center for Substance Abuse Treatment will implement provider-level performance measures about the screening, assessment, and treatment of co-occurring disorders. Implementation will be limited to the 15 current States with Co-occurring State Incentive Grants (COSIG), and States receiving COSIG grants in 2006 and future years. SAMHSA anticipates awarding two COSIG grants in 2006. COSIG grants enable States to develop or enhance their infrastructure and capacity to provide accessible, effective, comprehensive, coordinated/integrated, and evidence-based treatment services to persons with co-occurring substance abuse and mental disorders. Only the immediate Office of the Governor of States may receive COSIG grants, because SAMHSA considers the Office of the Governor to have the greatest potential to provide the multi-agency leadership needed to accomplish COSIG goals. The COSIG program is part of SAMHSA plan to achieve certain goals regarding services for persons with co-occurring substance use and mental disorders:

- Increase percentage of treatment programs that screen for co-occurring disorders;
- Increase percentage of treatment programs that assess for co-occurring disorders;
- Increase percentage of treatment programs that treat co-occurring disorders through collaborative,

consultative, and integrated models of care;

• Increase the number of persons with co-occurring disorders served.

The proposed measures will enable SAMHSA to benchmark and track progress toward these goals within COSIG states.

Information will be collected annually about the number and percentage of programs that offer screening, assessment, and treatment services for co-occurring disorders; and the number of clients actually screened, assessed, and treated through these programs. Information will also be collected annually about providers' policies regarding screening, assessment, and treatment services for persons with co-occurring disorders.

A questionnaire, to be completed by providers, contains 47 items, answered either by checking a box or entering a number in a blank. The questionnaire is available both in printed form and electronically. Obtaining the information to enter on the questionnaire will require respondent providers to track screening, assessment, and treatment services for clients.

COSIG States will be required to report aggregated information to SAMHSA for all providers directly participating in their COSIG projects. Samhsa will consider sampling strategies for states with large numbers of participating providers and for providers serving large numbers of clients.

Annual burden for the activities is shown below:

Data collection	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Capacity to Screen, Assess, and Treat	242	1	4.5	1,089
Policy on Screening, Assessment, Referral, and Treatment	242	1	3 minutes	12
Total	242			1,101

Written comments and recommendations concerning the proposed information collection should be sent by October 16, 2006 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: September 6, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–15240 Filed 9–13–06; 8:45 am]

BILLING CODE 4162–20–P

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: GPRA Client Outcomes for the Substance Abuse and Mental Health Services Administration (SAMHSA)—(OMB No. 0930–0208)—Revision

The mission of the Substance Abuse and Mental Health Services Administration (SAMHSA) is to improve the effectiveness and efficiency of substance abuse and mental health treatment and prevention services across the United States. All of SAMHSA's activities are designed to ultimately reduce the gap in the availability of substance abuse and mental health services and to improve their effectiveness and efficiency.

Data are collected from all SAMHSA discretionary services grants and contracts where client/participant outcomes are to be assessed at three points (for the Center for Substance Abuse Treatment (CSAT): Intake, discharge, and post-intake and for the Center for Substance Abuse Prevention (CSAP): Pre-intervention, post-intervention, and follow-up). SAMHSA-funded projects are required to submit these data as a contingency of their award. The analysis of the data also will help determine whether the goal of reducing health and social costs of drug use to the public is being achieved.

The primary purpose of this data collection activity is to meet the reporting requirements of the Government Performance and Results Act (GPRA) by allowing SAMHSA to quantify the effects and accomplishments of SAMHSA programs.

The burden for the Center for Mental Health Services (CMHS) will be transferred from this data collection to its own separate Office of Management and Budget (OMB) clearance. The 60-day **Federal Register** Notice for National Outcome Measures (NOMS) for Consumers Receiving Mental Health Services was published on Friday, June 9, 2006 (Vol. 71, No. 111, p. 33476).

The burden for the CSAP gradually reduces due to the fact that this clearance request only pertains to a continuation of data collection for those grantees initially funded prior to FY2006. The new grantees (FY2006 and beyond) are approved under the NOMS for CSAP (OMB No. 0930–0230).

CSAT has no revisions to the instrument and the data collection time will remain the same but there is an increase in the number of respondents due to identifying the seven Screening, Brief Intervention, and Referral to Treatment program grantees that provide data uploads. The estimated annual response burden for this effort is provided in the table below:

ESTIMATES OF ANNUALIZED HOUR BURDEN [1] [3]

Center/form/ respondent type	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Added burden proportion	Total annual burden hours
CSAP GPRA Participant Outcome Measures for Discretionary Programs							
Participants							
FY2007	7,000	3	21,000	.33	6,930		6,930
FY2008	3,000	3	9,000	.33	2,970		2,970
CSAP Subtotal	10,000	3	30,000	.33	9,900		9,900
CSAP Annualized Subtotal.	5,000		15,000				4,950
CSAT GPRA Client Outcome Measures for Discretionary Programs							
Clients							
Adults	28,000	3	84,000	.33	27,720	.33	9,148
Adolescents	3,900	4	15,600	.33	5,148	.33	1,699
Screening, Brief Intervention and Referral to Treatment (SBIRT)[4]							
Screening Only	150,618	1	150,618	.10	15,062	0	0
Brief Intervention	27,679	3	83,037	.16	13,286	0	0
Brief Tx & Referral to Tx.	9,200	3	27,600	.33	9,108	.33	3,006
SBIRT Client Subtotal.	187,497		261,255		37,456		3,006
Client Subtotal	254,497		360,855				13,853
Data Extract by Grants[5]							
Adult Records	400 grants	70 × 3	210	.16	34		34
Adolescent Records.	73 grants	53 × 4	212	.16	34		34
Screening, Brief Intervention and Referral to Tx (SBIRT) Records							
Screening Only	7 grants	21,517 × 1	21,517	.05	1,076		1,076
Brief Intervention	7 grants	3,954 × 3	11,862	.08	949		949
Brief Tx & Referral to Tx.	7 grants	1,314 × 3	3,942	.16	631		631
Data Extract Subtotal.	480		37,743				2,724
Upload[6]	5 grants		171,639	(1)	29		29
Upload Subtotal[6].	5 grants		171,639				29
CSAT Subtotal	219,896		570,237				16,606
Total	224,896		585,237				21,556

1. This table represents the maximum additional burden if adult respondents provide three sets of responses/data collections. CSAT adolescent respondents are expected to provide four sets of responses/data collections.

2. Added burden proportion is an adjustment reflecting customary and usual business practices programs engage in (*e.g.*, they already collect the data items).

3. The minimum wage was used for calculating burden to respondents because employment status and level is variable for respondents normally served by these programs. A higher wage was used to calculate the burden for grants whose staff are employed at a higher rate.

4. Screening, Brief Intervention, Treatment and Referral (SBIRT) grant program:

*150,618 Screening Only (SO) respondents complete section A of the GPRA instrument, all of these items are asked during a customary and usual intake process resulting in zero burden; and

*27,679 Brief Intervention (BI) respondents complete sections A & B of the GPRA instrument, all of these items are asked during a customary and usual intake process resulting in zero burden; and

*9,200 Brief Treatment (BT) & Referral to Treatment (RT) respondents complete all sections of the GPRA instrument.

5. Data Extract by Grants: Grant burden for capturing customary and usual data.

6. Upload: 5 of the 7 SBIRT grants upload data; the other 2 grants conduct direct data entry.

7. 1 hr. per 6,000 records.

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: September 5, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–15254 Filed 9–13–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2392–06; DHS Docket No. USCIS–2006–0045; RIN 1615–ZA38]

Extension of the Designation of Burundi for Temporary Protected Status; Automatic Extension of Employment Authorization Documentation for Burundi TPS Beneficiaries

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice of extension of temporary protected status for Burundi.

SUMMARY: This Notice informs the public that the designation of Burundi for Temporary Protected Status (TPS) has been extended for 12 months, from its current expiration date of November 2, 2006, to November 2, 2007. This Notice also sets forth procedures necessary for nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) with TPS to re-register and to apply for an extension of their Employment Authorization Documents (EADs) for the additional 12-month period. Re-registration is limited to persons who have previously registered for TPS under the designation of Burundi and whose application has been granted or remains pending. Certain nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions.

Given the timeframes involved with processing TPS re-registrants, the Department of Homeland Security (DHS) recognizes that re-registrants may not receive a new EAD until after their current EAD expires on November 2, 2006. Accordingly, this Notice automatically extends the validity of EADs issued under the TPS designation of Burundi for 6 months through May 2, 2007, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended. New EADs with the November 2, 2007, expiration date will be issued to eligible TPS beneficiaries who timely re-register and apply for an EAD.

Effective Dates: The extension of Burundi's TPS designation is effective November 2, 2006, and will remain in effect until November 2, 2007. The 60-day re-registration period begins September 14, 2006 and will remain in effect until November 13, 2006.

FOR FURTHER INFORMATION CONTACT: Matthew Horner, Status and Family Branch, Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529, telephone (202) 272–1505. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act.
ASC—USCIS Application Support Center.
DHS—Department of Homeland Security.
DOS—Department of State.
EAD—Employment Authorization Document.
Secretary—Secretary of Homeland Security.
TPS—Temporary Protected Status.
USCIS—U.S. Citizenship and Immigration Services.

What authority does the Secretary of Homeland Security have to extend the designation of Burundi for TPS?

Section 244(b)(1) of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a(b)(1) authorizes the Secretary of Homeland Security (Secretary), after consultation with appropriate agencies of the Government, to designate a foreign state (or part thereof) for TPS. The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of the TPS designation, or any extension thereof, the Secretary, after consultation with appropriate agencies of the Government, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, the length of an extension of the TPS designation. 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for the TPS designation, he must terminate the designation. 8 U.S.C. 1254a(b)(3)(B).

Why did the Secretary decide to extend the designation of Burundi for TPS?

On November 4, 1997, the Attorney General published a Notice in the **Federal Register** designating Burundi for TPS. 62 FR 59735. In November 1999, the Attorney General extended and re-designated Burundi for TPS by publishing a Notice in the **Federal Register** at 64 FR 61123, based upon the ongoing armed conflict and extraordinary and temporary conditions in Burundi. Since 1999, the Attorney General or Secretary has extended Burundi's TPS designation six times, determining in each instance that the conditions warranting such designation continued to be met. 65 FR 67404 (Nov. 9, 2000), 66 FR 46027 (Aug. 31, 2001), 67 FR 55875 (Aug. 30, 2002), 68 FR 52405 (Sept. 3, 2003), 69 FR 60165 (Oct. 7, 2004), 70 FR 52425 (Sept. 2, 2005). The most recent extension took effect on November 2, 2005, and is due to expire on November 2, 2006.

Since November 2005, DHS and the Department of State (DOS) have continued to review conditions in Burundi. Based on this review, DHS has concluded that a 12-month extension of the TPS designation is warranted because, although there has been progress in the peace process, the armed conflict and extraordinary and temporary conditions that prompted designation persist. Further, DHS has determined that it is not contrary to the national interest of the United States to permit aliens who are eligible for TPS under this designation to remain temporarily in the United States. 8 U.S.C. 1254a(b)(1)(C).

Despite the signing of an ''Agreement of Principles towards Lasting Peace, Security and Stability in Burundi'' on June 19, 2006, the political situation remains volatile between the Government of Burundi and the rebel Forces Nationales de Liberation (FNL-Rwasa faction). One of the main obstacles in the ongoing negotiations between the Government of Burundi and the FNL-Rwasa faction is the composition of the national security forces. FNL-Rwasa is demanding the disbandment of the national security forces and their replacement with a force in which the FNL has a major stake. The Government of Burundi has agreed to incorporate the FNL into a reformed army that will be evenly staffed between members of the Hutu and Tutsi ethnic groups. The FNL, however, is attacking civilians even as it continues ceasefire negotiations with the Government of Burundi. Those attacks by the FNL are resulting in

deaths and the internal displacement of civilians.

Based upon this review, the Secretary, after consultation with appropriate Government agencies, finds that the conditions that prompted the designation of Burundi for TPS continue to be met. *See* 8 U.S.C. 1254a(b)(3)(A) (describing procedures for periodic review of TPS designations). There continues to be both an armed conflict and extraordinary and temporary conditions in Burundi that prevent aliens who are nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) from returning in safety. *See* 8 U.S.C. 1254a(b)(1)(A) (describing ''ongoing armed conflict'' as a rationale for TPS designation); 1254a(b)(1)(C) (describing ''extraordinary and temporary conditions'' as a rationale for TPS designation). The Secretary also finds that permitting those aliens who meet the TPS eligibility requirements to remain temporarily in the United States is not contrary to the national interest of the United States. *See Id.* On the basis of these findings, the Secretary will extend the TPS designation of Burundi for a 12-month period. *See* 8 U.S.C. 1254a(b)(3)(C) (providing the Secretary of Homeland Security with discretion to determine the length of an extension).

If I currently have benefits through the TPS designation of Burundi, do I need to re-register for TPS?

Yes. If you already have received benefits through the TPS designation of Burundi, your benefits will expire on November 2, 2006. All TPS beneficiaries must comply with the re-registration requirements described below in order to maintain TPS benefits through November 2, 2007. TPS benefits include temporary protection against removal from the United States and, employment authorization, during the TPS designation period. 8 U.S.C. 1254a(a)(1) and 1254a(f). Failure to re-register without good cause will result in the withdrawal of your temporary protected status and possibly your removal from the United States. 8 U.S.C. 1254a(c)(3)(C). TPS beneficiaries who fail without good cause to re-register on time will not be issued a new EAD valid through November 2, 2007.

If I am currently registered for TPS or have a pending application for TPS, how do I re-register to renew my benefits for the duration of the extension period?

All persons previously granted TPS under the designation of Burundi who would like to maintain such status and those whose applications remain pending but who wish to renew their benefits, must re-register by filing the following:

(1) Form I–821, Application for Temporary Protected Status, without fee;

(2) Form I–765, Application for Employment Authorization (see the chart below to determine whether you must submit the one hundred and eighty dollar ($180) filing fee with Form I–765 or a fee waiver request);

(3) A biometric services fee of seventy dollars ($70) if you are 14 years of age or older, or if you are under 14 and requesting a new EAD or an EAD extension. The biometric services fee will not be waived. 8 CFR 103.2(e)(4)(i), (ii); and

(4) A photocopy of the front and back of your EAD if you received an EAD during the most recent registration period.

When filing Form I–821, it is important to place your Alien Registration Number on your application. You may find your Alien Registration Number, also known as ''A#'', listed below your name on your EAD. In addition, please note that you do not need to submit photographs with your TPS application because a photograph will be taken, if needed, when you appear at an USCIS Application Support Center (ASC) for collection of biometrics.

Aliens who have previously registered for TPS but whose applications remain pending should follow these instructions if they wish to renew their TPS benefits. All TPS re-registration applications submitted without the required fees will be returned to the applicants.

What edition of the Form I–821 should be submitted?

Form I–821 has been revised. Only Forms I–821 with revision dates of November 5, 2004 or later will be accepted. The revision date can be found on the bottom right corner of the form. Submissions of older versions of Form I–821 will be rejected. You may obtain immigration forms, free of charge, on the Internet at *http://www.uscis.gov* or by calling the USCIS forms hotline at 1–800–870–3676.

Who must submit the $180 filing fee for the Form I–765, Application for Employment Authorization?

If . . .	Then . . .
You are applying for an extension of your EAD valid through November 2, 2007.	You must complete and file the Form I–765, Application for Employment Authorization, with the $180 fee.
You are not applying for a renewal of your EAD	You must complete and file Form I–765 (for data-gathering purposes only) with no fee. DO NOT check the Application Reason Type (Form I–765) if you are not applying for an EAD benefit.
You are applying for a TPS-related EAD under the late initial registration provisions and are under age 14 or over age 65.	You must complete and file Form I–765 with no fee.
You are applying for an extension of your EAD and are requesting a fee waiver.	You must complete and file: (1) Form I–765 and (2) a fee waiver request and affidavit (and any other supporting information) in accordance with 8 CFR 244.20.

Applicants who are only seeking to re-register for TPS and are not requesting an EAD or applying for an extension of their EAD should not check any of the following boxes on the I–765 (Application for Employment Authorization) in response to the question ''I am applying for:''

Permission to accept employment,

Replacement (of lost employment authorization document),

Renewal of my permission to accept employment (attach previous employment authorization document).

If a TPS applicant is not applying for an EAD and he or she incorrectly checks any of these boxes without submitting a $180 fee with his/her Form I–765, the processing of the application may be delayed.

Who must submit the $70 biometric services fee?

The $70 biometric services fee must be submitted by all aliens 14 years of age and older who: (1) Have previously been granted TPS and are now re-registering for TPS; (2) have an initial application for TPS currently pending,

have an EAD bearing the notification ''C–19'' on the face of the card under ''Category'' and wish to renew temporary treatment benefits; or (3) are applying for TPS under the late initial registration provisions. In addition, any alien, including one who is under the age of 14, choosing to apply for a new EAD or an extension of an EAD must submit the $70 biometric services fee. This biometric services fee will not be waived. 8 CFR 103.2(e)(4)(i), (ii).

When should I submit my re-registration application for TPS?

Applications must be filed during the 60-day re-registration period from September 14, 2006 until November 13, 2006. You are encouraged to file the application as soon as possible after the start of the 60-day re-registration period.

Where should I submit my re-registration application for TPS?

To facilitate efficient processing, USCIS has designated two post office (P.O.) boxes with the Chicago Lockbox for the filing of TPS applications. The type of TPS re-registration application you submit will determine the P.O. Box where your application must be submitted. Certain applications for TPS re-registration may also be electronically filed or ''E-Filed.'' See below for further filing instructions. Please note that applications should not be filed with a USCIS Service Center or District Office. Failure to file your application properly may result in the delay of the processing of your application.

Category 1: Applications for re-registration that do not require the submission of additional documentation must either be E-filed (see below) or filed at this address:

U.S. Citizenship and Immigration Services, P.O. Box 6943, Chicago, IL 60680–6943.

Or, for non-United States Postal Service (USPS) deliveries: U.S. Citizenship and Immigration Services, *Attn:* TPS—Burundi, 427 S. LaSalle—3rd Floor, Chicago, IL 60605–1029.

E-Filing Your Application: If your application falls into Category 1 you are strongly encouraged to E-File your application. During the re-registration period from September 14, 2006 to November 13, 2006, aliens re-registering for TPS under this designation may file the Forms I–821 and I–765 and associated fees electronically by using E-Filing at the USCIS Internet site, *http://www.uscis.gov*. In order to properly re-register using E-Filing, aliens must begin the E-Filing process by completing Form I–821 online. After the Form I–821 is completed, the system will then automatically link the alien to Form I–765. E-filing will only be available during the 60-day re-registration period. Attempts to E-file after the re-registration period ends November 13, 2006 will not be accepted. Aliens whose applications fall into Category 2 (explained below) may not E-File and must send their application materials to the USCIS Chicago Lockbox at the address listed below.

Category 2: Aliens who are filing a re-registration application that requires the submission of additional documentation or who are filing for TPS for the first time as a late initial registrant must file at the P.O. Box listed below:

U.S. Citizenship and Immigration Services, P.O. Box 8677, Chicago, IL 60680–8677.

Or, for non-United States Postal Service (USPS) deliveries: U.S. Citizenship and Immigration Services, *Attn:* TPS—Burundi—[EOIR/Additional Documents] *or* [Late Initial Registrant], 427 S. LaSalle—3rd Floor, Chicago, IL 60605–1029.

Note: Please make sure to indicate either ''EOIR/Additional Documents'' or ''Late Initial Registrant'' on the ''Attn:'' line, as appropriate, after ''Burundi,'' above.

Applications for re-registration require the submission of supporting documentation under the following circumstances:

(A) If one or more of the questions listed in Part 4, Question 2 of Form I–821 apply to the alien, then the alien must submit an explanation, on a separate sheet(s) of paper, and/or additional documentation.

(B) If the alien was granted TPS by an Immigration Judge or the Board of Immigration Appeals, then the alien must include evidence of the grant of TPS (such as an order from the Executive Office for Immigration Review (EOIR)) with his or her application package.

Category 2 applications may not be E-Filed.

Are certain aliens ineligible for TPS?

Yes. There are certain criminal and security-related inadmissibility grounds that render an alien ineligible for TPS. 8 U.S.C. 1254a(c)(2)(A)(iii). Further, aliens who have been convicted of any felony or two or more misdemeanors committed in the United States are ineligible for TPS, as are aliens described in the bars to asylum. 8 U.S.C. 1254a(c)(2)(B), 8 U.S.C. 1158(b)(2)(A). Aliens should also note that an individual granted TPS will have his/her TPS withdrawn if the alien was not in fact eligible for TPS, fails without good cause to timely re-register, or, with several exceptions, fails to maintain continuous physical presence in the United States from the date the alien first was granted TPS. 8 U.S.C. 1254a(c)(3).

Am I eligible to receive an automatic extension of my EAD from November 2, 2006, through May 2, 2007?

To receive an automatic extension of your EAD, you must be a national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who has applied for and received an EAD under the TPS designation for Burundi and who has not had TPS withdrawn or denied. This automatic extension is limited to EADs (1) issued on Form I–766, Employment Authorization Document, (2) bearing an expiration date of November 2, 2006, and (3) bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

If I am currently registered for TPS under the designation for Burundi and am re-registering for TPS, how do I receive an extension of my EAD after the 6-month automatic extension expires?

TPS re-registrants will receive a notice in the mail with instructions to appear at an ASC for biometrics collection. When you report to the ASC, you must bring the following documents: (1) Your receipt notice for your re-registration application; (2) your ASC appointment notice; and (3) your current EAD. If no further action is required for your case, you will receive a new EAD, valid through November 2, 2007, through the mail. If your case requires further resolution, USCIS will contact you in writing to explain what additional information, if any, is necessary to resolve your case. If your application is approved, you will receive a new EAD in the mail with an expiration date of November 2, 2007.

May I request an interim EAD at my local District Office?

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at District Offices.

How may employers determine whether an EAD has been automatically extended for 6 months through May 2, 2007, and is therefore acceptable for completion of the Form I–9?

For purposes of verifying identity and employment eligibility or re-verifying employment eligibility on the Form I–9 through May 2, 2007, employers of Burundi TPS beneficiaries whose EADs have been automatically extended by

this Notice must accept the EAD, if it is presented and reasonably appears on its face to be genuine and to relate to the employee, as a valid ''List A'' document. Employers should not ask for additional Form I–9 documentation and should not request proof of Burundian citizenship. An EAD that has been automatically extended for 6 months by this Notice through May 2, 2007, will actually contain an expiration date of November 2, 2006, and must be a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.'' New EADs showing the May 2, 2007, expiration date of the 6-month automatic extension will not be issued.

This action by the Secretary through this **Federal Register** Notice does not affect the right of an applicant for employment or an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those setting forth re-verification requirements. 8 CFR 274a.2(b)(1)(vii) (employer re-verification requirements). For questions, employers may call the USCIS Office of Business Liaison Employer Hotline at 1–800–357–2099 to speak to a USCIS representative. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155 or 1–800–362–2735 (TDD). Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688 or 1–800–237–2515 (TDD) for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html.*

How may employers determine an employee's eligibility for employment once the automatic extension has expired, between May 2, 2007, and the end of the TPS extension of Burundi on November 2, 2007?

TPS beneficiaries who re-register and are granted benefits will possess an EAD with an expiration date of November 2, 2007. This EAD must be accepted for the purposes of verifying identity and employment authorization. Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force, as described above.

What can an employee present to an employer for purposes of completing Form I–9, Employment Eligibility Verification through May 2, 2007?

Qualified individuals who have received a six-month extension of their EADs by virtue of this **Federal Register** Notice may present a TPS-based EAD to their employer, for the purpose of completion of the Form I–9 at the time of hire or re-verification, as proof of identity and employment authorization through May 2, 2007. To minimize confusion over this extension at the time of hire or re-verification, qualified individuals may also present a copy of this **Federal Register** Notice regarding the automatic extension of employment authorization documentation through May 2, 2007.

As an alternative to the aforementioned options, any legally acceptable document or combination of documents listed in List A, List B, or List C of the Form I–9 may be presented as proof of identity and employment eligibility; it is the choice of the employee.

Does TPS lead to lawful permanent residence?

No. TPS is a temporary benefit that does not lead to lawful permanent residence by itself or confer any other immigration status. 8 U.S.C. 1254a(e), (f)(1), (h). TPS also does not cure any immigration status violations, including periods of unlawful presence that may have accrued prior to an alien's filing of a prima facie eligible application for TPS which is ultimately granted, following withdrawal of TPS, or after termination of a TPS designation. When a country's TPS designation is terminated, TPS beneficiaries will maintain the same immigration status they held prior to TPS (unless that status has since expired or been terminated), or any other status they may have acquired while registered for TPS. Accordingly, if an alien held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, he or she will revert to unlawful status upon the termination of the TPS designation. Once the Secretary determines that a TPS designation should be terminated, aliens who had TPS under that designation are expected to plan for their departure from the United States and may apply for other immigration benefits for which they may be eligible.

May I apply for another immigration benefit while registered for TPS?

Yes. Registration for TPS does not prevent you from applying for another non-immigrant status, from filing for adjustment of status based on an immigrant petition, or from applying for any other immigration benefit or protection. 8 U.S.C. 1254a(a)(5). For the purposes of change of nonimmigrant status and adjustment of status, an alien is considered as being in, and maintaining, lawful status as a nonimmigrant during the period in which the alien is granted TPS. 8 U.S.C. 1254a(f)(4).

How does an application for TPS affect my application for asylum or other immigration benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. 8 U.S.C. 1158(b)(2)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii).

Does this extension allow nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who entered the United States after November 9, 1999, to file for TPS?

No. An extension of a TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS eligibility beyond the current TPS requirements for the Burundi designation. To be eligible for TPS benefits under this extension, nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) must have been continuously physically present and continuously resided in the United States since November 9, 1999.

What is late initial registration?

Some aliens may be eligible for late initial registration under 8 U.S.C. 1254a(c)(1)(A)(iv) and 8 CFR 244.2(f)(2) and (g). In order to be eligible for late initial registration an applicant must:

(1) Be a national of Burundi (or an alien who has no nationality and who last habitually resided in Burundi);

(2) Have continuously resided in the United States since November 9, 1999;

(3) Have been continuously physically present in the United States since November 9, 1999; and

(4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the registration period for the initial designation (from November 4, 1997, until November 3, 1998), or during the registration period for the re-designation (from November 9, 1999, to November 2, 2000), he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Is the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration no later than 60 days after the expiration or termination of the conditions described above. 8 CFR 244.2(g). All late initial registration applications pursuant to the TPS designation of Burundi should be submitted to the aforementioned Lockbox address in Chicago, Illinois.

What happens when this extension of TPS expires on November 2, 2007?

At least 60 days before this extension of Burundi's TPS designation expires on November 2, 2007, the Secretary, after consultation with appropriate agencies of the Government, will review conditions in Burundi and determine whether the conditions for TPS designation continue to be met at that time, or whether the TPS designation should be terminated. 8 U.S.C. 1254a(b)(3). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

Notice of Extension of Designation of TPS for Burundi

By the authority vested in the Secretary of Homeland Security under sections 244(b)(1)(A), (b)(1)(C), (b)(3)(A), and (b)(3)(C) of the Act, the Secretary has determined, after consultation with the appropriate Government agencies, that the conditions that prompted designation of Burundi for TPS continue to be met. Accordingly, DHS orders as follows:

(1) The designation of Burundi under sections 244(b)(1)(A) and (C) of the Act is extended for an additional 12-month period from November 2, 2006, to November 2, 2007. 8 U.S.C. 1254a(b)(3)(C).

(2) There are approximately 30 nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who have been granted TPS and who may be eligible for re-registration.

(3) To maintain TPS, a national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who was granted TPS and who has not had TPS withdrawn must re-register for TPS during the 60-day re-registration period from September 14, 2006 until November 13, 2006.

(4) To re-register, aliens must follow the aforementioned filing procedures set forth in this Notice.

(5) At least 60 days before this extension ends on November 2, 2007, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, will review the designation of Burundi for TPS and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

(6) Information concerning the extension of the designation of Burundi for TPS will be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov.*

Dated: August 25, 2006.

Michael Chertoff,

Secretary.

[FR Doc. E6–15227 Filed 9–13–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5044–N–17]

Notice of Proposed Information Collection for Public Comment; Section 901 Notice of Intent, Fungibility Plan and Report

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 13, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sherry Fobear-McCown, Program Analyst (202) 708–0713, extension 7651, (This is not a toll-free number) Fax number 202 708–0866.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). Division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Pub. L. 109–148; approved December 30, 2005), among other things, makes emergency supplemental appropriations to address the hurricane devastation in the Gulf of Mexico. Section 901 of this supplemental appropriations act permits eligible PHAs to combine their Capital Funds (section 9(d) of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act)), Operating Funds (section 9(e) of the 1937 Act), and Housing Choice Voucher Funds (section 8(o) of the 1937 Act) to assist families who were displaced by Hurricane Katrina or Rita. HUD has issued a Notice in the **Federal Register** providing guidance on how eligible PHAs may implement this flexibility and how PHAs must report the planned activities and accomplishments from using this flexibility.

This Notice is soliciting comments from members of the public and affected 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: Public and Indian Housing, Section 901 Notice of Intent and Fungibility Plan and Reports.

OMB Control Number: 2577–0245.

Description of the need for the information and proposed use: The Notice of Intent is necessary for HUD to be informed about which eligible PHAs elect to invoke the funding flexibility authorized by section 901 of the Emergency Supplemental Appropriations (PL 109–148). The Fungibility Plan and Reports are necessary for HUD to know how eligible PHAs plan to reallocate and spend these funds.

Agency form numbers, if applicable: None.

Members of affected public: Eligible Public Housing Agencies in the areas most heavily impacted by Hurricanes Katrina and Rita.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

- *Notification of Intent and Fungibility Plan:* one-time submission estimated to take 60 hours for each of the 96 PHAs, for a total reporting burden of 5760 hours.
- *Quarterly Report for Capital Fund activities:* Response time per report estimated at two hours. Report will be submitted by each PHA four times per year up to four years for a total annual reporting burden of 768 hours.
- *Final Report:* one-time submission estimated to take six hours for each of the 96 PHAs, for a total reporting burden of 576 hours.

Status of the proposed information collection: Extension of a previously approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 8, 2006.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary for Policy, Program, and Legislative Initiatives.

[FR Doc. E6–15215 Filed 9–13–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Meeting of the California Desert Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will participate in a field tour of BLM-administered public lands on Friday, October 13, 2006 from 7:30 a.m. to 5 p.m., and meet in formal session on Saturday, October 14 from 8 a.m. to 3 p.m. in the Canyon Conference Center at the Spa Resort Casino located at 100 North Canyon Drive, Palm Springs, California.

The Council and interested members of the public will depart for the field tour at 7:30 a.m. from the main lobby of the Spa Resort Casino. The public is welcome to participate in the tour but should plan on providing their own transportation, lunch, and beverage.

Agenda topics for the formal session on Saturday will include updates by Council members and reports from the BLM District Manager and five field office managers. Additional agenda topics are being developed. Once finalized, the field tour and meeting agendas will be published in a news release prior to the meeting and posted on the BLM California state Web site at *http://www.blm.gov/ca/news/rac.html.*

SUPPLEMENTARY INFORMATION: All Desert District Advisory Council meetings are open to the public. Public comment for items not on the agenda will be scheduled at the beginning of the meeting Saturday morning. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

While the Saturday meeting is tentatively scheduled from 8 a.m. to 3 p.m., the meeting could conclude prior to 3 p.m. should the Council conclude its presentations and discussions. Therefore, members of the public interested in a particular agenda item or discussion should schedule their arrival accordingly.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, External Affairs, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Stephen Razo, BLM California Desert District External Affairs (951) 697–5217.

Dated: September 8, 2006.

Steven J. Borchard,

District Manager.

[FR Doc. 06–7652 Filed 9–13–06; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–300–1020–PH]

Notice of Public Meetings, Idaho Falls District Resource Advisory Council OHV Subgroup Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Idaho Falls District Resource Advisory Council (RAC), will meet as indicated below.

DATES: Two meetings have been scheduled in October 2006. Both meetings will be listening sessions hosted by the Off-Highway Vehicle Subcommittee of the RAC. The first meeting will be held October 3, 2006 at the May Fire Hall on Main Street in May, Idaho. The second meeting will be held October 4, 2006 at the Mackay High School Library, located on Spruce Street, just two blocks of U.S. Highway 93 in Mackay, Idaho. Both meetings will be held from 7 to 9 p.m.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the RAC Subgroup to gather public input and make recommendations to the full RAC. The adopted recommendations will be forwarded to the BLM Challis Field Office as it prepares its comprehensive Travel Management Plan. The public is encouraged to attend. All meetings are open to the public. The public may also present written comments to Council members.

FOR FURTHER INFORMATION CONTACT: David Howell, RAC Coordinator, Idaho Falls District, 1405 Hollipark Dr., Idaho Falls, ID 83401. Telephone (208) 524–7559. E-mail: *David_Howell@blm.gov.*

Dated: September 8, 2006.

David Howell,

RAC Coordinator, Public Affairs Specialist.

[FR Doc. E6–15234 Filed 9–13–06; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–065–5870–EU; N–76533]

Notice of Realty Action: Competitive Sale of Public Land; Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: A single 39.73 acre parcel of Federal public land located in northwest Beatty, Nye County, Nevada, has been examined and found suitable for sale utilizing competitive sale procedures. The authority for the sale is Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701, 1713 and 1719).

DATES: Comments regarding the proposed sale or the environmental assessment (EA) must be received by the Bureau of Land Management (BLM) on or before October 30, 2006. In order to purchase the offered land, BLM will accept sealed bids from bidders up to November 14, 2006, and accept oral bids at a public auction scheduled November 15, 2006.

ADDRESSES: Comments regarding the proposed sale or EA, as well as sealed bids, submitted to BLM, should be addressed to the Assistant Field Manager, BLM, Tonopah Field Station, 1553 South Main Street, P.O. Box 911, Tonopah, Nevada 89049. The address for oral bidding registration, and where the public auction will be held is: Beatty Community Center, 100 ''A'' Avenue So., Beatty, Nevada 89003.

FOR FURTHER INFORMATION CONTACT: Information regarding the competitive sale instructions, procedures, documents, maps, and materials to submit a bid can be obtained at the public reception desk at the BLM, Tonopah Field Station from 7:30 a.m. to 4:30 p.m., Monday through Friday (except Federal holidays), or by contacting Wendy Seley, Realty Specialist, at the above address, or at (775) 482–7800 or by e-mail at *wseley@nv.blm.gov.* For general information on BLM's public land sale procedures, refer to the following Web address: *http://www.blm.gov/nhp/what/lands/realty/sales.htm*

SUPPLEMENTARY INFORMATION: The land is located one mile northwest of Beatty, Nevada, and has physical and legal access via a well maintained asphalt road to the south (N–45241), a dirt road to the west, and a county-maintained gravel road which traverses the east side.

Mount Diablo Meridian, Nevada

T. 12 S., R. 47 E., sec. 6, lot 7.

The area described contains 39.73 acres, more or less, in Nye County.

This parcel of public land, northwest of Beatty, Nevada, is being offered for sale, at no less than the appraised fair market value (FMV) of $220,000.00, as determined by the authorized officer after appraisal. An appraisal report has been prepared by a state certified appraiser for the purposes of establishing FMV.

The land is not required for Federal purposes and was identified for disposal in the Tonopah Resource Management Plan, approved on October 2, 1997, and therefore, meets the disposal qualification of Section 205 of the Federal Land Transaction Facilitation Act of July 25, 2000 (43 U.S.C. 2304) (hereinafter FLTFA).

Increasingly, the BLM has had to address the needs of a growing and changing West, in particular to the community expansion and economic needs of Beatty, Nevada. These lands are proposed to be put up for purchase and sale by competitive auction in accordance with Section 205 of FLTFA, the applicable provisions of FLPMA Section 203, and its implementing regulations found at 43 CFR 2710 and part 2720. The proceeds from the sale of the land will be deposited into the Federal Land Disposal Account for Nevada pursuant to FLTFA.

These lands meet the criteria for sale under 43 CFR 2710.0–3(a)(2) in that the disposal (sale) of the parcel would serve important public objectives which cannot be achieved prudently or feasibly elsewhere by making lands available for community expansion and private economic development. The land contains no other known public values. The subject parcel has not been identified for transfer to the State or any other local government or nonprofit organization. The parcel will be offered through competitive sale procedures pursuant to 43 CFR 2711.3–1.

As stated, both sealed bids and oral bids will be accepted in conducting this sale. Sealed bids must be received by the BLM not later than 4:30 p.m. PDT, November 14, 2006. Sealed bid opening is to begin at 10 a.m., PDT November 15, 2006. The subject land proposed for sale will be put up for purchase and sale, at public auction, beginning at 10 a.m., PDT, November 15, 2006. Registration for oral bidding will begin at 8 a.m. PDT, November 15, 2006. The public auction will begin at 10 a.m., PDT November 15, 2006.

Pursuant to 43 CFR 2711.3–1(c), each sealed bid shall be accompanied by a certified check, postal money order, bank draft or cashier's check made payable to the Bureau of Land Management, for not less than 20 percent of the amount of the sealed bid. Sealed bid opening will begin at 10 a.m. PDT, November 15, 2006, at the Beatty Community Center, located at 100 ''A'' Avenue, So., Beatty, Nevada 89003. The highest qualified sealed bid will become the starting bid at the oral auction, provided it is higher than the approved, appraised FMV. If no sealed bids are received, oral bidding will begin at the FMV, as determined by the authorized officer. The parcel will be put up for competitive sale by oral auction beginning at 10:00 a.m. PDT, November 15, 2006, at the Beatty Community Center, located at 100 ''A'' Avenue, So., Beatty, Nevada 89003.

If, as a result of a sealed bid you presented to BLM prior to the auction, you were not declared the high-bidder, your check will be returned to you at the auction upon proof of identification. If you do not attend the auction, your check will be returned according to your instructions.

The highest qualifying bid, whether sealed or oral, in excess of the appraised fair market value, will be declared the high bid. The apparent high bidder, if an oral bidder, must submit a deposit pursuant to 43 CFR 2711.3–1(d), which is not less than one-fifth (20%) of the apparent high bid, by 2 p.m. PDT, on the day of the sale in the form of cash, personal check, bank draft, cashier's check, money order or any combination thereof, made payable in U.S. dollars to the Bureau of Land Management. Payment must be made at the Beatty Community Center, 100 ''A'' Avenue So., Beatty, Nevada 89003.

Other deadline dates for the receipt of payments, and arranging for certain payments to be made by electronic transfer, are specified below.

The BLM provided a 30-day comment period for the preliminary EA as part of its public involvement. All comments received have been considered and incorporated into the EA and Decision Record. The environmental assessment, EA Number NV065–EA06–071, Decision Record, Environmental Site Assessment, map, and approved appraisal report covering the proposed sale, are available for review at the BLM, Tonopah Field Station, Tonopah, Nevada.

If the parcel of land is sold, the locatable mineral interests of no known value therein will be sold simultaneously as part of the sale. The unreserved mineral interests have been determined to have no known mineral value pursuant to 43 CFR 2720.2(a). An offer to purchase the parcel at auction

will constitute an application for conveyance of the locatable mineral interests. In conjunction with the final payment, the applicant will be required to pay a $50.00 non-refundable filing fee for processing the conveyance of the locatable mineral interests.

Segregation: Publication of this Notice in the **Federal Register** segregates the subject lands from all appropriations under the public land laws, including the general mining laws, except sale under the Federal Land Policy and Management Act of 1976. The segregation will terminate upon issuance of the patent, upon publication in the **Federal Register** of a termination of the segregation or June 11, 2007, whichever occurs first.

Terms and Conditions of Sale: Upon successful completion of the sale, the patent issued would contain the following numbered reservations, covenants, terms and conditions:

1. Oil, gas, and geothermal resources are reserved on the land sold; permittees, licensees, and lessees retain the right to prospect for, mine, and remove the minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

2. A right-of-way thereon for ditches and canals constructed by authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

3. A right-of-way authorized under the Act of October 21, 1976, 90 Stat. 2776 (43 U.S.C. 1761) for an access road granted to Nye County, its successor or assignees, by right-of way NVN–45241.

4. The parcel is subject to valid existing rights.

5. The purchaser/patentee, by accepting the patent, agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind arising from the past, present, or future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or a third party arising out of, or in connection with, the patentee's use and/or occupancy of the patented real property resulting in: (1) Violations of Federal, state, and local laws and regulations that are now, or in the future become, applicable to the real property; (2) judgments, claims, or demands of any kind assessed against the United States; (3) costs, expenses, or damages of any kind incurred by the United States; (4) releases or threatened releases of solid or hazardous waste(s) and/or hazardous substance(s), as defined by Federal or state environmental laws, off, on, into, or under land, property, and other interests of the United States; (5) other activities by which solids or hazardous substances or wastes, as defined by Federal and state environmental laws are generated, released, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; or (6) natural resource damages as defined by Federal and state law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

6. Pursuant to the requirements established by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), (42 U.S.C. 9620(h)), as amended by the Superfund Amendments and Reauthorization Act of 1988, (100 Stat.1670), notice is hereby given that the above-described lands have been examined and no evidence was found to indicate that any hazardous substances has been stored for one year or more, nor had any hazardous substances been disposed of or released on the subject property.

No warranty of any kind, express or implied, is given by the United States as to the title, physical condition or potential uses of the parcel of land proposed for sale, and the conveyance of any such parcel will not be on a contingency basis. It is the buyer's responsibility to be aware of all applicable federal, State, or local government laws, regulations, or policies that may affect the subject lands or its future uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Because Nye County does not have a habitat conservation plan (HCP) in effect for desert tortoise habitat, BLM wants to inform the bidder/buyer that he/she may be required to complete an individual HCP, and acquire a Section 10 Incidental Take Permit under the Endangered Species Act from the U.S. Fish and Wildlife Service for surface disturbing activities following transfer of title.

The successful bidder must submit the remainder of the full bid price, whether sealed or oral, within 180 calendar days of the competitive sale date in the form of a certified check, money order, bank draft, or cashier's check made payable in U.S. dollars to the Bureau of Land Management. Personal checks will not be accepted. Arrangements for Electronic Fund Transfer (EFT) to BLM for the balance which is due on or before May 14, 2007, must be made a minimum of 2 weeks prior to the date you wish to make payment. Failure to pay the full bid price within the 180 days will disqualify the apparent high bidder and cause the entire bid deposit to be forfeited to the BLM under 43 CFR 2711.3–1(d).

If not sold, the parcel described above in this Notice may be identified for sale at a later date and/or at another location without further legal notice.

Federal law requires bidders to be U.S. citizens 18 years of age or older, a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to acquire and own real property, or an entity including, but not limited to, associations or partnerships legally capable of holding property or interests therein under the laws of the State of Nevada. Certification of bidder qualification must accompany the bid deposit.

Public Comments: The subject parcel of land will not be offered for sale prior to the 60-day publication of this notice of realty action. For a period until October 30, 2006, interested parties may submit written comments to the BLM Tonopah Field Station, P.O. Box 911, Tonopah, Nevada 89049. Facsimiles, telephone calls, and electronic mails are unacceptable means of notification. Comments including names and street addresses of respondents will be available for public review at the BLM Tonopah Field Station during regular business hours, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Any determination by the BLM to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. Such requests will be honored to the extent allowed by law.

Any adverse comments will be reviewed by the Nevada State Director, who may sustain, vacate, or modify this realty action and issue a final determination. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR. 2711.1–2(a) and (c))

Dated: August 10, 2006.

William S. Fisher,

Assistant Field Manager, Tonopah.

[FR Doc. E6–15219 Filed 9–13–06; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–923–06–5870–HN]

Request for Public Nomination of Qualified Properties for Potential Purchase by the Federal Government in the State of New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of request for public nomination of qualified properties for potential purchase by the Federal Government in the State of New Mexico.

SUMMARY: In accordance with the Federal Land Transaction Facilitation Act of 2000 (43 U.S.C. 2303) (FLTFA), this Notice provides the public the opportunity to nominate lands within the State of New Mexico for possible acquisition by the Federal agencies identified below. Such lands must be (1) Inholdings within a federally-designated area or (2) lands that are adjacent to federally-designated areas and contain exceptional resource values.

DATES: Nominations may be submitted at any time following the publication of this Notice.

ADDRESSES: Nominations should be mailed to the attention of the FLTFA Program Manager for the agency listed below having jurisdiction over the adjacent federally-designated area:

- Bureau of Land Management, New Mexico State Office (NM–923), P.O. Box 27115, Santa Fe, New Mexico 87502–0115.
- National Park Service, Intermountain Region, P.O. Box 728, Santa Fe, New Mexico 87504–0728.
- U.S. Fish and Wildlife Service, Region 2, P.O. Box 1306, Albuquerque, New Mexico 87102.
- USDA Forest Service, Southwest Region 3, 333 Broadway SE., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Debby Lucero, FLTFA Program Manager, Bureau of Land Management (BLM), New Mexico State Office (NM–932), P.O. Box 27115, Santa Fe, New Mexico 87502–0115, or e-mail *dlucero@nm.blm.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the FLTFA, the four agencies noted above are offering to the public at large the opportunity to nominate lands in the State of New Mexico that meet FLTFA eligibility requirements for possible Federal acquisition. Under the provisions of FLTFA, only the following lands are eligible for nomination: (1) Inholdings within a federally-designated area, or (2) lands that are adjacent to federally-designated areas and contain exceptional resource values.

An inholding is any right, title, or interest held by a non-Federal entity, in or to a tract of land that lies within the boundary of a federally-designated area.

A federally-designated area is land that on July 25, 2000, was within the boundary of: a unit of the National Park System; a unit of the National Wildlife Refuge System; an area of the National Forest System designated for special management; a national monument, national conservation area, national riparian conservation area, national recreation area, national scenic area, research natural area, national outstanding natural area, national natural landmark, or an area of critical environmental concern managed by the BLM; a wilderness or wilderness study area; or a component of the Wild and Scenic Rivers System or National Trails Systems. If you are not sure whether a particular area meets the statutory definition of a federally-designated area in FLTFA, you should consult the statute or contact the BLM at the above address.

An exceptional resource refers to a resource of scientific, natural, historic, cultural, or recreational value that has been documented by a Federal, State, or local government authority, and for which there is a compelling need for conservation and protection under the jurisdiction of a Federal agency to maintain the resource for the benefit of the public.

Nominations meeting the above criteria may be submitted by any individual, group, or governmental body. If submitted by a party other than the landowner, the landowner must also sign the nomination to confirm their willingness to sell. Pursuant to FLTFA, nominations will only be considered eligible by the agencies if: (1) The nomination package is complete; (2) acquisition of the nominated land or interest in land would be consistent with an agency-approved land use plan; (3) the land does not contain a hazardous substance and is not otherwise contaminated and would not be difficult or uneconomic to manage as Federal lands; and (4) acceptable title can be conveyed in accordance with Federal title standards. Priority will be placed on nominations for areas where there is no local or tribal government objection to Federal acquisition. Nominations may be made at any time following publication of this Notice and will continue to be accepted for consideration during the life of the FLTFA, which ends on July 24, 2010, unless extended by Act of Congress.

Nominations may be made on forms available from the BLM at the above address. Request for the forms may also be made by telephone, e-mail, or U.S. Postal Service mail.

The agencies will assess the nominations for public benefit and rank the nominations in accordance with the jointly prepared State-level New Mexico Interagency Implementation Agreement and the National-level Memorandum of Understanding among the agencies. The nomination and identification of an inholding does not obligate the landowner to convey the property nor does it obligate the United States to acquire the property.

All Federal land acquisitions must be made at fair market value established by applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions.

Further information, including the required contents of a nomination package and details of the New Mexico Interagency Implementation Agreement, may be obtained by contacting Debby Lucero at the aforementioned address and phone number.

Dated: September 8, 2006.

Jesse J. Juen,

Acting State Director.

[FR Doc. E6–15244 Filed 9–13–06; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–06–1420–BJ]

Notice of Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Bureau of Land Management (BLM) has filed the plats of survey of the lands described below in the BLM Wyoming State Office, Cheyenne, Wyoming, on the dates indicated.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Land Management, and are necessary for the management of resources. The lands surveyed are:

The plat and field notes representing the dependent resurvey of a portion of the Twelfth Standard Parallel North, through Range 79 West, the west and north boundaries, and the subdivisional lines, T. 49 N., R. 79 W., Sixth Principal Meridian, Wyoming, Group No. 728, was accepted and filed April 10, 2006.

The plat and field notes representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, and the subdivision of section 18, T. 21 N., R. 87 W., Sixth Principal Meridian, Wyoming, Group No. 740, was accepted and filed May 30, 2006.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines, T. 21 N., R. 88 W., Sixth Principal Meridian, Wyoming, Group No. 724, was accepted and filed May 30, 2006.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 26, and the metes and bounds survey of Lot 4, section 26, T. 22 N., R. 80 W., Sixth Principal Meridian, Wyoming, Group No. 744, was accepted and filed May 30, 2006.

The plat and field notes representing the dependent resurvey of a portion of the Fifth Standard Parallel North, through Ranges 95 and 96 West, the Twelfth Guide Meridian West, through Township 20 North, between Ranges 96 and 97 West, and the subdivisional lines, T. 20 N., R. 96 W., Sixth Principal Meridian, Wyoming, Group No. 706, was accepted and filed July 28, 2006.

The plat and field notes representing the corrective dependent resurvey of a portion of the Sixth Standard Parallel North, through Range 118 West, the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 4 and 5, T. 24 N., R. 118 W., Sixth Principal Meridian, Wyoming, Group No. 696, was accepted and filed July 28, 2006.

The plat and field notes representing the dependent resurvey of a portion of the north and east boundaries, a portion of the subdivisional lines, and the subdivision of certain sections, T. 29 N., R. 84 W., Sixth Principal Meridian, Wyoming, Group No. 664, was accepted and filed August 11, 2006.

The plat and field notes representing the corrective dependent resurvey of a portion of the Thirteenth Standard Parallel North, through Range 92 West, and a portion of the subdivisional lines, T. 53 N., R. 92 W., of the Sixth Principal Meridian, Wyoming, Group No. 741, was accepted and filed August 11, 2006.

Copies of the preceding described plats and field notes are available to the public at a cost of $1.10 per page.

Dated: September 8, 2006.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. E6–15245 Filed 9–13–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0190(2006)]

Electrical Protective Equipment Standard and the Electric Power Generation, Transmission, and Distribution Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements specified by its standards on Electrical Protective Equipment (29 CFR 1910.137) and Electric Power Generation, Transmission, and Distribution (29 CFR 1910.269).

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by November 13, 2006.

Facsimile and electronic transmission: Your comments must be received by November 13, 2006.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0190(2006) by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 am. to 4:45 p.m., e.t.

Facsimile: If your comments are 10 pages or fewer, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Theda Kenney at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' section in **SUPPLEMENTARY INFORMATION**.

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

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Electrical Protective Equipment Standard (§ 1910.137)

Testing Certification (§ 1910.137(b)(2)(xii)).

Employers must certify that the electrical protective equipment used by their employees have passed the tests specified in paragraphs (b)(2)(viii), (b)(2)(ix), and (b)(2)(xi) of the standard. The certification must identify the equipment that passed the tests and the dates of the tests. This provision ensures that electrical protective equipment is reliable and safe for employee use and will provide adequate protection against electrical hazards. In addition, certification enables OSHA to determine

if employers are in compliance with the equipment-testing requirements of the standard.

Electric Power Generation, Transmission, and Distribution Standard (§ 1910.269)

Training Certification (§ 1910.269(a)(2)(vii)).

This provision requires employers to certify that each employee received the training specified in paragraph (a)(2) of the standard. Employers must provide certification after an employee demonstrates proficiency in the work practices involved.

The training conducted under paragraph (a)(2) of the standard must ensure that: Employees are familiar with the safety-related work practices, safety procedures, and other procedures, as well as any additional safety requirements in the standard that pertain to their respective job assignments; employees are familiar with any other safety practices, including applicable emergency procedures (such as pole top and manhole rescue), addressed specifically by this standard that relate to their work and are necessary for their safety; and qualified employees have the skills and techniques necessary to distinguish exposed live parts from other parts of electric equipment, can determine the nominal voltage of the exposed live parts, know the minimum approach distances specified by the standard for voltages when exposed to them, and understand the proper use of special precautionary techniques, personal protective equipment, insulating and shielding materials, and insulated tools for working on or near exposed and energized parts of electric equipment.

Employees must receive additional training or retraining if: the supervision and annual inspections required by the standard indicate that they are not complying with the required safety-related work practices; new technology or equipment, or revised procedures, require the use of safety-related work practices that differ from their usual safety practices; and they use safety-related work practices that are different than their usual safety practices while performing job duties.

The training requirements of this standard inform employees of the safety hazards of electrical exposure and provide them with the understanding required to minimize these safety hazards. In addition, employees received proper training in safety-related work practices, safety procedures, and other safety requirements specified in the standard. The required training, therefore, provides information to employees that enables them to recognize how and where electrical exposures occur, and what steps to take, including work practices, to limit such exposure. The certification requirement specified by paragraph (a)(2)(vii) of the standard helps employers monitor the training their employees received and helps OSHA determine if employers provided the required training to their employees.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB to extend their approval of the collection of information requirements contained in the standards on Electrical Protective Equipment (29 CFR 1910.137) and Electric Power Generation, Transmission, and Distribution (29 CFR 1910.269). The Agency is requesting an increase in burden hours for the existing collection of information requirements from 22,685 to 30,533 (a total increase of 7,848 hours). The Agency will summarize the comments submitting in response to this notice, and will include this summary in its request to OMB.

Type of Review: Extension of currently approved information collection requirements.

Title: Electrical Protective Equipment (29 CFR 1910.137) and Electric Power Generation, Transmission, and Distribution (29 CFR 1910.269).

OMB Number: 1218–0190.

Affected Public: Business or other for-profit.

Number of Respondents: 20,765.

Frequency: On occasion; Semi-annually; Annually.

Average Time per Response: Varies from one minute (.02 hour) for a clerical employee to maintain training certification records to 15 minutes (.25 hour) to test a batch of gloves or sleeves.

Estimated Total Burden Hours: 30,533.

Estimated Cost (Operation and Maintenance: $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions, and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov*. Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

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

Signed at Washington, DC, on September 8, 2006.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. 06–7662 Filed 9–13–06; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0199(2006)]

Walking-Working Surfaces Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements specified by its standard on Walking-Working Surfaces (29 CFR part 1910, subpart D).

DATES: Comments must be submitted by the following dates:

Hard copy. Your comments must be submitted (postmarked or received) by November 13, 2006.

Facsimile and electronic transmission: Your comments must be received by November 13, 2006.

ADDRESSES: You must submit comments, identified by OSHA Docket No. ICR–1218–0199(2006), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., e.t.

Facsimile: If your comments are 10 pages or fewer, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Support Statement, OMB–83–1 Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Theda Kenney at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' section in **SUPPLEMENTARY INFORMATION.**

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

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The collections of information contained in the Walking-Working Surfaces standard are necessary to protect employees from the collapse of overloaded floors, and outrigger scaffolds, and the failure of defective portable metal ladders.

Paragraph 1910.22(d)(1) requires that load limits approved by the building official be marked on plates supplied securely affixed by the owner of the building, or his duly authorized agent, in a conspicuous place in each space to which they relate. The plates are not to be removed or defaced but, if lost, removed, or defaced, they shall be replaced by the owner or his agent.

Under paragraph 1910.26(c)(2)(vii), ladders having defects are to be marked and taken out of service until repaired by either the maintenance department or the manufacturer.

Paragraph 1910.28(e)(3) specifies that unless outrigger scaffolds are designed by a licensed professional engineer, they shall be constructed and erected in accordance with table D–16 of this section. A copy of the detailed drawings and specifications showing the sizes and spacing of members shall be kept on the job.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB to extend their approval of the collection of information requirements contained in the Standard on Walking-Working Surfaces (29 CFR part 1910, subpart D). The Agency is requesting to retain its previous burden hour estimate of 1,193 hours. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB.

Type of Review: Extension of currently approved information collection requirements.

Title: Walking-Working Surfaces Standard (29 CFR part 1910, subpart D.

OMB Number: 1218–0199.

Affected Public: Business or other for-profit.

Number of Respondents: 12,100.

Frequency: On occasion.

Average Time per Response: Varies from three minutes (.05 hour) to mark a defective ladder to 20 minutes (.33 hour) to secure the load limit marking sign and to post it.

Estimated Total Burden Hours: 1,193.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation— Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) Hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related

problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions, and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

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

Signed at Washington, DC, on September 8, 2006.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. 06–7663 Filed 9–13–06; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–065)]

NASA International Space Station Independent Safety Task Force Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration announces a forthcoming meeting of the International Space Station Independent Safety Task Force (IISTF).

DATES: Thursday, October 5, 2006, 8 a.m. to 5 p.m.; and Friday, October 6, 8 a.m. to 5 p.m. Central Daylight Time.

ADDRESSES: NASA Lyndon B. Johnson Space Center, 2101 NASA Parkway, Bldg. 1, Room 966, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Y. Gard, IISTF Executive Director, National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Houston, TX 77058, telephone (281) 244–7980, e-mail *melissa.y.gard@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room [~20 public seats]. Seating will be on a first-come basis.

—This will be a fact-finding and report writing session.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees should provide identifying information in advance by contacting Ms. Jana Schultz via e-mail at *jana.t.schultz@nasa.gov* or by telephone at (281) 244–7913 by September 25, 2006. If e-mailing, please include ''IISTF'' in the subject line.

Members of the public may make five minute verbal presentations to the Task Force on the subject of International Space Station safety. All those wishing to make such a statement in front of the Task Force are requested to contact Ms. Jana Schultz via e-mail at *jana.t.schultz@nasa.gov* or by telephone at (281) 244–7913 by September 25, 2006. If e-mailing, please include ''IISTF'' in the subject line. If public requests to speak are received, they will be heard during the first 30 minutes on October 5, 2006, meeting on a first-come basis. Any member of the public is permitted to file a written statement with the Task Force at the time of the meeting. Verbal presentations and written comments should be limited to the subject of International Space Station safety.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E6–15284 Filed 9–13–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–066)]

NASA Advisory Council; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council. The agenda for the meeting includes updates from each of the Council committees, including discussion and deliberation of potential recommendations. The Council Committees address NASA interests in the following areas: Aeronautics, Audit and Finance, Space Exploration, Human Capital, Science, and Space Operations.

DATES: Thursday, October 12, 2006, 8 a.m.–4:30 p.m.

ADDRESSES: Goddard Space Flight Center (GSFC), Building 1, Rooms E100 D and E, 8800 Greenbelt Road, Greenbelt, MD 20771–0001 (Note that visitors will first need to go to the GSFC Visitor's Center to gain access.)

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Blackerby, Designated Federal Official, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4688.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. All U.S. citizens desiring to attend the NASA Advisory Council Meeting at the Goddard Space Flight Center (GSFC) must provide their full name, company affiliation (if applicable), place of birth, and date of birth to the GSFC Security Office no later than the close of business on October 4, 2006. All non-U.S. citizens must submit their name, current address, citizenship, company affiliation (if applicable) to include address, telephone number, and their title, place of birth, date of birth, U.S. visa information to include type, number, and expiration date, U.S. Social Security Number (if applicable), Permanent Resident Alien card number and expiration date (if applicable), place and date of entry into the U.S., and Passport information to include Country of issue, number, and expiration date to the GSFC Security Office no later than the close of business on September 29, 2006. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Visitor Center

where they will be processed through security prior to entering GSFC. Please provide the appropriate data, via fax 301–286–1230, noting at the top of the page ''Public Admission to the NASA Advisory Council Meeting at GSFC''. For security questions, please call Chuck Lombard at 301–286–1109.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E6–15272 Filed 9–13–06; 8:45 am]

BILLING CODE 7510–13–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–27477; File No. 812–13244]

National Life Insurance Company, et al.

September 7, 2006.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''Act''), approving a certain substitution of securities.

Applicants: National Life Insurance Company (''NLIC''), National Variable Annuity Account II (''Annuity Account''), and National Variable Life Insurance Account (''Life Account'') (NLIC, Annuity Account and Life Account collectively, the ''Applicants''). Summary of Application: Applicants have submitted an application for an order of the Commission, pursuant to Section 26(c) of the Act, permitting NLIC to substitute securities issued by Fidelity VIP Index 500 Portfolio (''Fidelity Fund''), a series of Variable Insurance Products Fund II, or DWS Equity Index 500 VIP (''DWS Fund''), a series of DWS Investments VIT Funds, to support variable annuity contracts or variable life insurance contracts (separately, ''Contract'', collectively, ''Contracts'') issued by NLIC, for securities issued by Sentinel Variable Products Growth Index Fund (''Sentinel Fund''), a series of Sentinel Variable Products Trust, held by both the Annuity Account or the Life Account (individually, ''Account'' and collectively, ''Accounts'').

Filing Date: The application was filed on October 28, 2005, amended on February 2, 2006, June 16, 2006, July 17, 2006, and September 1, 2006.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving the Applicants with a copy of the request in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on October 2, 2006 and should be accompanied by proof of service of Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–0609. Applicants, c/o Kerry A. Jung, Esq., Senior Counsel, National Life Insurance Company, One National Life Drive, Montpelier, VT 05604.

FOR FURTHER INFORMATION CONTACT: Curtis A. Young, Senior Counsel, or Harry Eisentein, Branch Chief, Office of Insurance Products, Division of Invstmetn Management, at 202–551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the amended and restated application. The complete application may be obtained for a fee from the Public Reference Room, 100 F street, NE., Washington, DC 20549, or by calling (202) 551–8090.

Applicants' Representations

1. NLIC is a stock life insurance company, all the outstanding stock of which is indirectly owned by National Life Holding Company, a mutual insurance holding company. All owners of NLIC contracts, including the Contracts, are voting members of National Life Holding Company. NLIC is authorized to transact life insurance and annuity business in Vermont and 50 other jurisdictions. For purposes of the Act, NLIC is the depositor and sponsor of the Accounts as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

2. NLIC established the Annuity Account on November 1, 1996 and the Life Account on February 1, 1985, as segregated investment accounts under Vermont law. Under Vermont law, the assets of each Account attributable to the Contracts through which interests in that Account are issued are owned by NLIC but are held separately from all other assets of NLIC for the benefit of the owners of, and the persons entitled to payment under, those Contracts. Consequently, such assets in each Account equal to the reserves and other liabilities with respect to such Account are not chargeable with liabilities arising out of any other business that NLIC may conduct. Income, gains and losses, realized and unrealized, from assets allocated to each Account are credited to or charged against that Account without regard to the other income, gains or losses of NLIC. Each Account is a ''separate account'' as defined by Rule 0–1(e) under the Act (File No. 811–08015 for the Annuity Account and File No. 811–09044 for the Life Account).

3. The Annuity Account is divided into forty-nine subaccounts. Each subaccount invests exclusively in a corresponding series of one of thirteen management investment companies. The assets of the Annuity Account support variable annuity contracts, and interests in the Account offered through the Contracts have been registered under the Securities Act of 1933, as amended (''1933 Act'') on Form N–4 (File No. 333–19583).

4. The Life Account is divided into one hundred and twenty-nine subaccounts. Each subaccount invests exclusively in shares representing an interest in a corresponding series of one of thirteen management investment companies. The assets of the Life Account support variable life insurance contracts, and interests in this Account offered through the Contracts have been registered under the 1933 Act on Form N–6 (File Nos. 33–91938, 333–44723, and 333–67003).

5. The Sentinel Variable Products Trust was organized as a business trust in Delaware on March 14, 2000, and is currently registered under the Act as an open-end diversified management investment company. It is a series investment company as defined by Rule 18f–2 under the Act.

6. The Sentinel Fund's investment advisor, Sentinel Asset Management, Inc. (''SAM''), is an affiliated person of NLIC because it is controlled by NLIC.

7. The Variable Insurance Products Fund II was created under an initial declaration of trust dated March 21, 1988, and is currently registered under the Act as an open-end management investment company. It is a series investment company as defined by Rule 18f–2 under the Act.

8. The DWS Investments VIT Funds was organized on January 18, 1996, under the laws of the Commonwealth of Massachusetts, and is currently registered under the Act as an open-end management investment company. SVIT

is a series investment company as defined by Rule 18f–2 under the Act.

9. Neither NLIC nor the Accounts are affiliated with the Fidelity Fund or the DWS Fund. In consideration for administrative services provided by NLIC to the Fidelity and DWS Funds, NLIC is paid an annual fee of 0.05% and 0.13%, respectively, of each fund's average net assets that are attributable to the Accounts.

10. The Contracts are flexible premium variable life insurance Contracts and individual flexible premium deferred variable annuity Contracts. The Contracts provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and provide settlement or annuity payment options on a fixed basis. In each of the prospectuses for the Contracts, NLIC reserves the right to substitute shares of one series of an investment company for shares of another series, including a series of a different investment company.

11. Contract owners may transfer among the subaccounts of the Variable Account and, subject to certain limitations, among the Variable Account, the fixed account and the guaranteed accounts. Contract owners may transfer among the subaccounts of the Life Account and between the Life Account and NLIC's general account, where available. Currently there is no charge for transfers. However, NLIC reserves the right to assess a $25 charge for each transfer in excess of twelve in any Contract year. Each series of an investment company in which a subaccount invests may also impose its own redemption fees.

12. NLIC proposes to substitute (a) The Fidelity Fund, which is currently offered as an investment option, for the Sentinel Fund in the Annuity Account and the VariTrak and Sentinel Estate Provider products of the Life Account and (b) the DWS Fund, which is currently offered as an investment option, for the Sentinel Fund in the Sentinel Benefit Provider product of the Life Account. NLIC believes that by making the proposed substitution in each of the Accounts they can better serve the interests of the Contracts owners.

13. The investment objective and principal investment strategies of each of the Sentinel Fund, the Fidelity Fund and the DWS Fund are as follows:

Fund	Objective	Principal strategies
Sentinel Fund	Seeks to match, as closely as possible before expenses, the performance of the S&P 500/ Citigroup Growth Index (''Index''), by investing in common stocks of the companies comprising the Index in approximately the same weightings as the Index.	Invests at all times at least 80% of its total assets in the common stocks of the companies that comprise the Index. Normally intends to invest substantially all its total assets in these common stocks, in approximately the same weightings as the Index. May hold up to 20% of its assets in money market instruments and stock index options and futures, which it intends to buy, if at all, only in anticipation of buying stocks. The Fund may not purchase or sell derivative instruments if, as a result, the aggregate initial margin and options premiums required to establish these positions exceed 5% of the Fund's total assets.
Fidelity Fund ..	Seeks investment results that correspond to the total return of common stocks publicly traded in the United States, as represented by the S&P 500.	Normally invests at least 80% of assets in common stocks included in the S&P 500. May buy and sell futures contracts, swaps, and exchange traded funds, to increase or decrease the Fund's exposure to changing security prices or other factors that affect security values. The Fund will not purchase any option if, as a result, more than 5% of its total assets would be invested in option premiums. Under normal conditions, the Fund will not enter into any futures contract, option, or swap agreement if, as a result, the sum of (i) the current value of assets hedged in the case of strategies involving the sale of securities, and (ii) the current value of the indices or other instruments underlying the fund's other futures, options, or swaps positions, would exceed 35% of the Fund's total assets. These limitations do not apply to options attached to, or acquired or traded together with their underlying securities, and do not apply to securities that incorporate features similar to futures, options or swaps. Lends securities to earn income for the Fund.
DWS Fund	Seeks to replicate, as closely as possible, before the deduction of expenses, the performance of the S&P 500.	Investments at least 80% of its assets in the securities of the companies included in the Standard & Poor's 500 Composite Stock Price Index (''S&P 500 Index'') and derivative instruments such as futures contracts and options, relating to the benchmark. May not invest more than 15% of assets in options on securities indices and may not invest more than 5% of assets in futures on securities indices or on options on futures. Invests in a statistically selected sample of the securities found in the S&P 500 Index, using a process known as ''optimization.'' May exclude or remove any S&P stock if its investment advisor believes that the stock is illiquid or that the merit of the investment has been impaired by financial conditions or other extraordinary events. May purchase a stock not included in the S&P 500 Index when it is believed to be a cost-efficient way of approximating the S&P 500 Index's performance. May hold assets in short-term debt securities or money market instruments for liquidity purposes. My lend its investment securities up to 30% of its total assets.

14. Projected advisory fees and expense ratios for the Fidelity Fund and DWS Fund are lower than the advisory fees and net expense ratios of the Sentinel Fund as of December 31, 2005.

EXPENSE RATIOS FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2005

Fund	Management fee (percent)	12b–1 fee	Other expenses (percent)	Total annual expense ratio (percent)	Waivers and reimbursements (percent)	New annual expense ratio (percent)
Sentinel Fund	0.30		1.59	1.89	[1]1.29	0.60
Fidelity Fund	0.10	0.25	0.00	0.35		[2]0.35
DWS Fund	0.19		0.15	0.34	[3]0.06	0.28

[1] SAM and/or an affiliate has agreed to waive fees and/or reimbursement expenses so that the net annual expense ratio of the Sentinel Fund, after expense offsets, is no more than 0.60% through December 31, 2006.

[2] Fidelity management & Research Company (''FMR'') has contractually agreed to reimburse the Fidelity Fund to the extent that total operating expenses (excluding interest, taxes, certain securities lending costs, brokerage commissions and extraordinary expenses) as a percentage of average net assets exceed 0.35%. The expense limitation may not be increased without approval of the Fidelity Fund's shareholders and board of trustees. Therefore the expense limit is required by contact and is not voluntary on the Fidelity Fund manager's part.

[3] Effective September 19, 2005, the DWS Fund's advisor contractually agreed to waive its fees and/or reimbursement expenses to the extent necessary to limit all expenses to 0.28% for Class A Shares until April 30, 2009.

15. The Applicants note that the primary differences between the Sentinel Fund and the Fidelity Fund are that (1) The Fidelity Fund seeks to match the S&P 500 index, while the Sentinel Fund seeks to match only the Citigroup Growth portion of the S&P 500 Index and (2) the Fidelity Fund may lend securuities while the Sentinel Fund does not. Applicants state the primary difference between the Sentinel Fund and the DWS Fund are that (1) The DWS Fund seeks to match the S&P 500 Index, while the Sentinel Fund seeks to match only the Citigroup Growth portion of the S&P 500 Index, (2) the DWS Fund may invest in securities other than those included in the S&P 500 Index under certain cirucmstances in which the Sentinel Fund could not and (3) DWS Fund may lend securities, while the Sentinel Fund does not. While there are some differences in these strategies, NLIC believes that the Fidelity Fund and the DWS Fund offer an investment strategy that is sufficiently similar to the Sentinel Fund considering the benefits of the proposed substitution.

16. Applicants state that the Fidelity and DWS Funds each have significantly more assets than the Sentinel Fund. In addition, each of the Fidelity and DWS Funds has also significantly outperformed the Sentinel Fund in the one and three year peiods ended June 30, 2006 as well as the period since the inception of the Sentinel fund.

PERFORMANCE AS OF JUNE 30, 2006

Fund	1-year (percent)	3-year (percent)	5-year (percent)	10-year (percent)	Since inception (percent)	Since 11/30/00 percent)
Sentinel Fund	3.81	6.42	−0.26	([1])	−3.36	3.36
Fidelity Fund	8.57	11.04	2.27	8.05	10.26	8.76
DWS Fund	8.34	10.91	2.18	([1])	4.64	0.76

[1] Not applicable.

17. Supplements to the prospectus will advise Contract owners that they are permitted from the date of the supplement until the date of the proposed substitution to make transfers of all amounts under the Contracts invested in the Sentinel Fund subaccount to another subaccount available under the Contracts without those transfers counting as ''free'' transfers permitted under the Contracts at any time prior to the substitution.

18. The proposed substitution will take place at relative net asset value with no change in the amount of any Contract owner's account value or death benefit or in the dollar value of any Account. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or NLIC's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitution is not expected to impose any tax liability on Contract owners. The proposed substitution will not cause the Contract fees and charges currently being paid by Contract owners to be greater than those being charged at the time of the substitution. The proposed substituting will not be treated as a transfer or exchange for purposes of assessing transfer charges or for determining the number of remaining ''free'' transfers or exchanges in a Contract year.

19. Within five days of the substitution, Contract owners affected by the substitution will be sent a written notice informing them that the substitution was carried out and that for the next 30 days they may make transfers of all accumulated or contract value under a Contract invested in the Fidelity Fund or DWS Fund subaccount, as applicable, on the date of the notice to another subaccount available under the Contract without the transfers counting as part of the limited number of transfers permitted in a Contract year free of charge. The notice as delivered in certain states also may explain that, under the insurance regulations in those states, Contract owners who are affected by the substitutions may exchange their Contracts for fixed-benefit life insurance contracts or annuity contracts, as applicable, issued by NLIC during the 60 days following the proposed substitutions. A current prospectus for the Fidelity Fund or DWS Fund, as applicable, each of which is a currently available investment option under the applicable Contract, will precede or accompany the notice.

20. NLIC will not receive, for three years from the date of the substitution, any direct or indirect benefits from the Fidelity Fund or the DWS Fund or their respective advisors or underwriters or any of their respective affiliates in connection with the assets attributable to the Contracts, which in the aggregate (including, without limitation, all advisory, 12b–1, shareholder servicing, administration, marketing support or similar fees) is higher than the benefit it would have received from the

Sentinel Fund or its advisor, underwriter or affiliates absent any waivers.

21. Applicants state that the substitution and selection of the Fidelity Fund and the DWS Fund was not motivated by any financial consideration paid or to be paid to NLIC or its affiliates by the Fidelity Fund or the DWS Fund or their respective advisor, underwriters or affiliates.

Applicants' Legal Analysis

1. Applicants state that the proposed substitution is a substitution within the meaning of Section 26(c) of the Act, which requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive commission approval before substituting the securities held by the trust.

2. Applicants note that the prospectuses disclose that the Contracts expressly reserve for NLIC the right, subject to compliance with applicable law, to substitute shares of one series of an investment company held by a subaccount for another series, including a series of a different investment company, when, among other things, in NLIC's judgment the investment in such series is inappropriate.

3. Applicants assert that the proposed substitution will provide Contract owners a sufficiently similar investment strategy considering the opportunity for lower expenses and greater economies of scale. In addition, Applicants generally submit that the proposed substitution meets the standards that the Commission and its staff have applied to similar substitutions that have been approved in the past.

4. Applicants anticipate that Contract owners will be at least as well off with the proposed array of subaccounts offered after the proposed substitution as they have been with the array of subaccounts offered prior to the substitution. Applicants' assert that the proposed substitution retains for Contract owners the investment flexibility that is a central feature of the Contracts.

5. Applicants assert that the proposed substitution is not the type of substitution which Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner that permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise her or his own judgment and transfer accumulation and contract values into other subaccounts.

6. Applicants note that the Contracts will offer Contract owners an opportunity to transfer amounts out of the Sentinel Fund, prior to the substitution, or the Fidelity Fund or DWS Fund, as applicable, after the substitution, into any of the remaining subaccounts without cost or other disadvantage. The proposed substitution, therefore, will not result in the type of costly forced redemption which Section 26(c) was designed to prevent.

7. The Applicants note that within five days after the proposed substitution, Contract owners affected by the substitution will be sent a written notice informing them that the substitution was carried out and that, for the next 30 days, they may make one transfer of all accumulated or contract value under a Contract invested in the Fidelity Fund or the DWS Fund, as applicable, on the date of the notice to another subaccount available under their Contract without the transfer counting as one of a limited number of transfers permitted in a Contract year free of charge.

8. Applicants state the proposed substitution in also unlike the type of substitutions which Section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners select much more than a particular investment company in which to invest their account values. They also select the specific type of insurance coverage offered by NLIC under their Contract as well as numerous other rights and privileges set forth in the Contract. Contract owners may also have considered NLIC's size, financial condition, type and its reputation for service in selecting their Contract. These factors will not change as a result of the proposed substitution.

Conclusion

Applicants submit that, for all the reasons stated above, the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 06–7641 Filed 9–13–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54410; File No. SR–NYSEArca–2006–31]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change Amending Rules to Mandate Listed Companies Become Eligible To Participate in a Direct Registration System

September 7, 2006.

I. Introduction

On June 19, 2006, NYSE Arca, Inc. (''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NYSEArca–2006–31 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on July 18, 2006.[2] One comment letter was received.[3] For the reasons discussed below, the Commission is granting approval of the proposed rule change.[4]

II. Description

The Direct Registration System (''DRS'') allows an investor to establish either through the issuer's transfer agent or through the investor's broker-dealer a book-entry position on the books of the issuer and to electronically transfer her position between the transfer agent and the broker-dealer of her choice through a facility currently administered by The Depository Trust Company (''DTC'').[5] DRS, therefore, enables an investor to have securities registered in her name on the books of the issuer without having a securities certificate issued to her and to electronically transfer her

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 54126 (July 11, 2006), 71 FR 40768 (July 18, 2006) [File No. SR–NYSEArca–2006–31].

[3] Letter from Loren K. Hanson, Director of Investor Relations, to Nancy M. Morris, Secretary, Commission (August 15, 2006).

[4] The Commission has also granted approval to similar rule changes submitted by the New York Stock Exchange LLC (''NYSE''), American Stock Exchange LLC (''Amex''), and The NASDAQ Stock Market LLC (''Nasdaq''). Securities Exchange Act Release Nos. 54289 (August 8, 2006), 71 FR 47278 (August 16, 2006) [File No. SR–NYSE–2006–29]; 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) [File No. SR–NASDAQ–2006–08]; and 54290 (August 8, 2006), 71 FR 47262 (August 16, 2006) [File No. SR–Amex–2006–40].

[5] Currently, the only registered clearing agency operating a DRS is DTC. For a detailed description of DRS and the DRS facilities administered by DTC, see Securities Exchange Act Release Nos. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR–DTC–96–15] (order granting approval to establish DRS) and 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999), [File No. SR–DTC–99–16] (order approving implementation of the Profile Modification System).

securities to her broker-dealer in order to effect a transaction without the risk and delays associated with the use of securities certificates.

Investors holding their securities in DRS retain the rights associated with securities certificates, including such rights as control of ownership and voting rights, without having the responsibility of holding and safeguarding securities certificates. In addition, in corporate actions such as reverse stock splits and mergers, cancellation of old shares and issuance of new shares are handled electronically with no securities certificates to be returned to or received from the transfer agent.

In order to reduce the number of transactions in securities for which settlement is effected by the physical delivery of securities certificates and thereby reduce the risks, costs, and delays associated with the physical delivery of securities certificates, NYSE Arca will impose its DRS eligibility requirement pursuant to proposed new Rule 7.62(c).[6] The proposed new rule does not require that securities listed for trading on NYSE Arca be in the DRS operated by DTC. Rather it requires listed companies' securities be eligible for a direct registration system operated by a clearing agency, as defined in Section 3(a)(23) of the Act,[7] that is registered with the Commission pursuant to Section 17A(b)(2) of the Act. Therefore, while the DRS operated by DTC is currently the only DRS facility meeting the requirements of new NYSE Arca Rule 7.62(c), the new rule will provide issuers with the option of using another qualified DRS if they so desire if one should exist in the future.

Currently, in order to make a security DRS-eligible in DRS operated by DTC, DTC rules require that the issuer must have a transfer agent which is a DTC DRS Limited Participant.[8] NYSE Arca understands that the larger transfer agents serving NYSE Arca's listed company community are already eligible to participate in DRS. However, taking into account the diversity of the issuers and transfer agents across all the markets that will be required to make securities eligible for DRS and facilitate DRS eligibility, some transfer agents may need to take steps to become eligible to participate in DRS. In addition, NYSE Arca has been notified that some issuers may need to amend their corporate governing documents, such as their certificates of incorporation or their by-laws, before they can make their securities DRS eligible.

To allow sufficient time for any such necessary actions, NYSE Arca will impose the DRS eligibility requirement in two steps. Companies listing for the first time should have greater flexibility to conform to the eligibility requirements. Therefore, Rule 7.62(c) will require all securities initially listing on NYSE Arca on or after January 1, 2007, be eligible for DRS at the time of listing. This provision does not extend to securities of companies (i) which already have securities listed on the NYSE Arca, (ii) which immediately prior to such listing had securities listed on another registered securities exchange in the U.S., or (iii) which are specifically permitted under NYSE Arca's rules to be and which are book-entry only.[9] On and after January 1, 2008, all securities listed on the NYSE Arca will be required to be eligible for DRS except those securities which are specifically permitted under NYSE Arca rules to be and which are book-entry only.

III. Comment Letters

The Commission received one comment opposing the proposed rule change.[10] The commenter, speaking on behalf of an issuer that acts as its own transfer agent but works with a large commercial transfer agent that acts as co-transfer agent, expressed concern the proposed rule change would eliminate the issuer's role as transfer agent. The commenter believes that there can be only one transfer per company registered with DTC under the current DRS model, and since the issuer is not a DRS Limited Participant, its co-transfer agent would survive as the issuer's only transfer agent. The commenter believes that implementation of NYSE Arca's proposed rule would be a detriment because shareholders would not receive the quality of service from a commercial transfer agent that they currently receive from the issuer acting as its own transfer agent. Furthermore, this commenter contends that forcing companies to implement DRS is unproductive and costly because issuers will have to amend their bylaws and articles of incorporation to allow for book-entry positions even when the issuer intends to continue to issue stock certificates.

IV. Discussion

Section 6(b)(5) of the Act requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[11] For the reasons described below, the Commission finds that NYSE Arca's rule change is consistent with Section 6(b)(5) of the Act.

The use of securities certificates has long been identified as an inefficient and risk-laden mechanism by which to hold and transfer ownership.[12] Because securities certificates require manual processing, their use can result in significant delays and expenses in processing securities transactions and present the risk of certificates being lost, stolen, or forged. Many of these costs and risks are ultimately borne by investors.[13] Congress has recognized the problems and dangers that the use of certificates presents to the safe and efficient operation of the U.S. clearance and settlement system and has given the Commission responsibility and authority to address these issues.[14]

Consistent with its Congressional directives and in its efforts to improve efficiencies and decrease risks associated with processing securities

[6] The exact text of the NYSE Arca proposed new Rule 7.62(c) is set forth in its filing, which can be found at *www.nysearca.com/regulation/filings.*

[7] 15 U.S.C. 78a.

[8] Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR–DTC–96–15].

[9] The securities that NYSE Arca permits to be book-entry only include all debt securities, securities listed or traded pursuant to Rule 5.2(j), securities listed or traded pursuant to Rule 8, and nonconvertible stock. NYSE Arca's Rule 5(j) pertains to, among other things, equity linked notes, investment company units, index-linked exchangeable notes, equity gold shares, index-linked securities. Rule 8 pertains to currency and index warrants.

[10] *Supra* note 3. But *see* comment letters to similar rule changes submitted by the New York Stock Exchange LLC (''NYSE''), American Stock Exchange LLC (''Amex''), and The NASDAQ Stock Market LLC (''Nasdaq''). Securities Exchange Act Release Nos. 54289 (August 8, 2006), 71 FR 47278 (August 16, 2006) [File No. SR–NYSE–2006–29]; 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) [File No. SR–NASDAQ–2006–08]; and 54290 (August 8, 2006), 71 FR 47262 (August 16, 2006) [File No. SR–Amex–20].

[11] 15 U.S.C. 78f(b)(5).

[12] Securities Exchange Act Release No. 49405 (March 11, 2004), 69 FR 12922 (March 18, 2004), [File No. S7–13–04] (Securities Transaction Settlement Concept Release).

[13] *Id.*

[14] 15 U.S.C. 78q–1(a)(2)(A). Congress expressly envisioned the Commission's authority to extend to all aspects of the securities handling process involving securities transactions within the United States, including activities by clearing agencies, depositories, corporate issuers, and transfer agents. *See* S. Rep. No. 75, 94th Cong., 1st Sess. at 55 (1975).

transactions, the Commission has long advocated a reduction in the use of certificates in the trading environment by immobilization or dematerialization of securities and has encouraged the use of alternatives to holding securities in certificated form. Among other things, the Commission has approved the rule filings of self-regulatory organizations that require their members to use the facilities of a securities depository for the book-entry settlement of all transactions in depository-eligible securities [15] and that require any security listed for trading must be depository eligible if possible.[16] More recently the Commission has approved the implementation and expansion of DRS.[17]

While the U.S. markets have made great progress in immobilization and dematerialization for institutional and broker-to-broker transactions, many industry representatives believe that the small percentage of securities held in certificated form (mostly by retail customers of broker-dealers) impose unnecessary risk and disproportionately large expense to the industry and to investors. In an attempt to address this issue, NYSE Arca's rule change, along with those of the NYSE, Amex, and Nasdaq, should help expand the use of DRS. As a result, risks, costs, and processing inefficiencies associated with the physical delivery of securities certificates should be reduced, and impediments to the perfection of the national market system should be reduced. Additionally, those investors holding securities in listed securities covered by the rule change that decide to hold their securities in DRS should realize the benefits of more accurate, quicker, and more cost-efficient transfers; faster distribution of sale proceeds; reduced number of lost or stolen certificates and a reduction in the associated certificate replacement costs; and consistency of owning in book-entry across asset classes.

The Commission realizes that some issuers and transfer agents may bear expenses related to complying with the rule change. In order to make an issue DRS-eligible, issuers of listed companies must have a transfer agent which is a DRS Limited Participant and may need to amend their corporate governing documents to permit the issuance of book-entry shares. The Commission believes, however, that the long-term benefits of increased efficiencies and reduced costs and risks afforded by DRS outweigh the costs that some issuers and transfer agents may incur. Furthermore, the time frames built into the proposal should allow issuers and their transfer agents sufficient time to make any necessary changes to comply with the rule change.

While the proposed rule change should significantly reduce the number of transactions in securities for which settlement is effected by the physical delivery of securities certificates, the proposed rule change will not eliminate the ability of investors to obtain securities certificates provided the issuer has chosen to issue certificates. Such investors can continue to contact the issuer's transfer agent, either directly or through their broker-dealer, to obtain a securities certificate.

The commenter's concern that its role as an issuer transfer agent will be eliminated because there can be only one transfer agent per issue registered with DTC under the current DRS model is unfounded. DTC has procedures in place to permit a named transfer agent, which in this case would be the issuer, to file notice with DTC as the primary transfer agent but use a co-transfer agent for its DRS functions.

Accordingly, for the reasons stated above the Commission finds that the rule change is consistent with NYSE Arca's obligation under Section 6(b) of the Act to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 6(b)(5) of the Act and the rules and regulations thereunder. *It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSEArca–2006–31) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[18]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–15229 Filed 9–13–06; 8:45 am]

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[15] Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679 (June 18, 1993) (order approving rules requiring members, member organizations, and affiliated members of the New York Stock Exchange, National Association of Securities Dealers, American Stock Exchange, Midwest Stock Exchange, Boston Stock Exchange, Pacific Stock Exchange, and Philadelphia Stock Exchange to use the facilities of a securities depository for the book-entry settlement of all transactions in depository-eligible securities with another financial intermediary).

[16] Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909 (June 12, 1995), [File Nos. SR–Amex–95–17; SR–BSE–95–09; SR–CHX–95–12; SR–NASD–95–24; SR–NYSE–95–19; SR–PSE–95–14; SR–PHLX–95–34] (order approving rules setting forth depository eligibility requirements for issuers seeking to have their shares listed on the exchange).

[17] In 1996, the NYSE modified its listing criteria to permit listed companies to issue securities in book entry form provided that the issue is included in DRS. Securities Exchange Act Release No. 37937 (November 8, 1996), 61 FR 58728 (November 18, 1996), [File No. SR–NYSE–96–29]. Similarly, the NASD modified its rule to require that if an issuer establishes a direct registration program, it must participate in an electronic link with a securities depository in order to facilitate the electronic transfer of the issue. Securities Exchange Act Release No. 39369 (November 26, 1997), 62 FR 64034 (December 3, 1997), [File No. SR–97–51]. On July 30, 2002, the Commission approved a rule change proposed by the NYSE to amend NYSE Section 501.01 of the NYSE Listed Company Manual to allow a listed company to issue securities in a dematerialized or completely immobilized form and therefore not send stock certificates to record holders provided the company's stock is issued pursuant to a dividend reinvestment program, stock purchase plan, or is included in DRS. Securities Exchange Act Release No. 46282 (July 30, 2002), 67 FR 50972 (August 6, 2002), [File No. SR–NYSE–2001–33].

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54413; File No. SR–Amex–2006–72]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Adopt New Rules To Implement on a Pilot Basis an Initial Version of AEMI, Its Proposed New Hybrid Market Trading Platform for Equity Products and Exchange Traded Funds

September 7, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On September 7, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces and supersedes the original filing in its entirety.

proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to adopt new rules to implement an initial version of AEMI℠, its proposed new hybrid market trading platform for equity products and Exchange Traded Funds (''ETFs''). According to the Exchange, this initial version of AEMI (referred to herein as ''AEMI-One'') is expected to become operative prior to the final date set by the Commission for full operation of all automated trading centers that intend to qualify their quotations for trade-through protection under Rule 611 of Regulation NMS (''Trading Phase Date'').[4] The rule change is being proposed on a pilot basis from the first day of operation of AEMI-One through the day prior to the Trading Phase Date.

The text of the proposed rule change is available on Amex's Web site (*http://www.amex.com*), at Amex's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has previously filed a Form 19b–4 with the Commission (the ''AEMI Rule Filing''),[5] in which the Exchange described the implementation of a proposed new hybrid market structure for equity products and ETFs[6] that would provide for a single marketplace that integrates automatic execution and floor-based auction trading. To facilitate the hybrid market, the Exchange is undertaking a major technology upgrade and will implement a new trading platform for equity products and ETFs. This platform, designated as AEMI, is aimed at providing easy and fast access to automated order execution, as well as encompassing auction market capabilities for those situations in which there are order imbalances that require additional liquidity, or price improvement from the auction process is desired. The proposed operation of AEMI is described in detail in the AEMI Rule Filing, which includes in Amendment 5 thereto the text of the proposed new rules that would be applicable (the ''AEMI Rules''). The Exchange believes that the operation of AEMI under the AEMI Rules would comply in all respects with the requirements of Regulation NMS, including the trade-through provisions of Rule 611.

The Exchange proposes to adopt, prior to the Trading Phase Date, currently set for February 5, 2007, a slightly modified version of the AEMI Rules (the ''AEMI-One Rules'') in connection with the implementation of the AEMI-One version of AEMI as a limited pilot program (the ''AEMI-One Pilot''). The Exchange recognizes that, during the period between the start of its rollout of AEMI and the Trading Phase Date, other SROs may also be in the process of deploying new or modified systems intended to achieve full compliance with Rule 611 and other provisions of Regulation NMS by the Trading Phase Date. Consequently, the Exchange has designed the AEMI-One Pilot with the objective in mind of protecting market quality and avoiding market disruptions during this critical period of change, in addition to assuring that investor protections are not compromised.

The Exchange intends to deploy AEMI in a controlled manner during the AEMI-One Pilot, commencing with two listed equities and two ETF UTP securities. Following a successful ten-day period of trading, up to four listed ETFs would be added for an additional five days of trading. The Exchange would then accelerate the deployment of all equity products and ETFs on a per-post basis and give notice to members and publish on its Web site the timing for each group of securities being migrated to the AEMI platform.

Because the AEMI Rules are based on the assumption that all provisions of Regulation NMS are fully operative, the proposed AEMI-One Rules that appear in Exhibit 5 to the proposed rule change filed with the Commission are slightly modified from their AEMI Rule counterparts to reflect the different regulatory environments in effect before and after the Trading Phase Date. The Exchange expects that the AEMI-One Pilot would be in effect for only a few months up until the Trading Phase Date, at which time the AEMI Rules would become effective and supersede the AEMI-One Rules. The Exchange would then delete the AEMI-One Rules from its rulebook via a filing with the Commission.

The operation of AEMI-One would be, in most respects, consistent with the operation of AEMI as described in the AEMI Rule Filing, except for the specific provisions discussed below. To further highlight these differences, the Exchange is providing as Exhibit 4 to the proposed rule change filed with the Commission a marked version of the AEMI-One Rules that illustrates the changes from the corresponding AEMI Rules.

The key provisions of the AEMI-One Rules that differ from the AEMI Rules are as follows:

• ''Protected quotations'' for trade-through purposes in AEMI-One would consist of (1) All quotations, whether manual or automated, at the national best bid or offer (''NBBO'')[7] that are at a better price than the next trade that would occur on AEMI; and (2) quotations not at the NBBO, but priced better than the next trade that would occur on AEMI, that are the best bid or offer of an automated trading center that is not displaying a manual quote condition. In contrast, a ''protected quotation'' under the AEMI Rules (proposed to be effective on and after the Trading Phase Date) is defined to be consistent with Rule 611 of Regulation NMS[8] and must be an automated quotation that is the best bid or offer of an automated trading center whether or not at the NBBO.

• An ''automated trading center'' under AEMI-One for order-routing decision purposes would be based on a determination made by the Exchange that would be publicly available. The Exchange would look first at whether the away market is publishing quote

[4] *See* Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038 (May 24, 2006) (extending compliance dates for Rules 610 and 611 of Regulation NMS).

[5] Securities Exchange Act Release No. 54145 (July 14, 2006), 71 FR 41654 (July 21, 2006) (File No. SR–Amex–2005–104).

[6] As used herein, the term ''equity products'' includes equities and securities that trade like equities on the Exchange, such as listed and UTP stocks, closed-end funds, and certain structured products. The term ''ETFs'' includes Portfolio Depositary Receipts, Index Fund Shares, Trust Issued Receipts, and Partnership Units.

[7] Because of the inclusion of manual quotes at the NBBO in the definition of ''protected quotations,'' the term ''automated NBBO'' in the AEMI Rules would not be relevant during the AEMI-One Pilot.

[8] *See* 17 CFR 242.600(b)(58) (defining ''protected quotation''); *see also* 17 CFR 242.600(b)(57) (defining ''protected bid'' and ''protected offer'').

conditions that distinguish the away market's quotations as manual or automated for all of the away market's securities. If the away market were publishing such quote conditions, the away market would be identified by AEMI-One as an automated trading center, and order routing to that market for trade-through purposes would be determined according to the quote condition (*i.e.*, such orders would be routed to quotations displayed by that market that are not at the NBBO, unless those quotations were identified by that market as manual quotes). If the away market were not publishing such quote conditions, the determination of whether it were an automated trading center for purposes of order routing decisions would be based on whether the Exchange deems the away market to be executing all incoming orders immediately and without human intervention. AEMI-One would contain a ''routing table,'' which also would be published on the Exchange's Web site and updated on an inter-day basis to reflect any changes, listing those markets that are not considered by the Amex to be automated trading centers. In contrast, an automated trading center under the AEMI Rules would be based upon the Regulation NMS definition of that term [9] and would not be determined independently by the Exchange.

• During the period of the AEMI-One Pilot, not all away market centers that trade a particular security and whose quotes are ''protected quotes'' under the AEMI-One Rules may be capable of receiving intermarket sweep orders (''ISOs''), as such orders are defined in Regulation NMS.[10] In such circumstances, AEMI would not utilize ISOs and instead would generate ''away market obligations.'' An ''away market obligation'' is defined in the AEMI-One Rules as an immediate or cancel limit order generated by AEMI in connection with the execution of an order by AEMI and routed to one or more away market centers to execute against all better-priced protected quotations displayed by other market centers up to their displayed size. If an away market that trades a particular security were capable of receiving ISOs prior to the Trading Phase Date, then the Exchange could choose to require AEMI to generate and utilize ISOs as the away market obligations for that market. In contrast, the AEMI Rules effective on and after the Trading Phase Date would provide for the use of ISOs exclusively to comply with the trade-through provisions of Rule 611 for better-priced protected quotations displayed at other market centers. However, during the AEMI-One Pilot, AEMI would accept and trade all ISOs received by the Exchange that involve securities traded on the Exchange that have made the transfer from Amex's legacy systems to the AEMI platform, similar to the way AEMI would operate following the AEMI-One Pilot.

Amendment No. 1

Amendment No. 1 replaced and superseded the original filing in its entirety. Amendment No. 1 made a number of revisions to the text of the proposed rule change. Among other things, Amendment No. 1 (1) Adds a new proposed rule 126B—AEMI7-One that relates to the Exchange's order-routing services for orders routed to other trading centers; (2) requires that, during the period of the AEMI-One Pilot, a member of the Exchange sending an intermarket sweep order to the AEMI platform must simultaneously send an intermarket sweep order (or a comparable order) for the full displayed size of the top of book of every other market center displaying a better-priced quotation; [11] and (3) adds requirements that ''self-help'' be invoked by the Exchange pursuant to objective industry-wide established interpretations and policies and be based on repeated failures to respond within one second to orders attempting to access another trading center's protected automated quotations, where such failures are attributable to that trading center and where the Exchange notifies the non-responding trading center of its determination to invoke self help.[12] The aforementioned proposed Rule 126B—AEMI-One (Order Routing Services) provides, among other things, for (1) Certain related agreements (*e.g.*, on ''give-ups'' and on the licensing of the routing technology); (2) the equitable allocation of dues, fees, and other charges; (3) Exchange control of the routing logic; and (4) the establishment and maintenance of procedures and internal controls designed to protect confidential and proprietary information. Finally, the amendment also makes a number of relatively minor corrections to the proposed rule text, including certain provisions related to Nasdaq securities that conform to recent changes in the Exchange's current rules.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5),[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change would impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received by the Exchange on this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2006–72 on the subject line.

[9] *See* 17 CFR 242.600(b)(4) (defining ''automated trading center'').

[10] *See* 17 CFR 242.600(b)(30) (defining ''intermarket sweep order'').

[11] *See* proposed Rule 131—AEMI-One, heading *Intermarket sweep order.*

[12] *See* proposed Rule 126A—AEMI-One.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–72. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–72 and should be submitted on or before October 5, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–15241 Filed 9–13–06; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54412; File No. SR–Amex–2006–64]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to a Proposed Rule Change and Amendment No. 1 Thereto Relating to a Retroactive Suspension of Transaction Charges for Specialist Orders in the Nasdaq-100 Tracking Stock® (QQQQ)

September 7, 2006.

On July 7, 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 retroactively apply a suspension of transaction charges for specialist orders in connection with the trading of the Nasdaq-100 Index Tracking Stock® (Symbol: QQQQ) from July 1, 2006 through July 12, 2006. On July 27, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on August 8, 2006.[4] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission believes that the proposal is consistent with Section 6(b)(4) of the Act[6] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–Amex–2006–64), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–15273 Filed 9–13–06; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] *See* Securities Exchange Act Release No. 54262 (August 1, 2006), 71 FR 45083.

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54415; File No. SR–ISE–2004–17]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Market Maker Orders

September 7, 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 May 26, 2004, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on August 14, 2006.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 717(g) to eliminate the restriction on Electronic Access Members representing ISE market maker orders, provided that such orders are identified as orders for the account of an ISE market maker. Under the proposal, an Electronic Access Member will not be permitted to enter orders solicited from an ISE market maker into the Solicited Order Mechanism and the Price Improvement Mechanism. The text of the proposed rule change, as amended, is set forth below. Proposed new language is in italics; deletions are in [brackets].

* * * * *

Rule 716. Block Trades

(a) through (e) No change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced the original filing in its entirety.

Supplementary Material to Rule 716

.01 through .04 No change.

.05 Under paragraph (e) above, Members may enter contra orders that are solicited. The Solicited Order Mechanism provides a facility for Members that locate liquidity for their customer orders. Members may not use the Solicited Order Mechanism to circumvent Exchange Rule 717(d) limiting principal transactions. This may include, but is not limited to, Members entering contra orders that are solicited from (1) affiliated broker-dealers, or (2) broker-dealers with which the Member has an arrangement that allows the Member to realize similar economic benefits from the solicited transaction as it would achieve by executing the customer order in whole or in part as principal. *Additionally, any solicited contra orders entered by Members to trade against Agency Orders may not be for the account of an ISE market maker that is assigned to the options class.*

.06 through .08 No change.

Rule 717. Limitations on Orders

(a) through (f) No change.

(g) Orders for the Account of Another Member. [Absent an exemption from an Exchange official designated by the Board,] Electronic Access Members shall not cause the entry of orders for the account of an ISE market maker that is exempt from the provisions of Regulation T of the Board of Governors of the Federal Reserve System pursuant to Section 7(c)(2) of the Exchange Act *unless such orders are identified as orders for the account of an ISE market maker in the manner prescribed by the Exchange.*

Supplemental Material to Rule 717

.01 through .02 No change.

* * * * *

Rule 723. Price Improvement Mechanism for Crossing Transactions

(a) through (d) No change.

Supplementary Material to Rule 723

.01 through .06 No change.

.07 Any solicited Counter-Side Orders submitted by an Electronic Access Member to trade against Agency Orders may not be for the account of an ISE market maker assigned to the options class.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, under ISE Rules, Electronic Access Members (''EAMs'') are not permitted to represent orders for the account of an ISE market maker. While it is common practice on other exchanges for brokers to represent orders for the account of a market maker, the ISE initially included this restriction in its rules due to a system limitation. Specifically, allowing ISE market makers to enter orders through another member instead of directly might have created an opportunity for ISE market makers to avoid certain limitations on market maker trading contained in the Exchange's Rules.[4]

The Exchange has developed the capability for EAMs to mark orders to show that they are for the account of an ISE market maker. As such, these orders will flow through the Exchange's surveillance system as if they were directly entered by the market makers. Therefore, we propose to eliminate the prohibition against EAMs entering orders for the account of ISE market makers. However, under the proposal, an EAM will be prohibited from entering orders solicited from an ISE market maker assigned to the options class into the Solicited Order Mechanism and the Price Improvement Mechanism, which are designed to expose solicited transactions to the market.[5]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the rule change will allow EAMs to represent ISE market maker orders on the ISE, while prohibiting them from entering orders solicited from market makers assigned to the options class through mechanisms designed to expose solicited transactions to the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

[4] *See, e.g.*, ISE Rule 805 (Market Maker Orders).

[5] This limitation on entering orders solicited from market makers assigned to the options class was included in a rule change by the CBOE (the ''Automated Improvement Mechanism'' or ''AIM'') recently approved by the Commission. *See* Securities Exchange Act Release No. 53222 (Feb. 3, 2006), 71 FR 7089 (Feb. 10, 2006). The execution of solicited transactions through AIM is similar to the execution of orders through the ISE's Solicited Order Mechanism and Price Improvement Mechanism.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

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–ISE–2004–17 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2004–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2004–17 and should be submitted on or before October 5, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–15268 Filed 9–13–06; 8:45 am]

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[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54416; File No. SR–MSRB–2006–07]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change to MSRB Rule G–14 RTRS Procedures Relating to ''List Offering Price'' and ''Takedown'' Transactions

September 8, 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 August 15, 2006, the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing with the Commission a proposed rule change to Rule G–14 RTRS Procedures under Rule G–14, Reports of Sales or Purchases, to expand the usage of ''list offering price'' transactions to include certain inter-dealer ''takedown'' transactions and to require the reporting of these transactions as ''list offering price'' transactions on the first day of trading of a new issue. The text of the proposed rule change is available on the MSRB's Web site (*http://www.msrb.org*), at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

MSRB Rule G–14 requires brokers, dealers, and municipal securities dealers (collectively ''dealers'') to report information about each purchase and sale transaction effected in municipal securities to the Real-Time Transaction Reporting System (''RTRS'') in the manner prescribed by Rule G–14 RTRS Procedures. Rule G–14 requires that transactions effected with a time of trade during the hours of the RTRS business day be reported within fifteen minutes of the time of trade to an RTRS Portal.

Under MSRB Rule G–14 RTRS Procedures, paragraph (a)(ii), there are three exceptions to this fifteen minute reporting requirement. The exception addressed by the proposed rule change currently allows syndicate managers, syndicate members and selling group members that effect trades in new issues on the first day of trading at the list offering price to report such trades by the end of the day on which the trades were executed.[3] This exception is known as the ''List Offering Price'' exception.

The ''List Offering Price'' is defined as the publicly announced initial offering price at which a new issue of municipal securities is to be offered to the public.[4] The MSRB provided the end-of-day reporting deadline for these customer transactions because of the substantial operational difficulties underwriters would face in reporting large numbers of List Offering Price transactions within a fifteen-minute window after the formal award. The MSRB also concluded that real-time dissemination of large numbers of primary market transactions occurring at the same price would not offer a substantial benefit to RTRS transparency objectives.

For purposes of RTRS transaction reporting, a ''Takedown'' transaction is

[3] The other two exceptions to the fifteen minute reporting rule are: (1) A dealer effecting a trade in a short-term instrument under nine months in effective maturity (including variable rate instruments, auction rate products, and commercial paper) shall report such trades by the end of the business day on which the trades were executed; and (2) a dealer shall report a trade within three hours of the time of trade if certain conditions apply. *See* MSRB Rule G–14 RTRS Procedures (a)(ii)(B) and (C).

[4] If the price is not publicly disseminated (*e.g.*, if the security is a ''not reoffered'' maturity within a serial issue), the price is not a List Offering Price. *See* ''Reminder Notice on List Offering Price and Three-hour Exception for Real-Time Transaction Reporting: Rule G–14,'' MSRB Notice 2004–40 (December 10, 2004).

a primary market sale transaction executed on the first day of trading of a new issue by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the List Offering Price. In a 2004 notice, the MSRB stated that these inter-dealer transactions must be reported within fifteen minutes of the time of execution and that they do not fall within the List Offering Price end-of-day exception.[5] As experience with real-time transaction reporting has increased, however, industry members have pointed out that Takedown transactions share many of the same characteristics as List Offering Price transactions. A high volume of Takedown transactions on the first day of trading in a new issue, for example, often presents operational difficulties for underwriters attempting to report all of their Takedown transactions within a fifteen-minute window. It also has been noted that prices for both Takedown transactions and List Offering Price transactions are set under an offering price agreement for the new issue and therefore do not necessarily reflect market prices at the time the transaction is effected. Thus, the proposed rule change would expand the definition of List Offering Price to include Takedown transactions, require use of an indicator on reports of all List Offering Price and Takedown transactions, and retain the end of the day exception from the normal fifteen minute reporting deadline for the expanded category of ''List Offering Price/Takedown'' transactions.[6]

The proposed List Offering Price/Takedown indicator would be required to be used by dealers when reporting any primary market sale transaction executed on the first day of trading of a new issue:

- By a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security (''List Offering Price Transaction''); or
- By a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security (''RTRS Takedown Transaction'').

The indicator would be included on MSRB price transparency reports to designate to transparency report users that the trade report does not represent a normal secondary market transaction. The proposed rule change recognizes the similarities between List Offering Price and Takedown transactions and the dissimilarities between these transactions and secondary market transactions in a new issue. Since the secondary market transactions in a new issue are likely to provide the best gauge of the current market value for a new issue and may be reported to RTRS simultaneously with List Offering Price and Takedown transactions, the MSRB believes that transparency reports on the first day of trading for a new issue would be more useful if List Offering Price and Takedown transactions were identified with a special condition indicator.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[7] which provides that the MSRB's rules shall: 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will allow the municipal securities industry to produce more accurate trade reporting and transparency and will enhance surveillance data used by enforcement agencies.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will result in any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

On April 21, 2006, the MSRB published for comment a notice with respect to reporting procedures for List Offering Price and Takedown transactions.[8] In response, the MSRB received six comment letters from: The Bond Market Association (''TBMA''), Jerry L. Chapman, Private Investor (''Chapman''), Digital Assurance Certification LLC (''DAC''), First Southwest Company (''First Southwest''), Nuveen Investments (''Nuveen'') and Wulff, Hansen & Co. (''Wulff, Hansen'').[9]

TBMA, Chapman, DAC and Nuveen all indicated support for including Takedown trades in the definition of list price transactions and allowing such transactions to be reported by the end of the day. Chapman stated that he is ''happy to see the MSRB is * * * recognizing [that] a takedown trade is a list trade.'' First Southwest supported the proposal to include Takedown transactions ''within the definition of List Offering Price'' and giving such transactions the end-of-day exception from real-time reporting.[10]

After reviewing these comments, the MSRB approved the draft amendments for filing with the SEC.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The MSRB proposes an effective date for the proposed rule change of January 8, 2007. Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

[5] *See id.*

[6] These List Offering Price/Takedown transactions would be designated with the same special condition indicator currently in use for List Offering Price transactions. The technical requirements for the current List Offering Price indicator are summarized in the *Specifications for Real-Time Reporting of Municipal Securities Transactions* which is available on-line at *http://www.msrb.org.* The draft revisions to the *Specifications* for the indicator identifying the List Offering Price/Takedown Transactions may be found in ''Request for Comment on Draft Procedures for Reporting Special Condition Indicators on Certain New Issue Transactions,'' MSRB Notice 2006–10 (April 21, 2006).

[7] 15 U.S.C. 78o–4(b)(2)(C).

[8] MSRB Notice 2006–10 (April 21, 2006).

[9] The comment letter from Wulff, Hansen did not address the issues relating to List Offering Price and Takedown transactions in MSRB Notice 2006–10 (April 21, 2006). Rather, the comment letter discussed other aspects of the Notice that are not relevant to this rule filing.

[10] First Southwest, however, opposed the proposal in MSRB Notice 2006–10 (April 21, 2006) that dealers would be required to use a special condition indicator for these transactions. The indicator, however, must be mandatory in order to be useful in distinguishing List Offering Price and Takedown transactions from secondary market transactions.

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–MSRB–2006–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MSRB–2006–07. 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 MSRB's offices. 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–MSRB–2006–07 and should be submitted on or before October 5, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–15230 Filed 9–13–06; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5545]

Culturally Significant Objects Imported for Exhibition Determinations: ''Royal Collections''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Royal Collections,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the High Museum of Art, Atlanta, Georgia, from on or about October 14, 2006, until on or about September 2, 2007, at the Denver Art Museum, Denver, Colorado, beginning on or about October 13, 2007, until on or about January 8, 2008, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 1, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–15259 Filed 9–13–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–2006–25612]

Notice of Extension for Filing Comments; Request by Hawaiian Airlines for Declaratory Order Concerning Hawaiian's American Samoa Service

AGENCY: Office of the Secretary, Department of Transportation.

SUMMARY: The Department is changing the due dates for comments and reply comments on the legal and policy questions presented by a petition submitted by Hawaiian Airlines for a declaratory order regarding an Executive Order issued by the Honorable Togiola T.A. Tulafono, the Governor of American Samoa. The Governor's order proposes to block Hawaiian from continuing to serve American Samoa if another airline replaces Hawaiian's service between Honolulu and Pago Pago. Comments will now be due October 31, and reply comments will be due November 21, 2006.

DATES: Comments must be submitted on or before October 31, 2006. Replies must be filed by November 21, 2006.

ADDRESSES: Objections and answers to objections must be filed in Docket number OST–2006–25612 by one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By hand delivery to Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov*. Comments must be filed in Docket OST–2006–25612.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel (C–30, Room 4102), U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590, (202) 366–4731, or Nancy Kessler, Office of the General Counsel (C–10, Room 10102), U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590, (202) 366–9301.

SUPPLEMENTARY INFORMATION: On August 10, 2006, Hawaiian Airlines, the only airline currently providing scheduled passenger service between American Samoa and another U.S. State or territory, filed a petition asking for a

declaratory order regarding an Executive Order issued by the Honorable Togiola T.A. Tulafono, the Governor of American Samoa, that proposed to block Hawaiian from continuing to serve American Samoa. Governor Tulafono has been dissatisfied with the quality and price of Hawaiian's service. His executive order, issued July 26, 2006, stated that American Samoa intends to find another airline to replace Hawaiian's service and that he will issue a second executive order barring Hawaiian from continuing to operate to American Samoa when another airline is ready to replace Hawaiian's service between Pago Pago and Honolulu. Hawaiian's petition, filed in Docket OST–2006–25612, contends that the Governor may not lawfully block Hawaiian from serving the Honolulu-Pago Pago market. Hawaiian's petition thus presents the question of whether Federal law will allow the Governor to take the action proposed by his Executive Order, or will prohibit him from doing so.

Because we were unwilling to rule on Hawaiian's petition without making sure that American Samoa had a full opportunity to respond to the petition, and because no one submitted comments in response to Hawaiian's petition, we published a notice inviting American Samoa and all other interested persons to submit comments on the petition. Comments were due September 15, and reply comments were due September 22, 2006. 71 FR 52205 (September 1, 2006).

On August 30, the Governor of American Samoa sent a letter to Susan McDermott, the Deputy Assistant Secretary for Aviation and International Affairs, requesting that at least sixty days, and preferably ninety days, be allowed for submitting comments on Hawaiian's petition. The Governor stated that the issues presented by Hawaiian's petition could not be adequately addressed within a fourteen-day comment period. He suggested that the comment period in this proceeding should reflect the procedures used in rulemaking proceedings, where sixty-day comment periods are common. We have placed a copy of the Governor's letter in the docket for this proceeding and sent a copy to Hawaiian. Hawaiian states that it does not object to a sixty-day comment period.

We will establish a comment period of sixty days, as the Governor has requested. Comments therefore will be due sixty days after the September 1 publication of our initial **Federal Register** notice. This will give the parties ample time for preparing their responses to Hawaiian's petition. We will also give parties two additional weeks for filing reply comments.

The parties' submissions thus far suggest that we should provide some guidance on the procedural requirements for this proceeding. Because Hawaiian is requesting a declaratory order regarding its individual dispute with the Governor, this proceeding is an adjudication, not a rulemaking. As such, it is subject to our rules for adjudicatory proceedings where no oral evidentiary hearing is held, 14 CFR 302.1 through 302.15. In adjudications, fundamental principles of fairness require that each party must serve the other parties whenever it submits its views to us on substantive or procedural issues. As a result, Hawaiian, the Governor, and the other parties must send all of their future filings directly to the docket for this proceeding and must simultaneously serve the other parties (at this time, the parties consist of Hawaiian and the Governor). While we sent a copy of Hawaiian's petition to the Governor and then forwarded the Governor's request for more time to Hawaiian, in the future each party is responsible for ensuring that it has sent a copy of any written request or pleading to the other parties.

Dated: September 8, 2006.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 06–7645 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Land at Banning Municipal Airport, Banning, CA

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of request to release airport land.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the release of the City of Banning from the conditions contained in applicable grant agreements with the United States for approximately 20 acres of undeveloped airport land obligated for airport purposes at Banning Municipal Airport, Banning, California, and which is not needed for airport purposes. The parcel will be sold at its fair market value and redeveloped for commercial purposes, which are compatible with the airport. The City of Banning County will use the sale proceeds for eligible airport improvements, which will provide a benefit to the airport and civil aviation.

DATES: Comments must be received on or before October 16, 2006.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, Federal Register Comment, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, one copy of any comments submitted to the FAA must be mailed to Mr. Owen Carder, Airport Manager, City of Banning, P.O. Box 998, Banning, CA 92220–0998.

FOR FURTHER INFORMATION CONTACT: Tony Garcia, Airports Compliance Specialist, Airports Division, Federal Aviation Administration, 15000 Aviation Blvd., Lawndale, CA 90261, telephone (310) 725–3634, and fax (310) 725–6849. For airport-specific information regarding the release, contact Mr. Owen Carder, Airport Manager, Banning Municipal Airport at the address above or telephone (951) 922–3291.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary of Transportation may waive any condition imposed on a federally obligated airport by the assurances in grant agreements.

Brief Overview of the Request

The City of Banning requested a release from the conditions and restrictions in applicable grant agreements with the United States for approximately 20 acres of undeveloped airport land obligated for airport purposes at Banning Municipal Airport, Banning, California. The 20-acre parcel is not being used for airport purposes and is not needed for future airport development. The land is located on the south side of the airport and is separated from the developed area on the west side of the airport. The parcel was acquired with an Airport Improvement Grant in September 1983. The property has remained vacant and undeveloped since its acquisition. It has been determined that the property will not be used for airport development and is, therefore, not needed for airport purposes. In accordance with Assurance 31, *Disposal of Land*, land that was acquired with a grant for airport development will be disposed of at fair market value when the land is no longer

needed for such a purpose. The sale price of the parcel will be based on an appraisal of its fair market value. The sales proceeds will be invested in eligible airport development projects. Following the sale, the property's redevelopment for non-aeronautical purposes will comply with local zoning and compatible land-use requirements. Use of the proceeds from the release will be used for airport improvements that will provide tangible benefits to the airport and civil aviation.

Issued in Hawthorne, California, on August 9, 2006.

George Aiken,

Manager, Safety and Standards Branch, Airports Division, Western-Pacific Region.

[FR Doc. 06–7631 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Land at Brown Field Municipal Airport, San Diego, CA

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of request to release airport land.

SUMMARY: The Federal Aviation Administration (FAA) proposed to rule and invites public comment on the release of approximately 1.5 acres of airport property at Brown Field Municipal Airport, San Diego, California, from all restrictions of the surplus property agreement since the parcel of land is not needed for airport purposes. Reuse of the land for State of California roadway improvements to State Route 905 represents a compatible land use. Sale of the property to the State at the appraised fair market values will be reinvested in airport improvements. The property is not needed for airport purposes and reinvestment of the sale proceeds will benefit the airport and the interests of civil aviation.

DATES: Comments must be received on or before October 16, 2006.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, Federal Register Comment, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Mike C. Tussey, Acting Airports Director, City of San Diego, Montgomery Field Airport, 3750 John J. Montgomery Drive, San Diego, CA 92123.

FOR FURTHER INFORMATION CONTACT: Tony Garcia, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, telephone (310) 725–3634 and FAX (310) 725–6849. For airport-specific information regarding the release, contact Mr. Mike C. Tussey, Acting Airports Director, at the above address or telephone (858) 573–1441.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds.

Brief Overview of the Request

The City of San Diego, California requested a release from surplus property agreement obligations for approximately 1.5 acres of airport land. The property is separated from the airport and located south of Otay Mesa Road. The land is presently unused, unimproved, and does not generate any income. Due to its location and uneven topography, the property cannot be used for airport purposes nor has it generated revenue for the airport. The release will allow the land to be sold to the State of California to allow the State to make roadway improvements to State Route 905, which runs along the southern boundary of Brown Field and serves as the public access road to the airport. The property will be sold at the appraised market value and the sale proceeds will be reinvested in airport improvement and development. Reuse of the property as a roadway will be compatible with the airport and the reuse of the sale proceeds will benefit the airport, thereby serving the interests of civil aviation.

Issued in Hawthorne, California, on August 9, 2006.

George Aiken,

Manager, Safety and Standards Branch, Airports Division, Western-Pacific Region.

[FR Doc. 06–7632 Filed 9–15–06; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Land at Calexico International Airport, Calexico, CA

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of request to release airport land.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the release of approximately 13.44 acres of airport property at Calexico International Airport, Calexico, California, from all conditions in the grant agreement since the land is not needed for airport purposes. Reuse of the land for commercial purposes represents a compatible land use. Disposal of the property will provide an opportunity to acquire additional land that is needed for airport development and to meet airport design standards.

DATES: Comments must be received on or before October 16, 2006.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, Federal Register Comment, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Luis Estrada, Airport Manager, Calexico International Airport, 608 Heber Avenue, Calexico, CA 92231.

FOR FURTHER INFORMATION CONTACT: Tony Garcia, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, telephone (310) 725–3634 and FAX (310) 725–6849. For airport-specific information regarding the release, contact Mr. Luis Estrada, Airport Manager, Calexico International Airport, at the above address or telephone (760) 768–2175.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary of Transportation may waive any condition imposed on a federally obligated airport by the assurances in grant agreements.

Brief Overview of the Request

The City of Calexico requested a release from grant assurance obligations for approximately 13.44 acres of airport land consisting of a parcel of vacant, undeveloped land on the south side of the airport. The parcel is separated from the airfield by a public road and is located between Anza Road and the Mexican border. Since the property is not contiguous to the airfield, the property is not needed for airport purposes and cannot be used for aeronautical activities. Following the sale, the property's redevelopment for non-aeronautical purposes will comply with local zoning and compatible land-use requirements. The parcel will be sold at fair market value based on the land's appraised value. The proceeds from the sale of the land will be used to acquire additional land adjacent to the airfield, which is needed for airport development, including a new terminal, an aircraft ramp, and auto parking. The land disposal and acquisition will provide a direct benefit to the airport and civil aviation.

Issued in Hawthorne, California, on August 9, 2006.

George Aiken;

Manager, Safety and Standards Branch, Airports Division, Western-Pacific Region.

[FR Doc. 06–7633 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Request To Abandon Eunice Airport, Eunice, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to abandon Eunice Airport, Eunice, NM

SUMMARY: The FAA proposed to rule and invites public comment on the abandonment of the Eunice Airport, Eunice, New Mexico under provisions of Title 49, U.S.C. Section 47107 (h) and to release the state of New Mexico as airport owner from the Airport Improvement Program Grant Agreement Grant Assurances, and to change forever the lands of the Eunice Airport from aeronautical to non-aeronautical use. The state of New Mexico will reimburse the FAA for the single grant issued for this airport in 2002 by investing funds equal to the amortized amount in a project on another airport.

DATES: Comments must be received on or before October 16, 206.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Lacey D. Spriggs, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Louisiana/New Mexico Airports Development Office, ASW–640, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0640. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas D. Baca, Director, Aviation Division, New Mexico Highway and Transportation Department, P.O. Box 1149, Santa Fe, New Mexico 87504–1149.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Saupp, Program Manager, Federal Aviation Administration, Louisiana/New Mexico Airports Development Office, ASW–640, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0640.

The request to release the state of New Mexico from the grant assurances may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to abandon this airport and release the State of New Mexico from the Grant Assurances, and change the status of the lands at the Eunice Airport.

The following is a brief overview of the request: The state of New Mexico as owner of the airport that is on state owned land filed notice with the FAA to permanently abandon the Eunice Airport, Eunice, New Mexico. As a result of this request the state will make restitution in the amount of $35,000.00 for the amortized value of fencing installed by FAA Airport Improvement Program (AIP) Grant in 2002 in the same amount of funds in an AIP project at another airport. This process will reduce the FAA portion of the other project the same amount. This abandonment will result in the lands of the Eunice Airport being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the AIP Grant Agreement Grant Assurances.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of Mr. Thomas D. Baca, Director, Aviation Division, New Mexico Highway and Transportation Department, P.O. Box 1149, Santa Fe, New Mexico 87504–1149.

Issued in Fort Worth, Texas on September 7, 2006.

Kelvin L. Solco,

Manager, Airports Division.

[FR Doc. 06–7659 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 15, 2006, page 13447.

DATES: Please submit comments by October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Passenger Facility Charge (PFC) Application.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0557.

Form(s): FAA Form 5500–1.

Affected Public: an estimated 450 Respondents.

Abstract: 49 U.S.C. 40117 authorizes airports to impose passenger facility charges (PFC). This program requires public agencies and certain members of the aviation industry to prepare and submit applications and reports to the FAA. This program provides additional funding for airport development which is needed now and in the future.

Estimated Annual Burden Hours: An estimated 24,025 hours annually.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and REgulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance

of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on September 6, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 06–7635 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Notice of Landing Area Proposal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. FAR Part 157 requires that each person who intends to construct, deactivate, or change the status of an airport, runway, or taxiway must notify the FAA of such activity.

DATES: Please submit comments by November 13, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Notice of Landing Proposal.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0036.

Form(s): 7480–1.

Affected Public: A total of 3,686 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden Per Response: Approximately 47 minutes per response.

Estimated Annual Burden Hours: An estimated 2,901 hours annually.

Abstract: FAR Part 157 requires that each person who intends to construct, deactivate, or change the status of an airport, runway, or taxiway must notify the FAA of such activity. The information collected provides the basis for determining the effect the proposed action would have on existing airports and on the safe and efficient use of airspace by aircraft, the effects the proposed action would have on existing or contemplated traffic patterns of neighboring airports, the effects the proposed action would have on the existing airspace structure and projected programs of the FAA, and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal.

ADDRESSES: Send comments to the FAA at the following address: Mrs. Carla Mauney, Room 1033, Federal Aviation Administration, Information Systems and Technology Services Staff, ABA–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on September 7, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 06–7636 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Overflight Billing and Collection Customer Information Form

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. This information is needed to obtain accurate billing information for FAA air traffic and related services for certain aircraft that transit U.S. controlled airspace, but neither take off from nor land in the United States.

DATES: Please submit comments by November 13, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Overflight Billing and Collection Customer Information Form.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0618.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 600 Respondents.

Frequency: The information is collected as needed.

Estimated Average Burden per Response: Approximately 5 minutes per response.

Estimated Annual Burden Hours: An estimated 50 hours annually.

Abstract: This information is needed to obtain accurate billing information for FAA air traffic and related services for certain aircraft that transit U.S. controlled airspace but neither take off from nor land in the United States. The respondents are air carriers who meet the criteria of transmitting U.S. controlled space.

ADDRESSES: Send comments to the FAA at the following address: Mrs. Carla Mauney, Room 1033, Federal Aviation Administration, Information Systems and Technology Services Staff, ABA–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on September 7, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 06–7637 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Southwest Region Assessment of Aviation Examiners

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. This project involves collecting data on the quality of flight training and testing.

DATES: Please submit comments by November 13, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or be e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Southwest Region Assessment of Aviation Examiners.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0688.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: A total of 1500 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden Per Response: Approximately 1 hour per response.

Estimated Annual Burden Hours: An estimated 1500 hours annually.

Abstract: This project involves collecting data on the quality of flight training and testing. The goal of this effort is to identify areas of concern so that the FAA may affect corrections in FAA policy, guidance material, and FAA-sponsored programs in order to improve the overall quality of flight training and testing. Volunteers will be from the Southwest Region who have completed an examination and received a private pilot certificate.

ADDRESSES: Send comments to the FAA at the following address: Mrs. Carla Mauney, Room 1033, Federal Aviation Administration, Information Systems and Technology Services Staff, ABA–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; and ways to minimize the burden of collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on September 7, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 06–7638 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; AST Customer Service Survey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about out intention to request the Office of Management and Budget (OMB) to approve a current information collection. The FAA Office of the Associate Administrator for Commercial Space Transportation (AST) conducts this survey in order to obtain industry input on customer service standards which have been developed and distributed to industry customer.

DATES: Please submit comments by November 13, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: AST Customer Service Survey.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0611.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 300 Respondents.

Frequency: The information is collected annually.

Estimated Average Burden Per Response: Approximately 1 hour per response.

Estimated Annual Burden Hours: An estimated 300 hour annually

Abstract: The FAA Office of the Associate Administrator for Commerce Space Transportation (AST) conducts this survey in order to obtain industry input on customer service standards which have been developed and distributed to industry customers. This is a requirement of the White House NPR Customer Service Initiative. AST collects and analyzes the data for results.

ADDRESSES: Send comments to the FAA at the following address: Mrs. Carla Mauney, Room 1033, Federal Aviation Administration, Information Systems and Technology Service Staff, ABA–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the function of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on September 7, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 06–7639 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Representative of the Administrator

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to aprove a current information collection. Title 49 U.S.C. 44720 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, text and certify other persons for the purpose of issuing them pilot and instructor certificates.

DATES: Please submit comments by November 13, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Representative of the Administrator.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0033.

Forms(s): 8110–14, 8110–28, 8710–6, 8710–9.

Affected Public: A total of 4,874 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden Per Response: Approximately 1.413 hour per response.

Estimated Annual Burden Hours: An estimated 6,886 hours annually.

Abstract: Title 49 U.S.C. 44720 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, text and certify other persons for the purpose of issuing them pilot and instructor certificates.

ADDRESSES: Send comments to the FAA at the following address: Mrs. Carla Mauney, Room 1033, Federal Aviation Administration, Information Systems and Technology Services Staff, ABA–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on September 7, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 06–7640 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2006–25755]

Operating Limitations at New York LaGuardia Airport

ACTION: Proposed Order and request for comments.

SUMMARY: The Federal Aviation Administration (FAA) has tentatively determined that it will be necessary to place temporary limitations on flight operations at New York's LaGuardia Airport (LaGuardia), as described in this proposed order. The period during which the FAA anticipates that these limitations will remain in effect is January 2, 2007, through September 30, 2007.

FOR FURTHER INFORMATION CONTACT: Komal Jain, Regulations Division, Office of the Chief Counsel; Telephone: (202) 267–3073; E-mail: *komal.jain@faa.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Order and Request for Comments

The Federal Aviation Administration (FAA) has tentatively determined that it will be necessary to place temporary limitations on flight operations at New York's LaGuardia Airport (LaGuardia), as described in this proposed order. The period during which the FAA anticipates that these limitations will remain in effect is January 2, 2007, through September 30, 2007. The FAA invites air carriers and other interested persons to submit written comments on this proposal in Docket FAA–2006–25755. After reviewing and evaluating the comments, the FAA expects to issue a final order on this proposal.

In the absence of the operational limitations proposed in this order, the FAA anticipates a return of the congestion-related delays that the traveling public experienced in 2000. These delays were not limited to LaGuardia, but spread to other airports throughout the National Airspace System (NAS). In a separate docket, the FAA is soliciting public comments on a proposed rule that would limit the number of scheduled and unscheduled operations at LaGuardia (2006 LaGuardia NPRM).[1] The FAA expects that the expiration of the operational limitations under this proposed order would coincide with the effective date of any final rule that the FAA adopts in the related rulemaking proceeding.

The FAA's authority to limit the number of flight operations at LaGuardia is an essential component of the FAA's statutory responsibilities. The FAA holds broad authority under 49 U.S.C. 40103(b) to regulate the use of the navigable airspace of the United States. This provision authorizes the FAA to develop plans and policy for the use of navigable airspace and, by order or rule, to regulate the use of the airspace as necessary to ensure its efficient use.

I. Background

As a result of LaGuardia's history of congestion-related delays, the FAA, over the course of nearly forty years, applied increasingly detailed rules to govern the allocation and use of limited capacity at the airport.[2] These regulations, collectively known as the High Density Rule and the Buy-Sell Rule (slot rules), were effective at controlling congestion at LaGuardia. In 2000, however, out of concern with the collateral effects of the slot rules at LaGuardia on airport access and competition, Congress elected to phase out the slot regulations at the airport under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21).[3] Congress simultaneously directed the U.S. Department of Transportation, effective immediately, to grant all applications for exemptions from the slot rules for specific types of flight, i.e., flights operated by new entrant carriers and flights that would serve small hub and non-hub airports with aircraft with less than 71 seats operations.[4] By statute, the slot rules will expire at LaGuardia after January 1, 2007.[5]

As carriers began using the slot exemptions permitted under AIR–21, the number of scheduled flight operations at LaGuardia began to far exceed the airport's capacity even under optimal operating conditions.[6] With no new airport infrastructure or air traffic control procedures, overall airport capacity remained the same while the

[1] Docket FAA–2006–25709; 71 FR 51360.

[2] *See* 33 FR 17,896, 17,898 (Dec. 3, 1968); 34 FR 2603 (Feb. 26, 1969); *cf.* 14 CFR 93.121–93.133, 93.211–93.227 (2006)

[3] Public Law No. 106–181, § 231, 114 Stat. 61, 106–10 (2000) (codified at 49 U.S.C. 41714–16).

[4] 49 U.S.C. 41716.

[5] 49 U.S.C. 41715(a)(2).

[6] The increase in scheduled operations at LaGuardia is described more fully at 66 FR 31,731, 31,732–34 (June 12, 2001).

number of aircraft operations and delays soared. The average minutes of delay for all arriving flights at LaGuardia increased 144% from 15.52 minutes in March 2000 (the months before AIR–21 was enacted) to 37.86 minutes in September 2000.[7] The increase in delay was not limited to delays at LaGuardia. Flights that arrived and departed late at LaGuardia affected flights at other airports and in adjacent airspace as well; by September 2000, flight delays at LaGuardia accounted for 25 percent of the nation's delays, compared to 10 percent for the previous year.[8]

In order to quell the growing congestion at LaGuardia, the FAA intervened in November 2000. The FAA reduced the number of daily exemptions from the High Density Rule at LaGuardia to 159 during peak operating hours and distributed the exemptions via lottery.[9] The 159 daily operations reflected an increase of almost eleven hourly operations above the limits in place before the statutory amendments. Despite the FAA's partial rollback of the number of exemption flights, LaGuardia is now operating at its peak, optimal weather capacity during weekday daytime and evening hours and during Sunday afternoon and evening hours, and LaGuardia continues to have a relatively serious delay problem.

Although LaGuardia lacks the capacity to handle additional flight operations beyond the current peak hour limits, the legislative expiration of the High Density Rule at LaGuardia after January 1, 2007, will eliminate the scheduling and reservation mechanisms that currently sustain the airport's operational balance.[10] Accordingly, the FAA has proposed a new rule to maintain the number of operations at LaGuardia's current hourly limits. The 2006 LaGuardia NPRM has only recently been published for public comment, and a final rule cannot be issued before the expiration of the High Density Rule. An order that temporarily maintains LaGuardia's current operational limits during the interval between the High Density Rule's expiration and the effective date of the proposed replacement rule appears necessary, because we need to avoid any increase in the number of operations or a significant rescheduling of existing flights at LaGuardia.

Based on past experience, the FAA expects that the termination of the slot rules at LaGuardia will lead to a significant increase in flights, seriously worsening delays at LaGuardia and elsewhere in the NAS. The FAA believes that airline demand for flights into and out of LaGuardia substantially exceeds the number of flights currently permitted at the airport. Six years ago the statutory change that required the Department to grant all slot exemption applications for specified types of service created an unacceptable level of delay at LaGuardia even though established carriers could not obtain slot exemptions for service to larger communities or for flights operated with larger aircraft. If the FAA does not adopt temporary limits on LaGuardia flights, the termination of the slot rules would eliminate all legal restrictions on the airlines' addition of flights to larger communities and flights operated with larger aircraft.[11]

The FAA has tentatively determined not to propose several aspects of the current slot and slot exemption rules in this proposed order. In addition to reducing the days and hours covered by the slot rules, the FAA is not proposing limitations based on the number of passenger seats on the aircraft or the community served. While there may be legitimate policy objectives for such limits, such as those under consideration in the 2006 LaGuardia NPRM, they are not essential to control congestion in the interim.

In order to promote the use of scarce resources, carriers would be permitted to temporarily transfer operating authorizations to other carriers.

The FAA proposes to include a minimum usage requirement for the flight operations assigned under the order. These flight operations are a scarce resource and we desire that they are efficiently utilized during the effective period of the order. Our experience with the August 2004 Scheduling Reduction Order at Chicago's O'Hare International Airport, which capped scheduled arrivals during peak hours and allocated arrival authorizations without a minimum usage requirement, was that some carriers did not utilize their authorities and thereby the airport, the traveling public at O'Hare and the aviation system in general suffered unused capacity. We propose a minimum usage requirement for the operating authorizations, as we have adopted in the final rule reducing congestion and delay at O'Hare. 14 CFR part 93, subpart B (71 FR 51382–51404, August 29, 2006.). Carriers would be required to use their authorizations at least 80 percent of the time over any two month reporting period in order to retain the authorization. The Administrator could decide to waive the 80 percent usage requirement under highly unusual conditions that are beyond the carrier's control and that last for at least 5 consecutive days.

In addition, this proposed order contains a lottery provision to reallocate withdrawn, surrendered, or unallocated operating authorizations. We propose to follow the lottery procedures set forth in 14 CFR 93.225. The reallocation of operating authorizations by lottery under this proposed order would be temporary. The limits on flights and the allocation of any operations created by the FAA's final decision in the rulemaking proceeding will control LaGuardia operations after any new rule takes effect.

After reviewing the comments received on the following proposed measures, the FAA expects to issue a final order that temporarily governs flight operations at LaGuardia. Because the airport has unused capacity in the terminal facilities, a final decision limiting the number of flights presumably would not discourage airlines from using their rights in a way that increased passenger traffic at LaGuardia.

The FAA has determined that it has the statutory authority to adopt this proposal. The FAA has broad authority under 49 U.S.C. 40103 to regulate the use of the navigable airspace of the United States. Section 40103 authorizes the FAA to develop plans and policy for the use of navigable airspace and to assign the use that the FAA deems necessary for its safe and efficient utilization. It further directs the FAA to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace. The FAA interprets its broad statutory authority to ensure the efficient use of the navigable airspace to encompass management of the nationwide system of air commerce and air traffic control. While Congress determined to phase out the long-standing slot rules at LaGuardia, Congress did not strip the FAA of its authority to place operating limitations on air carriers or other operators to preserve the efficient utilization of the national airspace. Indeed, the FAA has used that authority to restrict the number of slot exemptions since 2001,

[7] Source: FAA's Aviation System Performance Metrics (ASPM).

[8] Calculated from FAA's Air Traffic Operations Network Database (OPSNET).

[9] 65 FR 69,126, 69,127–28 (Nov. 15, 2000). This was extended through December 31, 2006. 70 FR 36998 (June 27, 2005).

[10] The FAA maintains safe operations through the use of air traffic control procedures. Traffic management initiatives would be applied as needed but would result in significant aircraft and passenger delays.

[11] Several years after Congress' decision in 2000 to abolish the High Density and Buy-Sell Rules at O'Hare, the increasing congestion and delay problems at O'Hare forced the FAA to limit flights at that airport. See 70 FR 15521 (March 25, 2005).

with general support from the impacted operators.

II. Proposed Interim Measures

A. Scheduled Operations

The FAA proposes to adopt the following measures with respect to scheduled operations at LaGuardia:

1. The final order would govern scheduled arrivals and departures at LaGuardia from 6:30 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday.

2. The final order would take effect on January 2, 2007, and would expire at 9:59 p.m., Eastern Time, on September 30, 2007.

3. The final order would assign operating authority to conduct an arrival or a departure at LaGuardia during the affected hours to the air carrier that holds equivalent slot or slot exemption authority (or the air carrier that operates it if a non-air carrier holds such authority) under the High Density Rule or FAA slot exemption rules as of January 1, 2007. The FAA would not assign operating authority under the final order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority to conduct scheduled passenger service and FAA operating authority under 14 CFR part 121, 129, or 135.

4. For administrative tracking purposes only, the FAA would assign an identification number to each operating authorization.

5. An air carrier could transfer an operating authorization to another carrier, not to exceed the duration of the final order. An air carrier also could trade an operating authorization to another air carrier on a one-for-one basis, not to exceed the duration of the final order. Notice of transfer or a trade under this paragraph would be submitted in writing to the FAA Slot Administration Office, facsimile (202) 267–7277 or e-mail *7-AWA-Slotadmin@faa.gov*, and must come from a designated representative of each air carrier. The air carriers would be required to receive written confirmation from the FAA prior to operating under the traded operating authority.

6. An air carrier could not buy, sell, trade, or transfer an operating authorization, except as described in paragraph 5.

7. Every air carrier holding an operating authorization would forward in writing to the FAA Slot Administration Office a list of all operating authorizations held by the carrier along with a listing of the operating authorizations actually operated for each day of the 2-month reporting period within 14 days after the last day of the 2-month reporting period beginning January 2 and every 2 months thereafter. Any operating authorizations not used at least 80 percent of the time over a two-month period would be withdrawn by the FAA. The Administrator could waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the carrier and which exists for a period of 5 consecutive days or more.

8. In the event that operating authorizations are withdrawn for non-use, surrendered to the FAA or are unassigned, the FAA would determine whether any of the available operating authorizations should be reallocated. If so, the FAA would conduct a lottery using the provisions specified in 14 CFR 93.225. The FAA may retime an operating authorization prior to reallocation in order to address operational needs. When the final order expires, any operating authorizations reassigned under this paragraph would revert to the FAA for reallocation according to the reallocation mechanism prescribed in the final rule that succeeds the final order.

9. The FAA would enforce the final order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). An air carrier that is not a small business as defined in the Small Business Act, 15 U.S.C. 632, would be liable for a civil penalty of up to $25,000 for every day that it violates the limits set forth in the final order. An air carrier that is a small business as defined in the Small Business Act would be liable for a civil penalty of up to $10,000 for every day that it violates the limits set forth in the final order. The FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any air carrier from violating the terms of the final order.

B. Unscheduled Operations [12]

Under the High Density Rule, the FAA requires all operators at LaGuardia to obtain a reservation for each takeoff or landing.[13] Each reservation for an unscheduled operation at LaGuardia is an authorization for a one-time arrival or departure on a specific date within a specific 30-or 60-minute period. FAA Advisory Circular 93–1, ''Reservations for Unscheduled Operations at High Density Traffic Airports,'' describes the procedures for obtaining a reservation. The FAA uses similar procedures for Special Traffic Management Programs implemented to respond to temporary increases in airport demand caused by special events such as major conventions or sporting events, and the FAA intends to use these procedures to allocate reservations for unscheduled operations at LaGuardia under the final order.

The FAA proposes to implement a reservation system for unscheduled operations to ensure that demand is spread reasonably throughout the day in support of the FAA's peak hour operational cap for scheduled and unscheduled flights. The FAA proposes to permit six (6) unscheduled operations per hour from 6:30 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and 12 noon through 9:59 p.m., Eastern Time, on Sunday. This is consistent with the current number of peak hour reservations available for unscheduled operations at LaGuardia. The FAA believes that a half-hour allocation period is appropriate and proposes to limit reservations in each half-hour period to no more than three (3) operations (arrivals and departures) unless otherwise authorized by the Air Traffic Organization.

Therefore, with respect to unscheduled flight operations at LaGuardia, the FAA proposes to adopt the following measures:

1. The final order would apply to all operators of unscheduled flights, except helicopter operations, at LaGuardia from 6:30 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday.

2. The final order would take effect on January 2, 2007, and would expire at 9:59 p.m., Eastern Time, on September 30, 2007.

3. No person could operate an aircraft other than a helicopter to or from LaGuardia unless the operator has received, for that unscheduled operation, a reservation that is assigned by the David J. Hurley Air Traffic Control System Command Center's Airport Reservation Office (ARO). Additional information on procedures for obtaining a reservation will be

[12] Unscheduled operations are operations other than those regularly conducted by an air carrier between LaGuardia and another service point. Unscheduled operations include general aviation, public aircraft, military, charter, ferry, and positioning flights. An air carrier can use an operating authorization for a ferry, positioning, or other non-revenue flight. An air carrier may choose to do so if a reservation is not available. Helicopter operations are excluded from the reservation requirement. Reservations for unscheduled flights operating under visual flight rules (VFR) are granted when the aircraft receives clearance from air traffic control to land or depart LaGuardia. Reservations for unscheduled VFR flights are not included in the limits for unscheduled operators.

[13] *See, e.g.*, 14 CFR 93.125 (2006).

available via the Internet at *http://www.fly.faa.gov/ecvrs*.

4. Six (6) reservations would be available per hour for unscheduled operations at LaGuardia. The ARO would assign reservations on a 30-minute basis.

5. The ARO would receive and process all reservation requests. Reservations would be assigned on a ''first-come, first-served'' basis, determined as of the time that the ARO receives the request. A cancellation of any reservation that will not be used as assigned would be required.

6. Filing a request for a reservation would not constitute the filing of an instrument flight rules (IFR) flight plan, as separately required by regulation. After the reservation is obtained, an IFR flight plan could be filed. The IFR flight plan would include the reservation number in the ''remarks'' section and would be filed in accordance with FAA regulations and procedures.

7. Air Traffic Control would accommodate declared emergencies without regard to reservations. Non-emergency flights in direct support of national security, law enforcement, military aircraft operations, or public-use aircraft operations would be accommodated above the reservation limits with the prior approval of the Vice President, System Operations Services, Air Traffic Organization. Procedures for obtaining the appropriate reservation for such flights would be available via the Internet at *http://www.fly.faa.gov/ecvrs*.

8. Notwithstanding the limits in paragraph 4, if the Air Traffic Organization determines that air traffic control, weather, and capacity conditions are favorable and significant delay is not likely, the FAA could accommodate additional reservations over a specific period. Unused operating authorizations could also be temporarily made available for unscheduled operations. Reservations for additional operations would be obtained through the ARO.

9. Reservations could not be bought, sold, or leased.

III. Request for Comments

The FAA invites all interested persons to submit written comments on the proposals described in this order by filing their written views in Docket FAA–2006–25755 on or before October 16, 2006. The FAA does not intend this proposal to address the longer-term issues that will be considered in the related proposed rulemaking. Therefore, any submissions to the current docket should focus on the issues specified in this proposed order.

Issued in Washington, DC, on September 7, 2006.

Nan Shellabarger for Nancy LoBue,

Deputy Assistant Administrator for Aviation Policy, Planning, and Environment.

[FR Doc. E6–15221 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Fort Worth Alliance Airport, Fort Worth, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Fort Worth, Texas for Fort Worth Alliance Airport under the provisions of 49 U.S.C. 47501 *et. seq* (Aviation Safety and Noise abatement Act) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is September 7, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Blackford, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, Texas 76137–0650, (817) 222–5607.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Fort worth Alliance Airport are in compliance with applicable requirements of Part 150, effective September 7, 2006. Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the city of Fort Worth. The documentation that constitutes the ''noise exposure maps'' as defined in section 150.7 of Part 150 includes: Exhibits 4.1–4.5, Exhibits 5.1–5.5, Table 4.2, and Table 5.1. The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on September 7, 2006.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations: Federal Aviation Administration, 2601

Meacham Boulevard, Fort Worth, Texas; Mr. Mike Feeley, Aviation Director, City of Fort Worth, Aviation Department, 4201 N. Main St., Suite 200, Fort Worth, Texas. Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Fort Worth, Texas, September 7, 2006.

Kelvin L. Solco,

Manager, Airports Division.

[FR Doc. 06–7660 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 147 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

DATES: The meeting will be held October 5, 2006 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L St., NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 147 meeting. The agenda will include:

- *October 5:*
- Opening Session (Welcome and Introductory Remarks, Review/Approve meeting agenda for 63rd meeting, Review/Approve Summary of Previous Meeting).
- FAA TCAS II Program Office activities and charter.
- SC–147 Activity Reports.
- Surveillance Working Group: Review and resolution of Final Review and Comment (FRAC) comments, Hybrid Surveillance MOPS.
- Pending Plenary approval, forward comments to RTCA PMC for final consideration.
- Operations Working Group.
- Discussion and status of draft ''TCAS Safety Bulletin'' and draft letter to Flight Operations Departments.
- Discussion of proposed ''Level of RA''.
- Requirements Working Group (RWG).
- Roadmap for potential FAA TCAS V7.1 rulemaking.
- Workplan for DO–185B development.
- Closing Session (Other Business, Future Actions/Activities, Date and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 6, 2006.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 06–7634 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25594]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Kershaw Fruit & Cold Storage Co., Inc. and Kershaw Sunnyside Ranches, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for an exemption received from Kershaw Fruit & Cold Storage Co., Inc. and Kershaw Sunnyside Ranches, Inc. regarding the transportation of wooden fruit bins from fields to cold storage and packing facilities. These companies seek the exemption because they believe compliance with the general cargo securement requirements prevents them from using more efficient and effective cargo securement methods. Kershaw Fruit & Cold Storage Co., Inc. and Kershaw Sunnyside Ranches, Inc. believe the alternative cargo securement method that they have historically used would maintain a level of safety that is equivalent to the level of safety achieved without the exemption.

DATES: Comments must be received on or before October 16, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket No. FMCSA–2006–25594] by any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the Plaza Level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the Agency name and docket number for this notice. Note that all comments received will be posted without change (including any personal information provided) to *http://dms.dot.gov*. See the Privacy Act heading for further information.

Docket: For access to the docket and to read background documents or comments received, go to *http://dms.dot.gov* at any time or 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. DMS is available 24 hours each day, 365 days each year. If you want to be notified that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor **Federal Register** published on April 11, 2000 (65 FR 19477). This statement is also available at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations,

Vehicle and Roadside Operations Division (MC–PSV), phone (202) 366–0676, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) (Pub.L. 105–178, June 9, 1998, 112 Stat. 401) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from motor carrier safety regulations. On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)]. The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** [49 CFR 381.315(b)]. If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must also specify the effective period of the exemption (up to two years) and explain the terms and conditions of the exemption. The exemption may be renewed [49 CFR 381.315(c) and 49 CFR 381.300(b)].

The Application for Exemption

Kershaw Fruit & Cold Storage Co., Inc. and Kershaw Sunnyside Ranches, Inc. (Kershaw) are family-owned businesses that grow approximately 35,000 bins of apples each fall. During the harvest period (August–October), Kershaw transports apples from the fields where they are harvested to cold storage facilities and from these cold storage facilities to packing houses in Washington. The apples are transported in wooden bins. Kershaw typically hauls 48–64 bins at a time using either 48- or 40-foot trailers with a 20-foot pup trailer.

Kershaw has applied for an exemption from the tiedown requirements of 49 CFR 393.110. Typically, Kershaw has used corner irons and a series of cables to secure the bins of apples to a trailer for transport, which it contends ''* * * has been the accepted procedure for many years in our industry.'' The typical method of securement used by Kershaw, consisting of corner irons and longitudinal cables, is now prohibited by 49 CFR 393.110. A copy of the application for exemption and accompanying photographs is included in the docket referenced at the beginning of this notice.

Kershaw states that approximately 10 years ago, plastic bins were introduced into the industry for use as an alternative to the wooden bins that had been used to transport products from the fields to other locations. Kershaw does not own or use any plastic bins. It uses wooden bins exclusively. Kershaw contends that the plastic bins are more prone to slide off trailers under certain conditions while in transit (presumably because of the lower coefficient of friction between the plastic bins and the trailer floor as compared to that between the wooden bins and the trailer floor). While Kershaw notes that plastic bins may slide off trucks '' * * * causing safety concerns and transportation delays * * *,'' it states that its ''* * * track record with wood bins has been excellent * * *'' Consequently, Kershaw has requested an exemption from 49 CFR 393.110 for its drivers who transport wooden fruit bins from fields to cold storage facilities and packing houses, provided the wooden bins are secured by corner irons and cables as has been done in the past.

Kershaw also noted that numerous tiedowns would be required to secure each load under the provisions of 49 CFR 393.110. It contends that the use of these additional tiedowns will result in increased time to secure the load and decreased efficiency during loading and unloading operations. Kershaw states that these time considerations are critical given the nature of its operations, where the ''* * * harvest period is critical and time demanding.'' In addition, Kershaw notes that tiedowns that are tightened down over the bins of apples and in accordance with the provisions of 49 CFR 393.110 would result in severe damage to the apples and result in a significant loss of product.

Kershaw believes that granting the exemption would not adversely affect safety. The company argues that its drivers have safely transported wooden fruit bins for many years using corner irons and cables to secure the bins to the trailer. Kershaw's commercial motor vehicle (CMV) operators believed that securing their loads of wooden fruit bins in such a manner conformed with the cargo securement requirements in effect prior to the final rule published on September 27, 2002 (67 FR 61212), which went into effect on January 1, 2004. According to Kershaw, approximately 35,000 bins of its apples are transported safely in wooden bins each year during the harvest season. Kershaw claims its CMV owner/operators and drivers can achieve and maintain the same or greater level of safety with the exemption as would be achieved by requiring compliance with 49 CFR 393.110.

FMCSA notes that 49 CFR 393.102(b) requires that ''Securement systems must provide a downward force equivalent to at least 20 percent of the weight of the article of cargo if the article is not fully contained within the structure of the vehicle.'' While Kershaw's application for an exemption did not specifically address this provision, it does not appear that Kershaw's current load securement technique (utilizing a headerboard and 3/8 inch cables crisscrossed in the front and in the rear with cable running the length of the top row of bins as depicted in the photographs submitted with its application and on file in the docket referenced at the beginning of this notice) satisfies the requirements of this section.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Kershaw's application for an exemption from 49 CFR 393.110. FMCSA is also requesting public comment regarding Kershaw's current load securement technique, specifically with respect to the requirements of 49 CFR 393.102(b). It must also be noted that FMCSA can grant an exemption only if it has jurisdiction. The Agency's authority is generally limited to CMV operations in interstate commerce. It is not clear from Kershaw's application whether the apples transported in wooden fruit bins from fields to cold storage and packing facilities are moving in interstate or intrastate commerce. If Kershaw believes the trucking operations for which it requests the exemption are in interstate commerce, it should explain why. Otherwise, FMCSA must reject the application for lack of jurisdiction.

The Agency will consider all comments received before the close of business on the comment closing date indicated at the beginning of this notice. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the

comment closing date in the public docket and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file in the public docket relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: September 6, 2006.

John H. Hill,

Administrator.

[FR Doc. E6–15224 Filed 9–13–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATON

Surface Transportation Board

[STB Finance Docket No. 34898]

Michael R. Root and Albany & Eastern Railroad Company—Continuance in Control Exemption—Iron Bull Railroad Company LLC

Michael R. Root, a noncarrier, and Albany & Eastern Railroad Company (AERC), a Class III rail carrier, have filed a verified notice of exemption to continue in control of Iron Bull Railroad Company LLC (IBR), upon IBR's becoming a rail carrier.[1]

The transaction was expected to be consummated on or after August 25, 2006 (7 days after the amended notice was filed).

This transaction is related to notices of exemption in: (1) STB Finance Docket No. 34896, *PIC Railroad LLC—Lease and Operation Exemption—Union Pacific Railroad Company*, wherein PIC Railroad LLC (PICR) seeks to lease from Union Pacific Railroad Company and operate a rail line known as the Comstock Subdivision in Iron County, UT; and (2) STB Finance Docket No. 34897, *Iron Bull Railroad Company LLC—Operation Exemption—PIC Railroad LLC*, wherein Iron Bull Railroad Company LLC, pursuant to the same regulations and statute, will operate the line.

Mr. Root and AERC state that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interest of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34898, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notice are available on our Web site at *http://www.stb.dot.gov.*

Decided: September 8, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–15239 Filed 9–13–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34896; STB Finance Docket No. 34897]

PIC Railroad LLC—Lease and Operation Exemption—Union Pacific Railroad Company; Iron Bull Railroad Company LLC—Operation Exemption—PIC Railroad LLC

In STB Finance Docket No. 34896, PIC Railroad LLC (PICR), a noncarrier, has filed a verified notice of exemption under 49 U.S.C. 1150.31 to lease from Union Pacific Railroad Company (UP) and operate a rail line known as the Comstock Subdivision, extending between milepost 0.1 at or near Iron Springs and milepost 14.7 at or near Iron Mountain, a distance of approximately 14.6 miles in Iron County, UT.

In STB Finance Docket No. 34897, Iron Bull Railroad Company LLC (IBR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 for its operation of the rail line pursuant to an operating agreement with PICR.[1]

The transactions were scheduled to be consummated on or shortly after August 22, 2006, the effective date of these exemptions (7 days after the exemptions were filed).

The transactions are related to STB Finance Docket No. 34898, *Michael R. Root and Albany & Eastern Railroad Company—Continuance in Control Exemption—Iron Bull Railroad Company LLC*, wherein Mr. Michael R. Root and Albany & Eastern Railroad Company will continue in control of Iron Bull Railroad Company LLC (IBR), upon IBR becoming a rail carrier as a result of the transaction in STB Finance Docket No. 34897.

PICR and IBR certify that their projected annual revenues as a result of these transactions will not exceed those that would qualify them as Class III carriers and will not exceed $5 million.

If the notice contains false or misleading information, the exemptions are void *ab initio.* Petitions to revoke the exemptions under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transactions.

An original and 10 copies of all pleadings, referring to STB Finance Docket Nos. 34896 and 34897, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: September 8, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–15242 Filed 9–13–06; 8:45 am]

BILLING CODE 4915–01–P

[1] IBR will become a Class III carrier as a result of the transaction in STB Finance Docket No. 34897. Mr. Root currently controls AERC, a Class III rail carrier. AERC in turn controls IBR. Consequently, Mr. Root will control AERC directly and IBR indirectly. AERC will control IBR directly.

[1] Although PICR will enter into an agreement whereby IBR will operate the line, PICR also seeks an exemption to operate to fulfill its common carrier obligation in the event IBR were to cease operations.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 674X)]

CSX Transportation, Inc.—Abandonment Exemption—in Vigo County, IN

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 7.4-mile line of railroad on its Southern Region, Nashville Division, CE&D Subdivision, Riley Spur, from milepost OZD 5.0 (near Terre Haute) to the end of track at milepost OZF 12.4 (near Riley) in Vigo County, IN. The line traverses United States Postal Service Zip Code 47802 and includes the station of Chinook.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 14, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c) (2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 25, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 4, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Steven C. Armbrust, CSX Transportation, Inc., 500 Water St., Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 19, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by September 14, 2007, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: September 7, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–15188 Filed 9–13–06; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which was increased to $1,300 effective on April 19, 2006. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services-2006 Update,* STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 8, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 16, 2006 to be assured of consideration.

Federal Consulting Group

OMB Number: 1505–0190.

Type of Review: Extension.

Title: Terrorism Risk Insurance Program Rebuttal of Controlling Influence Submission.

Description: 31 CFR 50.8 specifies a rebuttal procedure that requires a written submission by an insurer that seeks to rebut a regulatory presumption of ''controlling influence'' over another insurer under the Terrorism Risk Insurance Program to provide Treasury with necessary information to make a determination.

Respondents: Private Sector.

Estimated Total Reporting Burden: 400 hours.

Clearance Officer: Howard Leiken, (202) 622–7139, Terrorism Risk Insurance Program, Department of the Treasury, 1525 New York Avenue, NW., Suite 2113, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–15222 Filed 9–13–06; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 8, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to

OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 16, 2006 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0018.

Type of Review: Revision.

Title: Report of Cash Payment Over $10,000 Received in a Trade or Business.

Form: FinCEN 8300.

Description: Anyone in a trade or business who, in the course of such trade or business, receives more than $10,000 in cash or foreign currency in one or more related transactions must report it to the IRS and provide a statement to the payor. Any transaction which must be reported under Title 31 on FinCEN Form 104 is exempted from reporting the same transaction on Form 8300. The USA Patriot Act of 2001 (Pub. L. 107–56) authorized the Financial Crimes Enforcement Network to collect the information reported on Form 8300.

Respondents: Private.

Estimated Total Reporting Burden: 70,200 hours.

Clearance Officer: Russell Stephenson, (202) 354–6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–15223 Filed 9–13–06; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0680]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Policy, Planning and Preparedness, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Policy, Planning and Preparedness (OPP&P), Department of Veterans Affairs, has submitted the collection of information for the Veterans' Disability Benefits Commission as abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 16, 2006.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Initiative Coordination Service (005G1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374 or FAX (202) 565–7870 or e-mail *denise.mclamb@va.gov*. Please refer to ''OMB Control No. 2900–0680''.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0680'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Veterans' Disability Benefits Commission Survey.

OMB Control Number: 2900–0680.

Type of Review: Extension of a currently approved collection.

Abstract: VA is announcing an opportunity for public comment on a proposed collection of survey information by the Veterans' Disability Benefits Commission. The information collected by the Commission's surveys will be used to determine whether disabled veterans and their survivors are appropriately compensated for the impact of disabilities on quality of life under the current disability rating system. The Commission will also collect survey information on the claims rating process. The Commission, which is independent from VA, will use the survey data along with other collected information to develop recommendations for the Disability Compensation Benefits program in a report to the President and Congress.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 13, 2006, at pages 39703–39704.

Affected Public: Individuals or households and Not-for-Profit Institutions.

Estimated Time per Respondent and Annual Burden: 12,865 hours.

Estimated Average Burden per Respondent: 30 minutes for the veterans and survivors surveys and 40 minutes for the VSO national rater survey.

Frequency of Response: One-time.

Estimated Number of Respondents: 25,063.

Dated: September 7, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Initiative Coordination Service.

[FR Doc. E6–15274 Filed 9–13–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0571]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery Administration (NCA), Department of Veterans Affairs (VA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the burden estimates relating to customer satisfaction surveys involving the National Cemetery Administration (NCA) and the Office of Inspector General (OIG).

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 13, 2006.

ADDRESSES: Submit written comments on the collection of information to Ronald Cheich, National Cemetery Administration (41B3), Department of Veterans Affairs, 810 Vermont Avenue,

NW., Washington, DC 20420 or e-mail *ronald.cheich@.va.gov.* Please refer to ''OMB Control No. 2900–0571'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ronald Cheich at (202) 273–8087.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VA's functions, including whether the information will have practical utility; (2) the accuracy of VA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Generic Clearance for NCA, and IG Customer Satisfaction Surveys.

OMB Control Number: 2900–0571.

Type of Review: Extension of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and Departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing service. VA will use the data collected to maintain ongoing measures of performance and to determine how well customer service standards are met.

Affected Public: Individuals or households, Business or Other For-Profit and State, Local or Tribal Government.

Listing of Survey Activities: The following list of activities is a compendium of customer satisfaction survey plans by the NCA and IG. The actual conduct of any particular activity listed could be affected by circumstances. A change in, or refinement of, our focus in a specific area, as well as resource constraints could require deletion or substitution of any listed item. If these organizations substitute or propose to add a new activity that falls under the umbrella of this generic approval, including those activities that are currently in a planning stage, OMB will be notified and will be furnished a copy of pertinent materials, a description of the activity and number of burden hours involved. NCA and IG will conduct periodic reviews of ongoing survey activities to ensure that they comply with the PRA.

I. National Cemetery Administration

Focus Groups with Next of Kin (10 participants per group/3 hours each session).

Year	Number of respondents	Estimated annual burden	Frequency
2007	50	150	5 Groups Annually.
2008	50	150	5 Groups Annually.
2009	50	150	5 Groups Annually.

Focus Groups with Funeral Directors (10 participants per group/3 hours each session).

Year	Number of respondents	Estimated annual burden (hours)	Frequency
2007	50	150	5 Groups Annually.
2008	50	150	5 Groups Annually.
2009	50	150	5 Groups Annually.

Focus Groups with Veterans Service Organizations (10 participants per group/3 hours each session).

Year	Number of respondents	Estimated annual burden (hours)	Frequency
2007	50	150	5 Groups Annually.
2008	50	150	5 Groups Annually.
2009	50	150	5 Groups Annually.

Visitor Comments Cards (Local Use) (2,500 respondents/5 minutes per card).

Year	Number of respondents	Estimated annual burden (hours)	Frequency
2007	2,500	208	Annually.
2008	2,500	208	Annually.
2009	2,500	208	Annually.

Next of Kin National Customer Satisfaction Survey (Mail to 15,000 respondents/30 minutes per survey).

Year	Number of respondents	Estimated annual burden (hours)	Frequency
2007	15,000	7,500	Annually.
2008	15,000	7,500	Annually.
2009	15,000	7,500	Annually.

Funeral Directors National Customer Satisfaction Survey (Mail to 4,000 respondents/30 minutes per survey).

Year	Number of respondents	Estimated annual burden (hours)	Frequency
2007	4,000	2,000	Annually.
2008	4,000	2,000	Annually.
2009	4,000	2,000	Annually

Veterans-At-Large National Customer Satisfaction Survey (Mail to 5,000 respondents/30 minutes per survey).

Year	Number of respondents	Estimated annual burden (hours)	Frequency
2007	5,000	2,500	Annually.
2008	5,000	2,500	Annually.
2009	5,000	2,500	Annually.

Program/Specialized Service Survey (Mail to 2,000 respondents/15 minutes per each).

Year	Number of respondents	Estimated annual burden (hours)	Frequency
2007	2,000	500	Annually.
2008	2,000	500	Annually.
2009	2,000	500	Annually.

II. Office Of Inspector General

Community Based Outpatient Clinic Patient Survey (1,000 respondents/10 minutes per response)

Year	Number of respondents	Estimated annual burden	Frequency
2007	1,000	167	Annually.
2008	1,000	167	Annually.
2009	1,000	167	Annually.

Dated: September 7, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Initiative Coordination Service.

[FR Doc. E6–15276 Filed 9–13–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-New (DUAYV)]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Policy, Planning and Preparedness, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Policy, Planning and Preparedness (OPP&P), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection of information, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine the factors impacting unemployment in recently discharged young (20–24) veterans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 13, 2006.

ADDRESSES: Submit written comments on the collection of information to David Paschane, Office of Policy, Planning and Preparedness (008A), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420 or e-mail *david.paschane@va.gov.* Please refer to ''OMB Control No. 2900-New (DUAYV)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: David Paschane at (202) 273–6784 or FAX (202) 273–5993.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, the Office of Policy, Planning and Preparedness invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VA's functions, including whether the information will have practical utility; (2) the accuracy of VA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Dynamics of Unemployment Among Young (20–24) Veterans.

OMB Control Number: 2900-New (DUAYV).

Type of Review: New collection.

Abstract: The purpose of the study is to obtain information on the unemployment dynamics among young veterans (ages 20–24) recently discharged. The data includes recent employment history; occupation; income; job seeking; experience with training and employment assistance; and education. The study is a telephone survey with a representative sample, with half from regular service and half from activated reserve components. All survey items are from the Current Population Survey or its Veteran Supplement.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 667 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 2,000.

Dated: September 7, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Initiative Coordination Service.

[FR Doc. E6–15278 Filed 9–13–06; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
September 14, 2006

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Southern California Distinct Population Segment of the Mountain Yellow-Legged Frog (*Rana muscosa*); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU30

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Southern California Distinct Population Segment of the Mountain Yellow-Legged Frog (*Rana muscosa*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are designating critical habitat for the southern California distinct population segment of the mountain yellow-legged frog (*Rana muscosa*) pursuant to the Endangered Species Act of 1973, as amended (Act). In total, approximately 8,283 acres (ac) (3,352 hectares (ha)) fall within the boundaries of the critical habitat designation. The critical habitat is located in Los Angeles, San Bernardino, and Riverside Counties, California.

DATES: This rule becomes effective on October 16, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, will be available for public inspection, by appointment, during normal business hours, at the Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92011 (telephone 760/431–9440). The final rule, economic analysis, and maps are available via the Internet at *http://www.fws.gov/carlsbad/.*

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92011, (telephone 760/431–9440; facsimile 760/431–9624).

SUPPLEMENTARY INFORMATION:

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat is paramount to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under section 4(b)(2) of the Act (16 U.S.C. 1513 *et seq.*), there are significant limitations on the regulatory effect of designation under ESA section 7(a)(2) of the Act. In brief, (1) Designation provides additional protection to habitat only where there is a federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, 475 species, or 36 percent of the 1,310 listed species in the U.S. under the jurisdiction of the Service, have designated critical habitat. We address the habitat needs of all 1,310 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process, and cooperative, nonregulatory efforts with private landowners. We believe that it is these measures that may make the difference between extinction and survival for many species.

In considering exclusions of areas originally proposed for designation, we evaluated the benefits of designation in light of *Gifford Pinchot Task Force* v. *United States Fish and Wildlife Service.* In that case, the Ninth Circuit invalidated the Service's regulation defining ''destruction or adverse modification of critical habitat.'' In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas in this final designation. The Service will carefully manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to finalizing to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. In addition, the mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and made at a time and under a time frame that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent (NOIs) to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court-ordered designations have left the Service with limited ability to provide for public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals, due to the risks associated with noncompliance with judicially imposed deadlines. This in turn fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, and is very expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this rule. For more information on the southern California distinct population segment (DPS) of the mountain yellow-legged frog, hereafter referred to as the mountain yellow-legged frog, refer to the final listing rule published in the **Federal Register** on July 2, 2002 (67 FR 44382) and the proposed critical habitat designation published in the **Federal Register** on September 13, 2005 (70 FR 54106).

Previous Federal Actions

Previous Federal actions for the mountain yellow-legged frog can be found in our proposal to designate critical habitat for the mountain yellow-legged frog published in the **Federal Register** on September 13, 2005 (70 FR 54106). That information is incorporated by reference into this final rule.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for the mountain yellow-legged frog in the proposed rule published on September 13, 2005 (70 FR 54106). We also requested written comments from the public on the draft economic analysis (DEA) of the proposed designation in a notice of availability published on July 3, 2006 (71 FR 37881). We contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and the DEA.

During the comment period that opened on September 13, 2005, and closed on November 14, 2005, we received 11 comments directly addressing the proposed critical habitat designation. Of these comments, five were from peer reviewers, two from Federal agencies, and four from organizations or individuals. During the comment period that opened on July 3, 2006, and closed on July 24, 2006, we received no comments directly addressing the proposed critical habitat designation and one comment directly addressing the DEA. Of all comments received during both comment periods, five commenters supported the designation of critical habitat for the mountain yellow-legged frog and two opposed the designation. Five letters included comments or information, but did not express support or opposition to the proposed critical habitat designation. Comments received were grouped into two general issues specifically relating to the proposed critical habitat designation for the mountain yellow-legged frog and are addressed in the following summary and/or incorporated into the final rule as appropriate. We did not receive any requests for a public hearing.

We reviewed all comments received from the peer reviewers and the public for substantive issues and new information regarding critical habitat for the mountain yellow-legged frog, and we address them in the following summary.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from five knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We received responses from all five peer reviewers. The peer reviewers generally agreed with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final critical habitat rule. Four of the five reviewers supported the designation and emphasized the importance of including unoccupied areas. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Reviewer Comments

(1) *Comment:* Several peer reviewers supported our proposed designation. In addition, several of the peer reviewers strongly supported our inclusion of unoccupied areas and encouraged inclusion of additional unoccupied areas due to the small number of sites that support known populations, the presence of suitable habitat in unoccupied sites with historical occurrence records, and the uncertainty in determining streams as unoccupied because of the difficulty in detecting this cryptic species.

Our Response: We appreciate the peer reviewers' comments and concerns for including unoccupied areas. We believe that designating critical habitat in streams not known to be currently occupied, but historically occupied, will assist in the conservation of the mountain yellow-legged frog by identifying possible reintroduction sites or facilitating natural recovery by expansion of very small populations. The peer reviewers did not provide us with site-specific information on other areas that should also be included in the critical habitat designation, and we did not include additional unoccupied habitat in the final designation.

(2) *Comment:* One peer reviewer cited new information from the 2005 mountain yellow-legged frog survey efforts conducted by the United States Geological Survey (USGS). The peer reviewer reported the rediscovery of mountain yellow-legged frog metamorphs in East Fork of City Creek in the San Bernardino Mountains in September of 2005. This rediscovery was surprising since all of the surviving frogs were thought to have been collected and moved to a captive-rearing facility after the 2003 fire and flood events. The peer reviewer also reported the rediscovery of young tadpoles in Dark Canyon in the San Jacinto Mountains in August of 2005 after more than five years of survey efforts that did not detect this species. The peer reviewer also stated that no mountain yellow-legged frogs were detected in Bear Gulch in the San Gabriel Mountains during three survey efforts in 2005, despite this population being one of the two largest remaining populations in southern California as of 2003.

Our Response: The recent rediscovery of mountain yellow-legged frogs in City Creek and in Dark Canyon highlights the difficulty in detecting this species and highlights the uncertainty in determining whether a stream is truly unoccupied by mountain yellow-legged frogs after negative survey efforts, especially when these streams were recently known to be occupied. For this reason, we are still considering Bear Gulch as occupied for this final designation. City Creek and Dark Canyon were already considered occupied in the proposed rule, and therefore there is no change in their occupancy status for the final rule.

(3) *Comment:* One peer reviewer reported that chytrid fungal disease was discovered in wild frogs that were recently rediscovered in the East Fork of City Creek in September 2005 and in the captive frogs taken from the same creek in 2004, thus changing our perception of the areas that are known to contain this

disease. The peer reviewer stated that it was unusual to find living frogs infected with chytrid because it generally kills infected frogs. The peer reviewer also stated that this discovery is in contrast to our statement in the proposed rule that chytrid fungal disease does not seem to be plaguing remaining mountain yellow-legged frog populations in southern California.

Another peer reviewer stated that chytrid fungus does not seem to be a major issue concerning current frog populations because it presumably already caused an unknown, massive die-off of frog populations across southern California during the late 1960s and 1970s, resulting in small remnant populations that currently exist. However, it may still be eliminating frogs at some specific locations, such as the North Fork of the San Jacinto River below Mt. San Jacinto State Park.

Our Response: At the time of writing the proposed rule, we were unaware that chytrid fungus was detected in mountain yellow-legged frogs in southern California. We do not have enough information at this time to determine the magnitude of impacts that chytrid has had or will have on frog populations in southern California. Nonetheless, because there is no information demonstrating the relationship between habitat features or quality and chytrid fungus, the information provided by the peer reviewer does not change the critical habitat designation.

(4) *Comment:* One peer reviewer stated the critical habitat designation should include aquatic refugia as a primary constituent element (PCE) since we discuss it in the Primary Constituent Elements section under ''Cover or Shelter.''

Our Response: We agree with the peer reviewer and have included aquatic refugia as a condition of PCE 1, which includes pools with bank overhangs, downfall logs or branches, and/or rocks, because it provides cover from predators. For more information, please see the Primary Constituent Elements section below.

(5) *Comment:* One peer reviewer stated the critical habitat designation should provide more discussion on the role of canopy cover and habitat suitability and that there is a delicate and unknown balance between canopy cover and suitability of high-elevation habitat. In the San Jacinto Mountains, the canopy has become so extensive that it threatens the existence of the mountain yellow-legged frog. It is critical that suitable habitat be protected and it may be necessary to manipulate the canopy to open up the habitat.

Our Response: In general, information on the effects of canopy cover on habitat suitability is limited. Our discussion on canopy cover in the Primary Constituent Elements section below was based only on data values reported from a USGS report on mountain yellow-legged frog populations in southern California (Backlin *et al.* 2004). We agree with the reviewer that canopy cover may affect habitat suitability and have discussed this in our Special Management section below by stating that it may be necessary in some of the critical habitat units to reduce canopy cover to make habitat more suitable for this species. However, without more specific information, we are unable to address this issue more thoroughly in this critical habitat designation.

(6) *Comment:* One peer reviewer approved of our use and application of upland frog movement data from Sierra Nevada populations to southern California populations because it is difficult to obtain upland habitat use information from mountain yellow-legged frog populations in southern California. Therefore, the interpretations made in the proposed rule to designate critical habitat are reasonable.

Our Response: We appreciate the concurrence with our methods for determining the criteria used to identify critical habitat. For more information, please see the Criteria Used To Identify Critical Habitat section below.

(7) *Comment:* Two peer reviewers questioned the methods used to calculate stream-width and length for ''occupied'' habitat. One of the reviewers questioned the movement distance (4,905 feet (ft) (1,495 meters (m)) that the Service used in the proposed critical habitat rule to estimate the length of occupied stream if there is suitable habitat that extends beyond this distance. The other reviewer questioned why the Service discounted the possibility that the maximum distance moved was crucial to the mountain yellow-legged frog's survival and questioned whether there were enough downstream habitats to provide for refugia during droughts and for connectivity between streams. The reviewer suggested redefining areas containing essential features to capture 11,745 ft (3,580 m) upstream and downstream from occurrence locations based on data from other studies, as well as 1,378 ft (420 m) from the centerline of streams for upland movements. The reviewer also questioned whether there had been efforts made to quantify frog habitat use and movement during specific breeding, feeding, and overwintering periods, including off-stream habitats.

Our Response: In general, information on mountain yellow-legged frog movements in southern California is extremely limited. Our discussion on mountain yellow-legged frog movements was based on the maximum distance moved by an individual mountain yellow-legged frog in the San Bernardino Mountains in southern California (Backlin *et al.* 2004). We did not include the larger dataset on frog movements in the Sierra Nevada mountains because of the different habitat characteristics associated with mountain yellow-legged frogs in the Sierra Nevada (*e.g.*, lakes and higher elevation). However, we relied on data from the Sierra Nevada mountains to determine the width of riparian and upland habitats occupied by mountain yellow-legged frogs, because we did not have any such data from southern Californian mountain yellow-legged frogs. Although we recognize that suitable habitat may extend beyond the distances we used to determine critical habitat, we did not receive better information on a more appropriate distance measure to use for southern California mountain yellow-legged frogs. Finally, we are also unaware of any efforts to quantify mountain yellow-legged frog habitat use and movement during specific breeding, feeding, and overwintering periods, including off-stream habitats in southern California. For more information, please see the Criteria Used To Identify Critical Habitat section below.

(8) *Comment:* One peer reviewer stated the proposed rule did not contain discussion on how the Service determined how much unoccupied habitat was essential for the conservation of the species. The peer reviewer suggested that more unoccupied areas may be essential for the conservation of the species.

Our Response: We believe that we did provide a thorough discussion regarding the criteria that were used for identifying unoccupied streams in the proposed critical habitat rule published on September 13, 2005 (70 FR 54106). Furthermore, we did not receive additional information that identified specific unoccupied areas, and rationale for those areas, that should be considered as critical habitat during the comment period for the proposed rule. For more information, please see the Criteria Used To Identify Critical Habitat section below.

(9) *Comment:* Two peer reviewers questioned our use of a 1 to 4 year range for tadpole growth. One reviewer commented that since this was based on

Sierra Nevada mountain yellow-legged frog populations, southern California frog populations living at much lower elevation would likely not require up to 4 years. The other reviewer stated that tadpole growth phase appeared to be around 2 years for southern California populations based on their experience.

Our Response: At the time of writing the proposed rule, the best information available on tadpole growth was from Sierra Nevada mountain yellow-legged frog populations. We agree with the reviewer that this may have been an overestimate of the time it can take for tadpole growth. Based on peer reviewer comments, we have revised the discussion of the amount of time for tadpole growth by citing a period 1–2 years instead of up to 4 years (see section below titled Primary Constituent Elements for the Mountain Yellow-Legged Frog).

(10) *Comment:* One peer reviewer questioned whether the values used for dissolved oxygen as a PCE were too narrow in range.

Our Response: After reevaluating our interpretation of the available dissolved oxygen data, we agree with the reviewer that the dissolved oxygen values used as a PCE in the proposed rule may have represented too narrow a range to accurately describe habitat suitability for the mountain yellow-legged frog. We also believe that information on other water quality factors (water chemistry and temperature) were insufficient to accurately describe the complete range of values that may be necessary to maintain suitable habitat for mountain yellow-legged frogs. As a result, we have removed water quality as a PCE from the final critical habitat rule.

(11) *Comment:* One peer reviewer stated the PCEs should also include intermittent stream reaches and tributaries to permanent streams because they are also used by mountain yellow-legged frogs.

Our Response: Our process for capturing upland areas as critical habitat does include some parts of intermittent stream reaches and tributaries to the main stream reach identified as critical habitat. The peer reviewer did not provide substantial information indicating the significance of intermittent stream reaches to mountain yellow-legged frogs. Therefore, we are unable to quantify the importance of this habitat type and have not expanded the boundaries of critical habitat to include additional intermittent stream reaches and tributaries to permanent streams. For more information on how we designated critical habitat, please see the Criteria Used To Identify Critical Habitat section below.

(12) *Comment:* One peer reviewer questioned whether there is any basis for using 3.1 miles (mi) (5 kilometers (km)) from nearby occupied streams as a criterion for choosing unoccupied sites.

Our Response: In general, information on mountain yellow-legged frog dispersal movements in southern California is extremely limited. Our discussion on mountain yellow-legged frog movements was based on the best available data from a dispersal study in the Sierra Nevada Mountains, California (Knapp in litt. 2005). In this study, frogs were reported to disperse several kilometers and recolonize lakes following trout removal. Frogs were reported to move several kilometers along streams and across dry land. The data from this study were used to develop a dispersal function that was included in a population viability analysis. The analysis used a dispersal function of 2.5 mi (4 km) and consistently produced frog distributions similar to those actually found in the field. We recognize that the environment in the Sierra Nevada mountains is different from the frog habitat in the southern California mountains. However, since this is the best information available for this species on dispersal behavior, we used it as one of the criteria for selecting unoccupied critical habitat areas. In the proposed rule, we erroneously cited a dispersal distance of 3.1 mi (5 km). The distance has been changed to 2.5 mi (4 km) in this final critical habitat rule (see section titled Stream Reaches Not Currently Known to Be Occupied for a more detailed discussion).

(13) *Comment:* One peer reviewer questioned why the proposed rule did not include trout predation, one of the largest threats to frog populations, in the Special Management Considerations section and whether there are efforts to remove non-native trout from occupied mountain yellow-legged frog habitat.

Our Response: We included threats that may require special management considerations and that have an effect on primary constituent elements. The threat of trout predation has the potential to affect the survival of mountain yellow-legged frogs but does not affect habitat features. We recognize that non-native trout predation is a major threat to the recovery of the mountain yellow-legged frog and encourage programs to remove introduced trout from streams where frog recovery is designated. The critical habitat rule does not authorize management actions; however, we strongly encourage trout removal for adequate frog conservation. We discussed one previous trout removal action in subunit 1C (Little Rock Creek) in the Unit Descriptions section.

(14) *Comment:* One peer reviewer questioned whether Riverside County can actually purchase and conserve all 141 ac of private land that was excluded from critical habitat based on the lands inclusion within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) as stated in the proposed critical habitat rule.

Our Response: No areas containing features essential to the conservation of the mountain yellow-legged frog are within lands (Additional Reserve Lands) that are to be purchased and conserved by Riverside County under their Western Riverside County MSHCP. We mistakenly presented this in the proposed critical habitat rule (70 FR 54106) in our discussion regarding the exclusion of non-Federal lands that are covered under the MSHCP. We are still excluding these lands because of conservation measures provided for the mountain yellow-legged frog from the MSHCP's Additional Survey Needs and Procedures policy (see Relationship of Critical Habitat to Approved Habitat Conservation Plans section for a more detailed discussion).

(15) *Comment:* One peer reviewer stated the two-striped garter snake (*Thamnophis hammondii*) and raccoons (*Procyon lotor*) should be included as potential predators in the Primary Constituent Elements section within the discussion on Cover or Shelter.

Our Response: A broad range of terrestrial taxa have been observed as predators of mountain yellow-legged frogs, including several species of birds, snakes, and mammals (Jennings *et al.* 1992; Mathews *et al.* 2002; Mullally and Cunningham 1956). We have added the two predators mentioned by the peer reviewer to the list of potential predators from which mountain yellow-legged frogs would try to seek cover (see Primary Constituent Elements section within the discussion on Cover or Shelter for a more detailed discussion).

(16) *Comment:* One peer reviewer stated that the critical habitat rule should include bedrock just underneath the surface of the water as another type of sunning post as a primary constituent element.

Our Response: We appreciate the clarification on sunning post features and have added bedrock just underneath the surface of the water as another important potential type of sunning post that mountain yellow-legged frogs may utilize to our description of PCE 1. For more

information, please see the Primary Constituent Elements section below.

(17) *Comment:* One peer reviewer questioned whether enforcement activities by the Service were a part of the Western Riverside County MSHCP, and if so, then the justification for not including non-Federal lands within the MSHCP is justified. If not, then the peer reviewer questioned whether the level of protection under the MSHCP is consistent with that of the critical habitat proposal.

Our Response: The Service issued a single incidental take permit pursuant to section 10(a)(1)(B) of the Act as well as entered into an Implementing Agreement with the 22 Permittees of the MSHCP. The Service is responsible for overseeing the Permittees' compliance with the permit and Implementing Agreement. When implemented, we expect the MSHCP will provide substantial protection of the PCEs and special management of essential habitat features for the mountain yellow-legged frog on MSHCP conservation lands. This level of management for the mountain yellow-legged frog on private lands by the MSHCP is greater than a critical habitat designation (see section titled Relationship of Critical Habitat to Approved Habitat Conservation Plans (HCPs)—Exclusion Under Section 4(b)(2) of the Act for a more detailed discussion). Therefore, we agree with the commenter that excluding non-Federal lands within the MSHCP from the critical habitat designation is justified.

(18) *Comment:* One peer reviewer stated the critical habitat rule should include fire control activities as a Federal activity that may adversely affect critical habitat because of threats of water removal from streams, dropping fire retardant on streams or frogs, disease and exotic predator transport from clothing or footwear of fire fighters and water drops, respectively.

Our Response: We have included fire control activities under Federal activities that may adversely affect critical habitat. For more information, please see the Effects of Critical Habitat Designation section below.

General Comments

Comments Related to Procedural and Legal Compliance

(19) *Comment:* One commenter stated that critical habitat should not be designated within the Western Riverside County MSHCP plan area because the mountain yellow-legged frog is one of the listed species covered under the MSHCP. The plan was approved by the County of Riverside and 14 cities, and issued a Section 10(a) permit by the Service in 2004.

Our Response: We agree with the commenter and have excluded from critical habitat all non-Federal lands containing features essential to the conservation of the mountain yellow-legged frog within the MSHCP Plan Area. However, we are designating Federal lands managed by the United States Forest Service (USFS) within the MSHCP Plan Area as critical habitat because they are not a permittee under the section 10(a)(1)(B) permit for the MSHCP. For more information, please see Exclusion Under Section 4(b)(2) of the Act section below.

(20) *Comment:* One commenter stated that critical habitat should not be designated on Federal lands in the Angeles and San Bernardino National Forest because designating critical habitat for species already on the endangered species list provides little added conservation benefit to the species. This commenter also stated the U.S. Army Corps of Engineers' (Corps) current involvement in an ecological restoration project in the San Bernardino Mountains has the potential to be within the downstream portions of watersheds in which critical habitat is proposed for the mountain yellow-legged frog, although none of the critical habitat areas is actually within the Corps' study boundary.

Our Response: We are obligated under the Act to designate critical habitat on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of designating an area as critical habitat. The Secretary may exclude an area if the benefits of exclusion outweigh the benefits of inclusion unless the Secretary determines that such exclusion will result in the extinction of the species.

We examined the USFS's Revised Land and Resource Management Plans for the Four Southern California Forests, California (Forest Plan) that was approved in September 2005 and the Service's biological opinion that was issued on the Forest Plan on September 15, 2005. At issue were the effects of the Forest Plan and ongoing activities on USFS lands on federally-listed species, including the mountain yellow-legged frog. The goal of the Forest Plan is to describe a strategic direction for the management of the national forests over the next 10 to 15 years. The Forest Plan does not make any decisions regarding USFS site-specific project proposals for implementing the land management plans nor do they compel managers to implement any specific conservation activities. The Forest Plan also divides the national forests into several ''Land Use Zones'', including Developed Area Interface, Back Country, Back Country Motorized Use Restricted, Back Country Non-Motorized, Critical Biological, Recommended Wilderness, Existing Wilderness, and Experimental Forest. The land use zones were designed to describe the type of anticipated and allowable public use or administrative activities.

During the proposed critical habitat rulemaking process, we coordinated with staff from both the Angeles and San Bernardino National Forests to seek their input on the best areas to designate critical habitat on their lands that will contribute to the recovery of the mountain yellow-legged frog. Due to the amount of unoccupied critical habitat areas and the precarious status of existing populations, we determined that the benefit of including USFS lands as critical habitat are significant because this will help maintain the Service's role in reviewing potential future impacts to areas that are important for the survival and recovery of mountain yellow-legged frog populations. Our decision to designate critical habitat on USFS lands was supported in a public comment letter from the Angeles National Forest regarding critical habitat on their lands. We do not have information indicating that the benefits of excluding Federal lands within the National Forests will outweigh the benefits of including these lands.

As for the Corps' ecological restoration project, we are not aware of the specifics of this project. Federal projects that may affect critical habitat require consultation with the Service. However, we would hope that an ecological restoration project would provide long-term benefits to the mountain yellow-legged frog and its habitat.

(21) *Comment:* One commenter stated that they did not support USFS management practices that may be detrimental to the mountain yellow-legged frog, such as pesticide use, vegetation removal agents, and prescribed burning.

Our Response: We appreciate the commenter's concerns regarding threats to the mountain yellow-legged frog. These threats are addressed in the Special Management Considerations section as well as in the Effects of Critical Habitat Designation sections below.

(22) *Comment:* One commenter stated that they are opposed to the overzealous land grabbing by the County of

Riverside for the protection of the mountain yellow-legged frog.

Our Response: This issue is beyond the scope of this critical habitat rule. The designation of critical habitat does not dictate decisions regarding land acquisition, use, or management practices.

Comments Related to the Draft Economic Analysis (DEA)

(23) *Comment:* One commenter stated that attributing costs associated with protection measures for the mountain yellow-legged frog (*i.e.,* loss of recreation, fishing, hiking, camping, and rock climbing) on USFS lands was wrong and misleading because these would have been done for the conservation of the species, not necessarily because of critical habitat designation. For example, the North Fork of the San Jacinto River and City Creek on the San Bernardino National Forest was already closed to public recreation use in the stream prior to this critical habitat designation.

Our Response: We recognize that the USFS has already been conducting conservation measures for the mountain yellow-legged frog prior to this designation. The DEA identifies those economic activities believed to most likely threaten the listed species and its habitat and, where possible, quantifies the economic impact to avoid, mitigate, or compensate for such threats within the boundaries of the critical habitat designation. In instances where critical habitat is being proposed after a species is listed, some future impacts may be unavoidable, regardless of the final designation and exclusions under 4(b)(2). However, due to the difficulty in making a credible distinction between listing and critical habitat effects within critical habitat boundaries, the analysis in the DEA considers all future conservation-related impacts to be co-extensive with the designation. Inclusion of co-extensive impacts in the DEA complies with instruction by the United States Court of Appeals in 2001 for the Service to conduct a full analysis of all of the economic impacts or the proposed critical habitat designation, regardless of whether those impacts are attributable co-extensively to other causes (New Mexico Cattle Growers Association v. United States Fish and Wildlife Service, 248 F.3d 1277 (10th Cir. 2001)).

Summary of Changes From Proposed Rule

In preparing the final critical habitat designation for the mountain-yellow-legged frog, we reviewed and considered comments from the public and peer reviewers on the proposed designation of critical habitat published on September 13, 2005 (70 FR 54106) and public comments on the draft economic analysis published on July 3, 2006 (71 FR 37881). As a result of comments received on the proposed rule and the DEA, and a reevaluation of the proposed critical habitat boundaries, we made changes to our proposed designation, as follows:

(1) We added an additional feature (rocks just beneath the surface of the water for sunning posts) to PCE 1 based on one peer reviewer's comment.

(2) We added aquatic refugia as another feature to PCE 1 based on two peer reviewer comments.

(3) After a reevaluation of the existing information on water quality (*i.e.,* pH, dissolved oxygen, and water temperature) and comment from a peer reviewer on our use of a narrow range of water quality parameters to describe water quality as a PCE, we determined that there was insufficient information on water quality to provide an accurate range of water quality values that describes suitable frog habitat. Therefore, we removed water quality as a PCE (see Comment #10 above for a more detailed discussion).

(4) We changed our determination of the occupancy status of Day Canyon, East Fork of Barton Creek, and Indian Creek at Hall Canyon from currently occupied to currently unoccupied and not occupied at the time of listing based on a reevaluation of existing information and discussions with biologists that have surveyed these sites. Mountain yellow-legged frogs have not been detected in any of these streams since the mid-1990s, but not all the stream reaches in Day Canyon and Indian Creek at Hall Canyon have been surveyed. Without recent documentation that these streams are known to be occupied, we believe this change appropriately reflects the species' current status.

(5) We corrected the dispersal distance used in the section titled Criteria Used to Identify Critical Habitat from 3.1 mi (5 km) to 2.5 mi (4 km). This information is based on the best available data on mountain yellow-legged frog movements from a dispersal study conducted in the Sierra Nevada Mountains, California (Knapp *in litt.* 2005) (see Comment #12 above for a more detailed discussion).

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) Essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7 is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the area occupied by the species must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management considerations or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat pursuant to section 4(b)(2) of the Act). In areas outside the geographical

area occupied by the species at the time of listing, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat within those areas. An area currently occupied by the species but not known to be occupied at the time of listing will likely, but not always, be essential to the conservation of the species and, therefore, typically be included in the critical habitat designation.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (P.L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (P.L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(1)(A) of the Act, we use the best scientific data available to determine areas that contain the features essential to the conservation of the mountain yellow-legged frog. This includes information from the proposed listing rule (64 FR 71714), final listing rule (67 FR 44382), proposed critical habitat rule (70 FR 54106), site visits, soil and species map coverages, and data compiled in the California Natural Diversity Database (CNDDB). We also reviewed available information regarding the ecology, natural history, and habitat requirements of the species. This material included information and data in reports submitted during section 7 consultations, research published in peer-reviewed articles and technical reports by the USGS and the USFS, and regional GIS coverages.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to designate as critical habitat, we consider those physical and biological features (PCEs) that are essential to the conservation of the species, and within areas occupied by the species at the time of listing, that may require special management considerations or protection. These include, but are not limited to space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

The specific primary constituent elements required for the mountain yellow-legged frog are derived from the biological needs of the mountain yellow-legged frog as described below and in the proposed critical habitat designation published in the **Federal Register** on September 13, 2005 (70 FR 54106).

Space for Individual and Population Growth and Normal Behavior

Mountain yellow-legged frogs are a highly aquatic, cryptic, diurnal species that occupy mountain streams which have cool waters and originate from springs and snowmelt (Jennings and Hayes 1994a, b). Mountain yellow-legged frogs are most often found in creeks with permanent water in at least some portion of the reach. Mountain yellow-legged frogs also utilize streams, rivers, perennial creeks, permanent plunge pools within intermittent creeks and pools, and their associated riparian and upland habitat (Mullally 1959, Backlin *et al.* 2004). Backlin *et al.* (2004) reported creeks with occupied mountain yellow-legged frog populations were generally narrow, averaging from 3 to 10 ft (1 to 3 m) wide, with associated riparian zone widths ranging from 26 to 82 ft (8 to 25 m), with canyon walls typically rising steeply on either side. They also reported stream reach lengths containing mountain yellow-legged frog populations varied from approximately 820 ft (250 m) in Dark Canyon, to greater than 16,404 ft (5,000 m) in East Fork, City Creek. Backlin *et al.* (2004) also reported that pools were typically 3 to 32 ft (1 to 10 m) long, 2 to 23 ft (0.5 to 7 m) wide, 0.4 to 180 inches (in) (1 to 180 cm) deep, and typically had some type of structure in the form bank overhangs, downfall sticks, and/or rocks that could function as refugia, but there was minimal aquatic vegetation. Mountain yellow-legged frogs have been noted to inhabit creeks varying in type from high gradient with rocky courses to low gradient with marshy margins and sod banks (Mullally 1959). Creeks such as those with permanent water sources and their associated riparian and upland habitat (PCE 1) provide breeding sites, foraging grounds, and shelter for individual and population growth and normal behavior. They also provide for perennial flows needed for egg-laying and tadpole growth and survival.

Food, Water, Air, Light, or Other Nutritional or Physiological Requirements

Mountain yellow-legged frogs appear to be principally insectivorous, feeding on a wide variety of invertebrates, including beetles (*Coleoptera*), ants

(*Formididae*), bees (*Apoidea*), wasps (*Hymenoptera*), flies (*Diptera*), true bugs (*Hemiptera*), and dragonflies (*Odonata*) (Long 1970). Terrestrial insects and adult stages of aquatic insects may be the preferred food for adult mountain yellow-legged frogs (Bradford 1983); larger frogs consume more aquatic true bugs likely because of their more aquatic behavior (Jennings and Hays 1994a). Some predation of tadpoles by adult mountain yellow-legged frogs appears possible as evidenced in Sierra Nevada populations (Mathews and Pope 1999).

The riparian zone, with the associated vegetation canopy (PCE 2), is necessary to maintain the prey base needed for the nutritional requirements of the mountain yellow-legged frog. Larvae graze on algae and diatoms in the silt along rocky bottoms in streams (Zeiner *et al.* 1988). An open or semi-open canopy of riparian vegetation (canopy overstory not exceeding 85 percent, Backlin *et al.* 2004) is needed to ensure that adequate sunlight reaches the stream to allow for basking behavior and for photosynthesis by benthic algae and diatoms that are food resources for larval mountain yellow-legged frog.

Cover or Shelter

Mountain yellow-legged frogs are preyed upon by the western terrestrial garter snake (*Thamnophis elegans*), two-striped garter snake, Brewer's blackbird (*Euphagus cyanocephalus*), Clark's nutcrackers (*Nucifraga columbiana*), raccoons, and coyotes (*Canis latrans*) (Jennings *et al.* 1992; Jennings *in litt.* 2005; Mathews *et al.* 2002; Mullally and Cunningham 1956; USFS 2002). Pools with bank overhangs, downfall logs or branches, and/or rocks (PCEs 1 and 2) provide cover from predators for mountain yellow-legged frogs.

Sites for Breeding, Reproduction, and Rearing of Offspring

In southern California, the mountain yellow-legged frog occupies streams in the chaparral belt (Zweifel 1955), and cool and cold, rocky, mountain watercourses shaded by trees, rocks, and other shelter, where the flow comes from springs and snowmelt (Jennings and Hayes 1994b) (PCEs 1 and 2). White alders (*Alnus rhombifolia*), willows, sycamore, cottonwoods, conifers, and maples dominate the mountain yellow-legged frog's non-aquatic habitat (Jennings and Hayes 1994b; Backlin *et al.* 2004). Open gravel banks and rocks projecting above or just underneath the surface of the water may provide sunning posts (Zweifel 1955; Jennings *in litt.* 2005). Many of the streams in which mountain yellow-legged frogs occurred historically and currently occupy have a relatively steep gradient and large boulders in the stream beds (Stebbins 1951). Although knowledge pertaining to the specific habitat requirements of mountain yellow-legged frogs in southern California is limited, the presence of water year-round is known to be necessary for both reproduction and for hydration of juveniles and adults (Vredenburg *et al.* 2005). Individuals may, however, aestivate during especially dry periods of late summer (Mullally 1959). In southern California, mountain yellow-legged frogs historically ranged from 1,214 to 7,546 ft (370 to 2,300 m) in elevation (Jennings and Hayes 1994a, 1994b).

Primary Constituent Elements for the Mountain Yellow-Legged Frog

Pursuant to our regulations, we are required to identify the known physical and biological features (PCEs) essential to the conservation of the mountain yellow-legged frog. Areas designated as critical habitat for the mountain yellow-legged frog contain both occupied and unoccupied streams and riparian areas within the species' historical geographic range, and contain sufficient PCEs to support at least one life history function. In identifying PCEs, we used the best available scientific data available. Although the physical ranges described below may not capture all of the variability that is inherent in natural systems, these ranges best represent the physical and biological features essential to the conservation of the mountain yellow-legged frog in the occupied areas designated as critical habitat. In order to conserve this species, we believe it is necessary to designate critical habitat in areas currently unoccupied by the species. For more information, please see the Criteria Used to Identify Critical Habitat and Unit Descriptions sections below for further discussion of unoccupied habitat.

Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have determined that the mountain yellow-legged frog's PCEs are:

(1) Water source(s) found between 1,214 to 7,546 feet (370 to 2,300 meter) in elevation that are permanent. Water sources include, but are not limited to, streams, rivers, perennial creeks (or permanent plunge pools within intermittent creeks), pools (*i.e.*, a body of impounded water that is contained above a natural dam) and other forms of aquatic habitat. The water source should maintain a natural flow pattern including periodic natural flooding. Aquatic habitats that are used by mountain yellow-legged frog for breeding purposes must maintain water during the entire tadpole growth phase, which can last for up to 2 years. During periods of drought, or less than average rainfall, these breeding sites may not hold water long enough for individuals to complete metamorphosis, but they would still be considered essential breeding habitat in wetter years. Further, the aquatic includes:

a. Bank and pool substrates consisting of varying percentages of soil or silt, sand, gravel cobble, rock, and boulders;

b. Open gravel banks and rocks projecting above or just beneath the surface of the water for sunning posts;

c. Aquatic refugia, including pools with bank overhangs, downfall logs or branches, and/or rocks to provide cover from predators; and

d. Streams or stream reaches between known occupied sites that can function as corridors for movement between aquatic habitats used as breeding and/or foraging sites.

(2) Riparian habitat and upland vegetation (*e.g.*, ponderosa pine, montane hardwood-conifer, montane riparian woodlands, and chaparral) extending 262 feet (80 meters) from each side of the centerline of each identified stream and its tributaries, that provides areas for feeding and movement of mountain yellow-legged frog, with a canopy overstory not exceeding 85 percent that allows sunlight to reach the stream and thereby provide basking areas for the species.

This designation is designed for the conservation of PCEs necessary to support the life history functions of the mountain yellow-legged frog. Because not all life history functions require all the PCEs, not all areas designated as critical habitat will contain all the PCEs.

Each of the areas designated in this rule have been determined to contain sufficient PCEs to provide for one or more of the life history functions of the mountain yellow-legged frog. In some cases, the PCEs exist as a result of ongoing Federal actions. As a result, ongoing Federal actions at the time of designation will be included in the baseline in any consultation conducted subsequent to this designation.

Criteria Used To Identify Critical Habitat

We are designating critical habitat in areas within the geographical area occupied by the species at the time of listing in 2002, as well as some specific unoccupied areas outside the geographical area occupied by the species at the time of listing, but were historically occupied, because we have determined that such areas are essential for the conservation of the species.

Stream Reaches Occupied at the Time of Listing

We have defined occupied critical habitat as: (a) Those streams known to

be occupied by the mountain yellow-legged frog at the time of listing in 2002; (b) the riparian, upland, and aquatic habitats 262 ft (80 m) from the centerline of the stream including tributaries; and (c) aquatic habitats within 4,905 ft (1,495 m) upstream from the upstream-most occurrence and 4,905 ft (1,495 m) downstream from the downstream-most occurrence on the main stem of the river or creek known to be occupied, including any tributary that flows into it (see the following sections for explanation of these values). We used information from the proposed and final listing rules, reports prepared by the USGS, the USFS, the California Department of Fish and Game (CDFG), the CNDDB, researchers, and consultants to identify the specific locations occupied by the southern California mountain yellow-legged frog at the time of listing. All occurrence records dating from 2002 of mountain yellow-legged frogs were plotted on maps in GIS as points and polygons.

The currently occupied habitat for the mountain yellow-legged frog is highly limited and isolated. Population estimates are all extremely low, with no stream having an estimated population size exceeding 100 breeding adults, and an overall total estimate of approximately 183 adults surviving in 2003 (including City Creek, East Fork; Backlin *et al.* 2004). The mountain yellow-legged frog is at a high risk of extinction and is highly susceptible to stochastic events (Backlin *et al.* 2004). We have determined that all occupied areas contain features essential to the conservation of the species and are either designated as critical habitat or are excluded from designation pursuant to section 4(b)(2) of the Act.

Stream Reaches Unoccupied at the Time of Listing

The streams not known to be currently occupied that are being designated as critical habitat were all historically occupied, and the designation of these areas as critical habitat will decrease the degree of fragmentation within the current geographic distribution of the mountain yellow-legged frog. We believe that the designation of these additional areas not known to be currently occupied by the mountain yellow-legged frog is essential for the conservation of the species because:

(1) The current, overall population size of the mountain yellow-legged frog is extremely small, and it must increase in order to insure long-term survival of this species in southern California (cf. Backlin *et al.* 2004). While the occupied units provide habitat for current populations, additional units will provide habitat for population augmentation either through natural means, or by re-introduction. Such population augmentation in the additional subunits may serve to decrease the risk of extinction of the species through stochastic events, such as fires or disease, as the current, isolated populations are each at high risk of extirpation from such stochastic events (Backlin *et al.* 2004), particularly because of their small sizes and restricted ranges;

(2) Population augmentation either through natural means or by re-introduction into the additional subunits may increase the viability of the occupied subunits as well as the existence of the mountain yellow-legged frog in southern California as a whole (*i.e.*, increase the likelihood of persistence at the local population level and of this DPS range-wide);

(3) Additional subunits will serve to decrease the degree of fragmentation of the current geographic distribution of the mountain yellow-legged frog within each of the three mountain ranges (*i.e.*, increase connectivity between streams that are known to be currently occupied);

(4) Additional subunits are designated as critical habitat in areas occupied in the near past and located within the historical range of the species such that they will serve as corridors between currently occupied sites. Most of the unoccupied subunits lie within 0.9 to 2.5 mi (1.5 to 4 km) of an occupied site; the only exception is Subunit 2C (in historically occupied Whitewater River). Although Subunit 2C is unlikely to serve as a corridor between currently occupied areas, this subunit is the only representative area of southeastern desert slope and of the San Gorgonio Mountains, and ensures representation of the full geographical distribution of the mountain yellow-legged frog not otherwise represented by the currently occupied sites;

(5) The additional subunits may offer habitat that is superior to that in the occupied subunits (*i.e.*, the potential viability of frogs in unoccupied subunits may be higher) due to the fact that the additional subunits may be faced with fewer and more-easily treated threats than the occupied units.

Width of Riparian and Upland Habitats Along Occupied Stream Reaches

Once we determined which stream reaches were occupied, we focused on delineating those riparian and upland habitats used by the mountain yellow-legged frog. We estimated the width of riparian and upland habitats occupied by adults based on a study of movement ecology of mountain yellow-legged frogs in the Sierra Nevada Mountains (Pope and Matthews 2001). The study, in which a total of 581 adult frogs were marked, included 5 stream segments and 11 lakes and ponds. The movement of mountain yellow-legged frogs throughout the entire annual period of activity (mid-late July to mid-late October) was recorded over two successive seasons (1997 and 1998). Of these marked frogs, 82 frogs made overland movements between water bodies that were not connected by aquatic pathways. Based on these results, 72 frogs traveled a minimum distance of 216 ft (66 m), 9 frogs traveled a minimum distance of 466 ft (142 m), and 1 frog traveled 1,378 ft (420 m). We used this data to calculate a weighted mean of 259 ft (79 m) of overland distance traveled by mountain yellow-legged frogs. Subsequently, we applied the weighted mean of overland distance (rounded up to 262 ft (80 m)) to delineate the amount of riparian area and upland habitat that is occupied by frogs and essential to their conservation. Although this study took place in the Sierra Nevada mountains in different types of aquatic habitat (*e.g.*, lakes), it represents the best movement data available on mountain yellow-legged frogs and some indication of this species' physical capabilities to move away from aquatic habitats.

We also compared the results of the Pope and Mathews (2001) study with the preliminary results of an unpublished study that examined mountain yellow-legged frog movements in the Sierra Nevada Mountains (Knapp *in litt.* 2005). This study included observations of movement between Marmot Lake and Frog Lake (not connected by a stream) of at least 8,858 ft (2,700 m) by three frogs in 2003 and six frogs in 2004. In comparison to Knapp's study, the 262 ft (80 m) width appears to be a conservative estimate of the riparian and upland habitats occupied by the mountain yellow-legged frog. We did not use results from the Knapp study because we had a more complete dataset from the Pope and Mathews study and the findings from the Knapp study are still preliminary.

Length of Occupied Stream Reaches

The next step was to focus on delineating the length of up- and downstream reaches from known occupied areas to determine the length of stream reaches that are used by the mountain yellow-legged frog. We estimated the length of up- and downstream occupied reaches from our

review of several studies on mountain yellow-legged frog movements (Pope and Matthews 2001; Knapp *in litt.* 2005; Backlin *et al.* 2004; Dr. V. Vredenburg, University of California-Berkeley, pers. comm. 2006). Since there are no definitive published studies on instream movements of mountain yellow-legged frogs, we used portions of the above-mentioned studies that specifically identified stream movement. In their study of movement ecology of mountain yellow-legged frogs in the Sierra Nevada Mountains, Pope and Matthews (2001) reported a tagged female mountain yellow-legged frog that traveled a minimum of 1,968 ft (600 m) in a fast-flowing stream. For streams in southern California, Backlin *et al.* (2004) reported movement distances between approximately 131 ft (40 m) to 4,902 ft (1,494 m). In the Sierra Nevada Mountains, Knapp (*in litt.* 2005) reported movements along a stream connecting two lakes, a distance of approximately 2,953 ft (900 m), by 12 frogs in 2003 and 46 frogs in 2004. Knapp (*in litt.* 2005) also reported an approximately 11,811 ft (3,580 m) movement of three frogs in 2003, and one frog in 2004, between two lakes that included both dispersal along a stream and overland movement. Finally, Dr. V. Vredenburg (University of California-Berkeley, pers. comm. 2006) stated that mountain yellow-legged frog tadpoles have been located approximately 5,905 ft (1,800 m) downstream from where they were tagged in the Sierra Nevada Mountains.

The variability of study designs and sample sizes in mountain yellow-legged frog studies in the Sierra Nevada Mountains have made it difficult to infer their results to understand habitat requirements and movement distances of mountain yellow-legged frog populations in southern California mountains. Instead, we have determined that using the recorded movement distance of 4,902 ft (1,494 m) in City Creek, East Fork, in the San Bernardino Mountains in southern California, is a more appropriate movement distance to measure the length of a stream that is occupied by mountain yellow-legged frogs from a known occurrence. We believe the observation from City Creek represents the best available information to define occupied upstream and downstream reaches for the following reasons: (1) This movement distance connects known occurrences along a stream or in populations to those that occur in tributaries; (2) this movement distance is specific to and representative of the southern California populations of the mountain yellow-legged frog; (3) movement distances between 131 ft (40 m) to 4,902 ft (1,494 m) that were identified by Backlin *et al.* (2004) represent home range movements and reflect the high site fidelity displayed by mountain yellow-legged frog and are therefore not representative of dispersal patterns (Backlin *et al.* 2004); and (4) this distance is less than the maximum distance for stream and overland movements identified by Knapp (*in litt.* 2005) for adults and by Vredenburg (pers. comm. 2006) for tadpoles in the Sierra Nevada mountains, and thus likely represents a conservative estimate of the upstream and downstream movements by the mountain yellow-legged frog in southern California.

Stream Reaches Not Currently Known To Be Occupied

We are also designating critical habitat on lands that were historically occupied by the mountain yellow-legged frog, but are not known to be currently occupied. These stream reaches were all historically occupied within the past 50 years and still contain features essential to the conservation of the species. We selected these sites based in part on comments and information provided to us by herpetologists and experts on the mountain yellow-legged frog. Biologists from management agencies (USGS, CDFG, USFS) also provided their knowledge of anthropogenic activity level, current habitat suitability for the species (including survey data), and management potential. Based on the best available information, we have determined that without the management and protection of these areas that are not known to be occupied, conservation of the species will not be possible in the foreseeable future.

We used the following criteria to select areas historically occupied, but not known to be currently occupied by the mountain yellow-legged frog, for inclusion in critical habitat. All of the areas designated as critical habitat that are currently not known to be occupied contain one or more of the following criteria:

(1) Streams where the habitat contains sufficient PCEs (*e.g.*, characteristics such as perennial water flow, pools, riffles, runs, riparian and upland habitat, banks with rocky substrate) to support life history functions;

(2) Streams where the habitat has been characterized as ''suitable'' for mountain yellow-legged frog by USGS, CDFG, and USFS in their survey reports (*i.e.*, contains habitat which meets additional, more specific characteristics that allow for a range of the species' biological needs, such as containing sites for breeding, feeding, sheltering, and other essential mountain yellow-legged frog behavioral patterns);

(3) Streams that were known to be occupied by the species within the past 50 years, where the habitat has not changed appreciably during that time (thus allowing for the assumption that previous occupancy still provides good indication of the known suitability of the site for the species'' biological needs);

(4) Streams that have potential for current occupancy by the mountain yellow-legged frog because: (a) No conclusive evidence exists indicating that the species is currently completely absent from a site due to few, incomplete, or absence of surveys having been conducted there recently, (b) there is a lack of major anthropogenic disturbance, or (c) they were known to be occupied within the past 15 years, which is the approximate life span of a mountain yellow-legged frog (Matthews and Miaud 2005);

(5) Streams that are in remote locations, which are geographically distant from areas with heavy anthropogenic activities, such as vehicular traffic, human recreation, dredging, trout stocking, water regulation, and other sources of pollution;

(6) Streams that are not currently stocked with nonnative fish;

(7) Streams where threats to the species either no longer exist, or are few and have potential to be alleviated (*e.g.*, by shifting current human recreational use patterns, and/or by trout removal) through voluntary cooperative conservation measures; and

(8) Streams where there is potential for re-occupation by the species, either by natural means through dispersal from currently occupied sites, which are located within 2.5 mi (4 km) of a currently occupied site (Knapp *in litt.* 2005), or by future re-introduction efforts.

When determining critical habitat boundaries, we made every effort to avoid developed areas such as buildings, paved areas, and other structures that lack PCEs for the mountain yellow-legged frog. The scale of the maps prepared under the parameters for publication within the *Code of Federal Regulations* may not reflect the removal of such developed areas. Any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been removed by text in the final rule and are not designated as critical habitat. Therefore, Federal actions limited to these areas would not trigger section 7

consultation, unless they affect the species and/or adjacent critical habitat.

Units are designated based on sufficient PCEs being present to support one or more of the mountain yellow-legged frog's life history functions. Some units contain all PCEs and support multiple life processes, while some units contain only a portion of the PCEs necessary to support the frog's particular use of that habitat. Where a subset of the PCEs is present at the time of designation, this rule protects those PCEs and thus the conservation function of the habitat.

Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities. An incidental take permit application must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. We often exclude non-Federal public lands and private lands that are covered by an existing operative HCP and executed implementation agreement (IA) under section 10(a)(1)(B) of the Act from designated critical habitat because the benefits of exclusion outweigh the benefits of inclusion as discussed in section 4(b)(2) of the Act. We have excluded non-Federal public lands and private lands that are covered under the Western Riverside County MSHCP (see Exclusion Under Section 4(b)(2) of the Act section for a detailed discussion).

A brief discussion of each area designated as critical habitat is provided in the unit descriptions below. Additional detailed documentation concerning the essential nature of these areas is contained in our supporting record for this rulemaking.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the primary constituent elements, within the areas determined to be occupied at the time of listing, may require special management considerations or protection. Threats to those features that define the primary constituent elements for the mountain yellow-legged frog include the direct and indirect impacts of some human recreation activities, watershed management practices, water diversions from streams, fire management practices, and hazardous materials spills along roadways adjacent to streams.

Subunits 1A, 1B, 1C, 1D, 2A, and 3A may require special management due to threats posed by recreational activities, including camping, hiking, fishing, and recreational mining (USFS 2002). In areas occupied by mountain yellow-legged frogs, human use in and along streams can disrupt eggs, larvae, and adult frogs (Jennings 1995), change the character of the stream (*e.g.*, sediment), and its bank and associated vegetation in ways that make sections of the stream less suitable as habitat for the species (Stephenson and Calcarone 1999). For example, logging activity, recreational mining, or heavy trampling may alter and/or decrease the availability of habitat features such as bank overhangs, downed logs or branches, and rocks, or may alter pool substrate, thereby reducing or eliminating available foraging, resting, breeding or egg-laying sites, and increasing suspended sediments and turbidity (Service 2005) (PCE 1). Human activities associated with heavy recreational use could also erode or denude stream banks or shores, reduce the extent of riparian vegetation, potentially reduce the available prey base for frogs, alter the amount of stream shade, and increase sedimentation within stream channels due to erosion from exposed soils (Service 2005) (PCEs 1 and 2). Heavy recreational use is specifically cited as a potential threat in Subunit 1A (Bear Gulch and Vincent Gulch, the San Gabriel River—East Fork), Subunit 1C (Little Rock Creek), and Subunit 3A (Fuller Mill Creek and Dark Canyon); recreational mining is cited as a potential threat in Subunit 1A (San Gabriel, East Fork) (Jennings 1994, 1995, 1998, 1999; USFS 2002). However, due to the proximity of the San Bernardino, San Gabriel and San Jacinto Mountains to large urban centers, resulting in high recreational use of these areas, there is potential for recreational impacts to all of the areas being designated as critical habitat.

Subunits 1A, 1C, 2A, and 3A may require special management due to threats posed by watershed management activities, including forest thinning or clearing for public safety or fire prevention (*e.g.*, fuel load management), water diversion, application of herbicides, use of fire retardants, and inadvertent spills of hazardous chemicals. Depending on the extent of the management activities and the proximity to streams, forest thinning or clearing may alter streambed and riparian characteristics in ways that make sections of the stream less suitable as habitat for frogs. For example, thinning or clearing adjacent to streams could increase flooding and sedimentation within stream channels due to erosion of exposed soils (Jennings 1998) (PCE 1). Alteration or removal of riparian vegetation could reduce the prey-base available for mountain yellow-legged frogs (PCE 2); however, the presence of a dense canopy cover or riparian vegetation that decreases the amount of basking areas (PCE 2) may render the habitat unsuitable for mountain yellow-legged frogs (USFS 2002). Water diversion, such as water removal from the drainage system occupied by the species, could reduce water levels and decrease the quality and extent of suitable breeding, wintering, and foraging sites, and reduce the prey-base availability (USFS 2002). Subunit 1C (Little Rock Creek), Subunit 2A (East Fork City Creek), and Subunit 3A (Dark Canyon and Fuller Mill Creek) have potentially high canopy cover and/or dense riparian vegetation within the watershed (USFS 2002).

The USFS prepared the Mountain Yellow-Legged Frog Conservation Assessment and Strategy: Angeles and San Bernardino National Forests (Strategy) (USFS 2002). This Strategy provides a framework for conservation actions to assist in the recovery and conservation of the mountain yellow-legged frog and identifies the following management actions necessary to reduce impacts to mountain yellow-legged frog habitat: (1) *Recreation.* Closing, rerouting, or reconstructing unauthorized trails; closing parking areas used for unauthorized trail access; removing campsites and picnic tables adjacent to occupied creeks; installing signing at trailheads and along access points to promote understanding of the species' biology and habitat requirements; (2) *High fuel loads.* Develop plans for fuels reductions in the watershed; plans will examine potential riparian treatment of high canopy or dense vegetation; and (3) *Hazardous materials spills.* Develop an action plan for prevention, notification, and containment of spills before they enter the stream or its tributaries.

Some of the conservation actions outlined in the Strategy have been implemented. For example, the USFS closed camp sites adjacent to Dark Canyon/North Fork San Jacinto River in May 2001, and acquired approximately 60 ac (24 ha) of mountain yellow-legged frog habitat in the headwaters of Fuller Mill Creek (USFS 2002) to protect a discontinuous stretch of habitat previously under private ownership. However, recreational activities that may impact habitat for the mountain yellow-legged frog continue to occur in or adjacent to other occupied sites.

Critical Habitat Designation

We are designating three units, divided into 14 subunits, as critical

habitat for the mountain yellow-legged frog. The critical habitat subunits described below constitute our best assessment at this time of (1) Areas determined to be occupied at the time of listing that contain the primary constituent elements essential for the conservation of the species and that may require special management considerations or protection, and (2) those additional areas found to be essential to the conservation of the mountain yellow-legged frog. The three units designated as critical habitat are: (1) The San Gabriel Mountains Unit, (2) the San Bernardino Mountains Unit, and (3) The San Jacinto Mountains Unit. Tables 1 and 2 provide summaries of approximate area that meets the definition of critical habitat for the mountain yellow-legged frog, area excluded, and area designated as critical habitat by subunit (Table 1), and the approximate area designated as critical habitat for the mountain yellow-legged frog by land ownership (Table 2).

We believe that all lands designated as critical habitat are essential for the conservation and persistence of the mountain yellow-legged frog for the following reasons:

TABLE 1.—APPROXIMATE AREA IN ACRES (AC) AND HECTARES (HA) DETERMINED TO MEET THE DEFINITION OF CRITICAL HABITAT FOR THE MOUNTAIN YELLOW-LEGGED FROG (DEFINITIONAL AREA) AND EXCLUDED FROM THE FINAL CRITICAL HABITAT DESIGNATION (EXCLUDED AREA)

Subunit	Critical habitat subunit name	Definitional area ac (ha)	Excluded area ac (ha)	Total ac (ha)
Unit 1: SAN GABRIEL MOUNTAINS UNIT				
1A	San Gabriel River, East Fork[a]	2,474 ac (1,001 ha)		2,474 ac (1,001 ha).
1B	Big Rock Creek, South Fork[a]	625 ac (253 ha)		625 ac (253 ha).
1C	Little Rock Creek[a]	615 ac (249 ha)		615 ac (249 ha).
1D	Devil's Canyon[a]	279 ac (113 ha)		279 ac (113 ha).
1E	Day Canyon[b]	635 ac (257 ha)		635 ac (257 ha).
1F	San Gabriel River, East Fork, Iron Fork[b]	373 ac (151 ha)		373 ac (151 ha).
1G	Bear Creek[b]	116 ac (47 ha)		116 ac (47 ha).
Unit 2: SAN BERNARDINO MOUNTAINS UNIT				
2A	City Creek, East and West Forks[b]	1,386 ac (561 ha)		1,386 ac (561 ha).
2B	Barton Creek, East Fork[b]	193 ac (78 ha)		193 ac (78 ha).
2C	Whitewater River, North Fork[b]	74 ac (30 ha)		74 ac (30 ha).
Unit 3: SAN JACINTO MOUNTAINS UNIT				
3A	San Jacinto River, North Fork[a]	1,352 ac (547 ha)	433 ac (175 ha)	919 ac (372 ha).
3B	Indian Creek at Hall Canyon[b]	180 ac (73 ha)	54 ac (22 ha)	126 ac (51 ha).
3C	Tahquitz Creek[b]	358 ac (145 ha)		358 ac (145 ha).
3D	Andreas Creek[b]	109 ac (44 ha)		109 ac (44 ha).
Total		8,770 ac (3,549 ha)	487 ac (197 ha)	8,283 ac (3,352 ha).

[a] Occupied at the time of listing in 2002 and currently occupied as of 2005.
[b] Not currently known to be occupied, but historically occupied.

TABLE 2.—APPROXIMATE AREA IN ACRES (AC) AND HECTARES (HA) FOR EACH CRITICAL HABITAT UNIT DESIGNATED FOR THE MOUNTAIN YELLOW-LEGGED FROG BY LANDOWNERSHIP

Subunit	Critical habitat subunit name	Federal ac (ha)	State ac (ha)	Private ac (ha)	Total ac (ha)
Unit 1: SAN GABRIEL MOUNTAINS UNIT					
1A	San Gabriel River, East Fork	2,474 ac (1,001 ha)			2,474 ac (1,001 ha).
1B	Big Rock Creek, South Fork	625 ac (253 ha)			625 ac (253 ha).
1C	Little Rock Creek	615 ac (249 ha)			615 ac (249 ha).
1D	Devil's Canyon	279 ac (113 ha)			279 ac (113 ha).
1E	Day Canyon	635 ac (257 ha)			635 ac (257 ha.
1F	San Gabriel River, East Fork, Iron Fork	373 ac (151 ha)			373 ac (151 ha).
1G	Bear Creek	116 ac (47 ha)			116 ac (47 ha).
Unit 2: SAN BERNARDINO MOUNTAINS UNIT					
2A	City Creek, East and West Fork	1267 ac (513 ha)		119 ac (48 ha)	1,386 ac (561 ha).
2B	Barton Creek, East Fork	193 ac (78 ha)			193 ac (78 ha).
2C	Whitewater River, North Fork	74 ac (30 ha)			74 ac (30 ha).
Unit 3: SAN JACINTO MOUNTAINS UNIT					
3A	San Jacinto River, North Fork	823 ac (333 ha)	96 ac (39 ha)		919 ac (372 ha).
3B	Indian Creek at Hall Canyon	126 ac (51 ha)			126 ac (51 ha).
3C	Tahquitz Creek	243 ac (98 ha)	115 ac (47 ha)		358 ac (145 ha).

TABLE 2.—APPROXIMATE AREA IN ACRES (AC) AND HECTARES (HA) FOR EACH CRITICAL HABITAT UNIT DESIGNATED FOR THE MOUNTAIN YELLOW-LEGGED FROG BY LANDOWNERSHIP—Continued

Subunit	Critical habitat subunit name	Federal ac (ha)	State ac (ha)	Private ac (ha)	Total ac (ha)
3D	Andreas Creek	109 ac (44 ha)	.....	.....	109 ac (44 ha).
Total	.....	7,952 ac (3,218 ha)	211 ac (86 ha)	119 ac (48 ha)	8,283 ac (3,352 ha).

(1) The range of the mountain yellow-legged frog in southern California has been reduced to less than 1 percent of its original area (i.e., extirpated from 99 percent of its former range as estimated by a review of historical records by Jennings and Hayes (1994a)), with the remaining occupied habitat limited and fragmented;

(2) The population estimates for each stream are extremely small, with no estimate exceeding 100 breeding adults, and an approximate total of only 183 surviving adults for the entire southern California range (Backlin *et al.* 2004);

(3) Existing small populations are at a high risk of extinction due to stochastic events (Pimm *et al.* 1988) or deterministic events (Skelly *et al.* 1999); and

(4) Existing small populations are susceptible to other threats, including predation of frogs by non-native trout and human recreation.

Of the 14 subunits being designated as critical habitat, 8 were historically occupied but were not known to be occupied at the time of listing (subunits 1E, 1F, 1G, 2B, 2C, 3B, 3C, and 3D). These subunits were occupied recently (within the past 50 years), and the stream and riparian habitat within each has not changed appreciably (Jennings 1993, 1994, 1995, 1998, 1999; Jennings and Hayes 1994a, b; Backlin *et al.* 2001, 2002, 2003, 2004). Each of these subunits thus contains habitat with features essential for the conservation of the species. Because of the necessity of population increase or augmentation for the continued survival of this species, these areas may serve as important re-introduction sites, particularly in the San Bernardino and San Jacinto Mountains, where the number of known occurrences has decreased to two limited areas in each mountain range. Even then, one of the two known populations in the San Bernardino Mountains (City Creek) experienced a recent fire (2003) and subsequent flooding that threatens extant populations (Backlin *et al.* 2004).

Presented below are brief descriptions of all units, and justification for their designation as critical habitat for the mountain yellow-legged frog.

Critical Habitat Unit 1: San Gabriel Mountains Unit

Unit 1 is comprised solely of USFS lands and lies entirely within the San Gabriel Mountains of the Angeles and San Bernardino National Forests in Los Angeles and San Bernardino counties, California. This unit is comprised of seven subunits (1A, 1B, 1C, 1D, 1E, 1F, and 1G), including four subunits (1A, 1B, 1C, and 1D) that were known to be occupied at the time of listing and are currently occupied and three subunits (1E, 1F, 1G) that are not known to be currently occupied but were historically occupied. The populations in Unit 1 represent the northern- and western-most known occurrences of the mountain yellow-legged frog.

Subunit 1A: San Gabriel River, East Fork

Subunit 1A is comprised of 2,474 ac (1,001 ha) of Federal land along approximately 26.5 mi (42.7 km) of several stream reaches in the upper section of the East Fork of the San Gabriel River, including the Bear Gulch, Vincent Gulch, Fish Fork, Iron Fork, and Alder Gulch streams. This currently occupied subunit is located within the remote, mountainous terrain of the Sheep Mountain Wilderness Area in the Angeles National Forest in Los Angeles County, California. Mountain yellow-legged frogs were first recorded in the main stem of the East Fork of the San Gabriel River as early as 1933, from as far south as Heaton Flats and as far north as the headwaters at Prairie Fork, Vincent Gulch, and Bear Gulch, where populations have recently been recorded. The presence of mountain yellow-legged frogs is tenuous, as made evident by population estimates in Bear Gulch of 54 adults for 2001–2003 (95 percent confidence interval 33–93), and no mountain yellow-legged frogs were discovered during 3 survey efforts in 2005 (Backlin and Hitchcock *in litt.* 2005). In neighboring Vincent Gulch, mountain yellow-legged frogs were observed as early as 1933 (Backlin *et al.* 2004). In 2003, Vincent Gulch supported only a very small population containing approximately 2 adults and 11 first-year larvae (Backlin *et al.* 2004). Jennings (1993) stated that the trail and/or campgrounds that occur at the mouth of Vincent Gulch should be re-routed to avoid human impacts to mountain yellow-legged frogs. In adjacent Prairie Fork, mountain yellow-legged frogs have been observed since 1982, but were not located during surveys in 1998 and 2000. A campground is located there and non-native trout are present (Backlin *et al.* 2004). Mountain yellow-legged frog populations in this watershed, including the areas designated as critical habitat in this subunit, have experienced a number of major climatic events within the past 40 years, including a devastating flood that occurred throughout southern California during 1968–69, when mountain yellow-legged frog populations were seemingly experiencing great reductions in size (Jennings and Hayes 1994b), as well as a severe fire during 1997 at the headwaters of the San Gabriel River, East Fork (Jennings 1999).

Subunit 1A contains the following features essential to the conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). Threats to the species and its habitat that may require special management of the PCEs in this subunit include the presence of non-native trout, potential water diversion, human recreation, and recreational mining (USFS 2002). There have been proposals for water removal from the upper part of the drainage above Vincent and Bear Gulch for the winter recreation on Blue Ridge, and there has also been an increased siltation load from recent fires (in 1999) and from instream recreation (Jennings 1999). South of these headwater streams, most areas of the East Fork of the San Gabriel River contain non-native trout (Backlin *et al.* 2004). The main stem of the San Gabriel River has been stocked with trout (near Heaton Flats) 52 times between 1947 and 1998 (Backlin *et al.* 2004). The Alder Gulch tributary to the East Fork of the San Gabriel River has not been surveyed extensively; however, it contains habitat suitable for the

mountain yellow-legged frog, which was known to occur here at least from 1994 to 1998. Rainbow trout were stocked in this stream twice between 1940 and 1969, and the trout persist today (Backlin *et al.* 2004). As a result of these identified threats, stream segments in this subunit may require special management considerations or protection such as relocation of hiking trails or picnic areas or other access limitations in or near sensitive areas, additional monitoring of authorized mining activities, and removal of non-native trout species.

Subunit 1B: Big Rock Creek, South Fork

Subunit 1B is comprised of 625 ac (253 ha) of Federal lands along approximately 6.1 mi (9.9 km) of Big Rock Creek. This currently occupied subunit is located within the Angeles National Forest in Los Angeles County, California. Mountain yellow-legged frogs were recorded at the uppermost reaches of the tributaries, below which rainbow trout occur. The number of frogs here is almost 10 times greater than in Little Rock Creek (Subunit 1C) (Backlin *et al.* 2004). The adult breeding population of mountain yellow-legged frogs in the South Fork of Big Rock Creek between 2000 and 2003 was estimated to be from 27 to 74 (Backlin *et al.* 2004). Big Rock Creek and Bear Gulch (subunit 1A) represent the largest adult breeding populations throughout the range of the species in southern California.

Subunit 1B contains the following features essential to the conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). Threats to the species and its habitat that may require special management of the PCEs in this subunit include the presence of non-native trout (USFS 2002; Backlin *et al.* 2004) and human recreation. In 2002, severe drought conditions resulted in zero flow in the creek and only a few shallow pools remained below the area where mountain yellow-legged frogs occurred. The remaining pools contained an estimated 20 to 100 fish (Backlin *et al.* 2004) per pool. By 2003, the number of trout in the stream reaches below the locations of mountain yellow-legged frogs had greatly decreased, providing opportunity for successful trout removal and trout barrier implementation (Backlin *et al.* 2004). By late 2003, three frogs were found to occur approximately 0.6 mi (1 km) downstream from where the majority of the mountain yellow-legged frog population occurred. Only one mountain yellow-legged frog was found in previous years. It was hypothesized that these three individuals could establish and persist with few or no trout (Backlin *et al.* 2004); however, there is no fish barrier to prevent trout from re-colonizing the upper reaches in years with heavier water flows, such as 2005.

The main stem of Big Rock Creek was stocked with trout 51 times between 1947–1998, and the South Fork of Big Rock Creek was stocked four times from 1948–1953 (Backlin *et al.* 2004). Little information exists on recreational impacts to mountain yellow-legged frog habitat in this subunit, but the subunit borders a campground and hiking trails, and there are several roads close by (*e.g.*, Angeles Crest Highway). Further, due to the proximity of the San Gabriel Mountains to large urban centers and the resulting high recreational use of these areas, recreational impacts are likely to occur to some extent within this subunit. As a result, stream segments in this subunit may require special management considerations or protection, such as relocation of hiking trails, public education efforts, other access limitations in or near sensitive areas, and removal of non-native trout.

Subunit 1C: Little Rock Creek

Subunit 1C is comprised of 615 ac (249 ha) of Federal lands along approximately 6.1 mi (9.8 km) of Little Rock Creek. This currently occupied subunit is located within the Angeles National Forest in Los Angeles County, California. Mountain yellow-legged frogs once ranged from its headwaters, and throughout the entire length of this stream to where it empties northwest into the Mojave River. Mountain yellow-legged frogs were observed as early as 1911 in Little Rock Creek. However, frogs are threatened in this creek because a reservoir was constructed in its lower reach where non-native trout were stocked 51 times between 1947 and 1998 (Backlin *et al.* 2004). Today, the current population of mountain yellow-legged frogs is estimated to be approximately 9 individuals, and they are believed to exist only at the highest elevation headwaters of Little Rock Creek (Backlin *et al.* 2004), although side tributaries have not been surveyed extensively.

Subunit 1C contains the following features essential to the conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). Threats to the species and its habitat that may require special management of the PCEs in Little Rock Creek include the presence of non-native trout, human recreation, and hazardous materials spills (USFS 2002). Rock climbing and hiking are common activities in the upper headwaters of Little Rock Creek, near the Angeles Crest Highway (Stephenson and Calcarone 1999). An unofficial trail has been blazed to a popular rock-climbing area and follows the creek where mountain yellow-legged frogs occur (USFS 2002). The USGS has recommended that the trail be diverted away from the stream to avoid disturbance to the frogs and their habitat and to minimize pollution. Both the USFS and USGS have identified the need for educational signs in this area to promote understanding of the mountain yellow-legged frog biology/ecology and its habitat requirements (USFS 2002; Backlin *et al.* 2004). Additional special management that may be required to minimize the threat of recreational activities includes: Closing, rerouting or reconstructing unauthorized trails; closing parking areas used for unauthorized trail access; relocating campsites and picnic tables adjacent to occupied creeks; and removing non-native trout. The potential for hazardous materials spills is also a threat to the habitat within this subunit and may require special management such as developing an action plan for prevention, notification, and containment of spills before they enter the stream or its tributaries (USFS 2002). There have also been requests for water removal for ski operations in the uppermost reaches, which can potentially dewater the stream during the winter months when water flows are low (Service 1999, 2002; Stewart *et al.* 2000).

Little Rock Creek, with its extant mountain yellow-legged frog population, is a site chosen by the USGS to conduct a manipulation experiment to study the effects of trout removal on the establishment behavior of frogs. Trout are known to be predators of ranid frogs (Hayes and Jennings 1986, Backlin *et al.* 2004), and there is evidence that introduced trout restrict the distribution and abundance of mountain yellow-legged frogs (Bradford 1989; Bradford *et al* 1994; Knapp and Matthews 2000; Knapp *et al.* 2003; Backlin *et al.* 2004). The project area encompasses the uppermost reaches of the creek, where it is divided into three sections by natural fish barriers. The first barrier is a natural waterfall, above which the main frog population occurs; below it are rainbow trout, and few mountain yellow-legged frog sightings have been

recorded there regularly (Backlin *et al.* 2004). Further downstream, where there are only trout, a second natural barrier was enhanced by USFS in 2003 to prevent upstream movement by trout. Trout have been experimentally removed by electro-shocking and dip netting between the waterfall and the enhanced barrier on an annual basis (2002 to present) (Backlin *et al.* 2004). In 2002, 900 trout were removed; in 2003, 90 were removed; in 2004, approximately 250 trout, mostly young of the year, were removed (T. Hovey, CDFG, pers. comm. 2006). Trout removal efforts have significantly depleted trout populations, but have not yet completely removed the trout from that section of the stream.

Subunit 1D: Devil's Canyon

Subunit 1D is comprised of 279 ac (113 ha) of Federal lands along approximately 3.1 mi (4.9 km) of Devil's Canyon. This currently occupied subunit is located within the San Gabriel Wilderness in the Angeles National Forest in Los Angeles County, California. Devil's Canyon is a rugged area which covers approximately 36,215 ac (14,667 ha) and varies in elevation from 1,600 to 8,200 ft (490 to 2,500 m). The lower elevations are covered with dense chaparral, which rapidly changes to pine and fir-covered slopes. Although wilderness permits are not required, Devil's Canyon has been relatively unstudied with regard to vertebrate resources. The habitat has been characterized as excellent for mountain yellow-legged frogs (Jennings 1993), but difficult access has restricted survey efforts to only once each year from 2000 to 2005 (A. Backlin, USGS, pers. comm. 2006). An estimated adult mountain yellow-legged frog breeding population of 20 individuals exists in Devil's Canyon (Backlin *et al.* 2004).

Subunit 1D contains the following features essential to the conservation of the mountain yellow-legged frog: Water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). Threats to the species and its habitat that may require special management of the PCEs within this subunit include the presence of non-native trout and human recreation. We do not currently have documented information on recreational impacts to mountain yellow-legged frog habitat within this subunit. However, due to the proximity of the San Gabriel Mountains to large urban centers and the resulting high recreational use of these areas, we believe that recreation occurs to some extent within this subunit. As a result, stream segments within this subunit may require special management considerations or protection such as relocation of hiking trails or other access limitations in or near sensitive areas and the removal of non-native trout.

Subunit 1E: Day Canyon

Subunit 1E is comprised of 635 ac (257 ha) of Federal lands designated as critical habitat along approximately 6.5 mi (10.4 km) of Day Canyon and two of its tributaries. This historically occupied, but not known to be currently occupied, subunit is located in the San Bernardino National Forest in San Bernardino County, California, ranging from Cucamonga Peak to a gauging station in Canyon Wash near the southern border of San Bernardino National Forest. The terrain is steep and characterized by extensive rock/boulder fields and limited soil development (USFS 2002). Mountain yellow-legged frogs were first observed in Day Canyon in 1959 (Los Angeles County Museum 2006), more recently in 1994, and later in the late 1990s (Myers and Wilcox 1999). Surveys in portions of Day Canyon in 1997, 1998, 1999, 2001, and 2004 failed to detect frogs, but found rainbow trout (Backlin *et al.* 2004). Although surveyed during drought years, small mountain yellow-legged frog populations, and incomplete survey efforts of the entire stream may have contributed to the surveyor's inability to detect frogs.

This subunit is essential for the conservation of the mountain yellow-legged frog because it has potential for occupancy as it was historically occupied within the past 15 years, and because habitat quality during that time has not significantly changed. The subunit contains the following features essential to the conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2).

Subunit 1F: San Gabriel River, East Fork, Iron Fork

Subunit 1F is comprised of 373 ac (151 ha) of Federal lands along approximately 3.8 mi (6.1 km) of two streams that drain into the San Gabriel East Fork, the Iron Fork, and the South Fork of Iron Fork. This historically occupied, but not known to be currently occupied, subunit is located in the Angeles National Forest in Los Angeles County, California. This subunit historically contained healthy populations of dozens of individuals from at least 1947 through 1975, and in 1994 (Ford 1975; Jennings 1994). Since then, the difficult access and steep terrain restricted survey efforts only to 2001 (Backlin *et al.* 2002). The 2001 survey was able to determine that there is suitable habitat for the mountain yellow-legged frog in this area (A. Backlin, USGS, pers. comm. 2006).

This subunit is essential for the conservation of the mountain yellow-legged frog because it may constitute an important pathway between frog populations in the East Fork of the San Gabriel River (Subunit 1A) and Big Rock Creek (Subunit 1B), as well as serving as a refuge for frogs from trout predation due to its inaccessibility and steepness. Since mountain yellow-legged frogs can be difficult to detect, especially in low rainfall years, it is possible that frogs still occur in this area, particularly in the upper reaches where surveys have not been recently conducted (A. Backlin, USGS, pers. comm. 2006). This subunit also contains the following features essential to the conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). This subunit has been identified as a potential site for future mountain yellow-legged frog reintroduction because of its remoteness, high potential for recolonization through natural means by dispersal from nearby populations, and PCEs to support populations.

Subunit 1G: Bear Creek

Subunit 1G is comprised of 116 ac (47 ha) of Federal lands along approximately 1.2 mi (2 km) of the upper reaches of Bear Creek, a tributary of the West Fork of the San Gabriel River. This historically occupied, but not known to be currently occupied, subunit is located in the San Gabriel Wilderness Area of the Angeles National Forest in Los Angeles County, California. Mountain yellow-legged frogs were first observed in the Bear Creek area in 1959 (Schoenherr 1976), but two more recent surveys since have failed to detect frogs (Jennings 1993; Backlin *et al.* 2003). It is possible that this subunit harbors unknown populations since it has not been surveyed very intensively in recent years and is located less than a mile east of an extant population in Devil's Canyon (Subunit 1D).

This subunit is essential for the conservation of the mountain yellow-legged frog because it is relatively close to an extant population in Devil's Canyon (Subunit 1D) and contains the following features essential to the

conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). This subunit has been identified as a potential site for future mountain yellow-legged frog reintroduction because of its remoteness, high potential for recolonization through natural means by dispersal from nearby populations, and PCEs to support populations.

Critical Habitat Unit 2: San Bernardino Mountains Unit

Unit 2 is located in the San Bernardino Mountains within the boundaries the San Bernardino National Forest in San Bernardino County, California. This unit is comprised of three subunits (2A, 2B, and 2C), including one subunit (2A) that was known to be occupied at the time of listing and is currently occupied and two subunits (2B and 2C) that are not known to be currently occupied but were historically occupied.

Subunit 2A: City Creek, East and West Forks

Subunit 2A is comprised of 1,267 ac (513 ha) of Federal lands and 119 ac (48 ha) of private lands along approximately 15.1 mi (24.3 km) of both the West and East Forks of City Creek. This currently occupied subunit is located within the San Bernardino National Forest in San Bernardino County, California, where recreational pressure is very low. Between 2002 and 2003, the breeding population of mountain yellow-legged frog in City Creek, East Fork was estimated to be 50 adults (95% confidence interval = 22–127; Backlin *et al.* 2004), at that time, representing one of the largest of the known populations of mountain yellow-legged frog in southern California. The City Creek, West Fork has been surveyed less frequently than City Creek, East Fork, but both adults and tadpoles have been observed at or near the confluence of the two streams and below the confluence of the streams (CDFG 1999, 2001; Myers and Wilcox 1999).

In October 2003, the Old Fire burned the front range of the San Bernardino National Forest and killed most of the riparian vegetation in City Creek. During the following December, subsequent run-off and scouring of the stream channel from winter storms decimated many areas that contained mountain yellow-legged frog habitat by removing most of the sediment and any vegetation (alive or dead) from many stretches of the creek where frogs had previously been recorded (Backlin *et al.* 2004). In hopes of protecting this population from future flooding events and further habitat loss, 11 surviving juvenile frogs were removed from the East Fork and originally taken to the Los Angeles Zoo's captive rearing facility in 2004 by personnel from several agencies, including the Service. Only seven of these frogs survived captivity and were later taken to the San Diego Zoo's Wild Animal Park. These frogs have since died at the Wild Animal Park. Details on the causes of their death are currently under investigation. In September of 2005, mountain yellow-legged frogs demonstrated some resiliency to the recent major flooding events when wild frog metamorphs were rediscovered in City Creek, East Fork below the Highway 330 bridge and above the confluence (Backlin and Hitchcock *in litt.* 2005).

As a result of the 2003 fire and the 2005 floods, parts of City Creek, East Fork may not currently contain all of the PCEs since hydrologists expected that sediments (PCE 1) may have been scoured and transported downstream. However, the portion of the creek north of Highway 330 contained many pools (PCE 1) and the riparian habitat (PCE 2) seemed intact, although the banks themselves were rocky and now lack soil substrate (Dr. E. Pierce, pers. obs. 2004). Therefore, at least in the northern portion of this creek, at least one or more of the primary constituent elements still exist. Over time, it is expected that natural processes will restore the habitat throughout the designated area (*i.e.*, the bank substrates and vegetation cover) and this subunit will again support the PCEs.

Subunit 2A currently contains water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and in the future may contain riparian habitat and upland vegetation for foraging and movement activities (PCE 2). Subunit 2A is essential to the conservation of the species because we expect the PCEs to be naturally restored and because: (1) The habitat previously supported a large adult population; and (2) this population was one of only two known occurrences in the San Bernardino Mountains. Threats to the species and its habitat that may require special management of the PCEs within this subunit include the presence of non-native trout, potentially high fuel loads, and the potential for hazardous spills along Highway 330 (USFS 2002). Non-native brown trout were stocked 11 times between 1949 and 1979 (Backlin *et al.* 2004). Threats also include temporary habitat alteration resulting from flood and fire events. Stream segments in this subunit may require special management considerations or protection such as removal of non-native trout species, restoration of habitat altered during recent fires and floods, the development of an action plan for prevention, notification, and containment of spills before they enter the stream or its tributaries, and management of riparian vegetation in areas of high canopy cover or dense vegetation.

Subunit 2B: Barton Creek East Fork

Subunit 2B is comprised of 193 ac (78 ha) of Federal lands along approximately 2 mi (3.1 km) of the East Fork of Barton Creek. This historically occupied, but not known to be currently occupied, subunit contains a portion of the East Fork of Barton Creek that drains from the north-facing slope of the San Bernardino Mountain Wilderness area, off Shields Peak, and joins with Frog Creek to form the main stem of Barton Creek in the San Bernardino Mountains within the San Bernardino National Forest in San Bernardino County, California. Mountain yellow-legged frogs were first documented in Barton Creek in 1910 (Museum of Vertebrate Zoology 2006). Frogs were not documented again until 1993 (a year with significant precipitation), when approximately 50 adults were observed in this creek (CNDDB 2006).

This subunit is essential for the conservation of the mountain yellow-legged frog because it has a potential for occupancy due to having been recently occupied within the past 15 years, has not had a significant change in habitat quality during that time, and contains the following features essential to the conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2).

Subunit 2C: Whitewater River, North Fork

Subunit 2C is comprised of 74 ac (30 ha) of Federal lands along approximately 0.8 mi (1.2 km) of the Whitewater River. This historically occupied, but not known to be currently occupied, subunit is located in the San Bernardino Wilderness area in the San Bernardino National Forest in San Bernardino County, California. Mountain yellow-legged frogs were first collected on the desert slope between Cabezon and the Whitewater River in 1908 (Museum of Vertebrate Zoology 2006), and additional surveys discovered mountain yellow-legged

frogs in Whitewater River in 1959 (Los Angeles County Museum 2006). Recent surveys in the lower reaches of the Whitewater River in 2001 and 2003, north of the I–10 highway, were unsuccessful in detecting frogs once again. However, due to the difficult access, the upper reaches of the North Fork of the Whitewater River containing PCEs have not been thoroughly surveyed.

This subunit is essential for the conservation of the mountain yellow-legged frog because it contains the following features essential to the conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). This subunit has been identified as a potential site for future mountain yellow-legged frog reintroductions because of its remoteness and the presence of PCEs to support mountain yellow-legged frog populations.

Critical Habitat Unit 3: San Jacinto Mountains Unit

Unit 3 is located in the San Jacinto Mountains in the San Bernardino National Forest, Riverside County, California. This unit is comprised of four subunits (3A, 3B, 3C, and 3D), including one subunit (3A) that was known to be occupied at the time of listing and is currently occupied and three subunits (3B, 3C, 3D) that were historically occupied but are not known to be currently occupied.

Subunit 3A: San Jacinto River, North Fork

Subunit 3A is comprised of 823 ac (333 ha) of Federal lands and 96 ac (39 ha) of State lands along approximately 9 mi (14.5 km) of several stream reaches in the upper section of the North Fork of the San Jacinto River and its tributaries, including Black Mountain Creek, Fuller Mill Creek, and Dark Canyon, within the San Bernardino National Forest in Riverside County, California. In 2003, USGS estimated that there were from 9–13 adult mountain yellow-legged frogs in Fuller Mill Creek, which accounted for approximately 5–7 percent of the total estimated adult population (183 individuals) in southern California (Backlin *et al.* 2004). USGS also estimated that there were 11 adults, 54 juveniles, and 18 first-year larvae in Dark Canyon, which accounted for a large proportion (42 percent) of the total estimated juvenile population in southern California (128 individuals) (Backlin *et al.* 2004). However, Dark Canyon and its upper reaches have not been surveyed as extensively as some of the other occupied streams (*i.e.* it was surveyed only once in 2003) because of its difficult access (Backlin *et al.* 2004). Both Fuller Mill Creek and Dark Canyon represent the most important sources of reproductive potential for this species in the San Jacinto Mountains. Adult mountain yellow-legged frogs were discovered in Black Mountain Creek north of Highway 243 in 1990 (CNDDB 2006). These populations in the San Jacinto Mountains are the southernmost extant populations of the mountain yellow-legged frog. We are excluding approximately 433 ac (175 ha) of non-Federal lands along 4.6 mi (7.4 km) of discontinuous stream reaches in the upper section of the North Fork of the San Jacinto River and its tributaries, including Black Mountain Creek, Fuller Mill Creek, and Dark Canyon from the final designation (*see Exclusion Under Section 4(b)(2) of the Act* for a detailed discussion).

Subunit 3A contains the following features essential to the conservation of the mountain yellow-legged frog: Water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). Threats to the species and its habitat that may require special management of the PCEs in this subunit include the presence of non-native trout, human recreation, and potentially high fuel loads (USFS 2002). The North Fork San Jacinto River was stocked with non-native trout 36 times between 1948 and 1984 (Backlin *et al.* 2004). Stream segments within this subunit may require special management considerations or protection such as removal of non-native trout species; rerouting or reconstruction of hiking trails or some recreational facilities located adjacent to occupied creeks; installation of signage at trailheads and along access points to promote understanding of the species' biology and habitat requirements; and management of riparian vegetation in areas of high canopy cover or dense vegetation.

Subunit 3B: Indian Creek at Hall Canyon

Subunit 3B is comprised of 126 ac (51 ha) of Federal lands along approximately 1.2 mi (1.9 km) of Indian Creek at Hall Canyon. This historically occupied, but not known to be currently occupied, subunit occurs within the San Bernardino National Forest in Riverside County, California. Mountain yellow-legged frogs were first observed in this area in 1908 near Lake Fulmor (Museum of Vertebrate Zoology 2006), and since then, frogs were observed in 1927 (California Academy of Sciences 2006), in the 1950s (Los Angeles County Museum 2006), and again in 1995 (CNDDB 2006). Although surveys have not been conducted in this subunit during the 2000s, frogs may have been difficult to detect because water levels in streams have been very low due to drought conditions, their presumed population size is very small, and not all stream lengths were surveyed during the last survey effort. Approximately 54 ac (22 ha) of non-Federal lands along 0.5 mi (0.9 km) of Indian Creek at Hall Canyon has been excluded from the final designation (*see Exclusion Under Section 4(b)(2) of the Act* for a detailed discussion).

This subunit is essential for the conservation of the mountain yellow-legged frog because it has a potential for occupancy due to having been recently occupied within the past 15 years, has not had a significant change in habitat quality during that time, and contains the following features essential to the conservation of the mountain yellow-legged frog: Water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2).

Subunit 3C: Tahquitz Creek

Subunit 3C is comprised of 243 ac (98 ha) of Federal lands and 115 ac (47 ha) of State lands along approximately 2.2 mi (5.2 km) of the upper reaches of Tahquitz Creek and a disjunct portion of the Willow Creek tributary. This historically occupied, but not known to be currently occupied, subunit occurs in the San Jacinto Wilderness within the San Bernardino National Forest and the Mount San Jacinto State Park in Riverside County, California. Mountain yellow-legged frogs were documented in this stream as early as 1957, again in 1967, and in 1972 (Los Angeles County Museum 2006). Surveys of this stream have been infrequent in recent years, due to its extensive length and ruggedness; the upper and lower reaches, but not the mid-sections, have been surveyed four times during the 2000s. Brown trout were found during recent surveys, and records show that the river was stocked with non-native trout 36 times between 1948 and 1984 (Backlin *et al.* 2004).

This subunit is essential for the conservation of the mountain yellow-legged frog because it is relatively close (approximately 2 mi (3.2 km)) to an extant population in the North Fork of the San Jacinto River (subunit 3A) and

contains the following features essential to the conservation of the mountain yellow-legged frog: Water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). This subunit has been identified as a potential site for future mountain yellow-legged frog reintroductions because of its remoteness and the presence of PCEs to support mountain yellow-legged frog populations.

Subunit 3D: Andreas Creek

Subunit 3D is comprised of 109 ac (44 ha) of Federal lands along approximately 1.2 mi (1.9 km) of the upper reaches of Andreas Creek. This historically occupied, but not known to be currently occupied, subunit occurs in the San Jacinto Wilderness within the San Bernardino National Forest in Riverside County, California. Mountain yellow-legged frogs were documented as early as 1912 (California Academy of Sciences 2006), again in 1941 (Museum of Vertebrate Zoology 2006), and in 1978 (Los Angeles County Museum 2006), and were thought to persist there as late as 1994 (Jennings and Hayes 1994b).

This subunit is essential for the conservation of the mountain yellow-legged frog because it is relatively close (approximately 4 mi (6.4 km)) to an extant population in the North Fork of the San Jacinto River (subunit 3A) and contains the following features essential to the conservation of the mountain yellow-legged frog: water sources, such as streams and pools, for breeding and non-breeding activities (PCE 1) and riparian habitat and upland vegetation for foraging and movement activities (PCE 2). This subunit has been identified as a potential site for future mountain yellow-legged frog reintroductions because of its remoteness and presence of PCEs to support mountain yellow-legged frog populations.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' However, recent decisions by the 5th and 9th Circuit Court of Appeals have invalidated this definition (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir 2001)). Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only. However, once a proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action as a result of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report, while the results of a formal conference are typically transmitted in a conference opinion. Conference opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the conference opinion as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). As noted above, any conservation recommendations in a conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that may affect, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. ''Reasonable and prudent alternatives'' are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid jeopardy to the listed species or destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with

implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the mountain yellow-legged frog or its designated critical habitat will require section 7 consultation under the Act. Activities on State, tribal, local or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local or private lands that are not federally-funded, authorized, or permitted, do not require section 7 consultations.

On September 15, 2005, we issued a biological opinion on the Forest Plan for the four southern California national forests. At issue were the effects of the Forest Plan on federally-listed species, including the mountain yellow-legged frog. The goal of the Forest Plan is to describe a strategic direction for the management of the national forests over the next 10 to 15 years. The Forest Plan also divides the National Forests into several ''Land Use Zones,'' including Developed Area Interface, Back Country, Back Country Motorized Use Restricted, Back Country Non-Motorized, Critical Biological, Recommended Wilderness, Existing Wilderness, and Experimental Forest. The land use zones were designed to describe the type of public use or administrative activities allowable. The Forest Plan does not make any decisions regarding USFS site-specific project proposals for implementing the land management plans, nor does it compel managers to implement any specific activity. Overall, the Forest Plan provides general guidance that can either benefit or remain neutral to the mountain yellow-legged frog. Future activities and projects will still receive site-specific environmental review and section 7 consultation.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to the Mountain Yellow-Legged Frog and Its Critical Habitat

Jeopardy Standard

Prior to and following designation of critical habitat, the Service has applied an analytical framework for the mountain yellow-legged frog jeopardy analyses that relies heavily on the importance of core area populations to the survival and recovery of the mountain yellow-legged frog. The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the mountain yellow-legged frog in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area population(s), inclusive of associated habitat conditions, a jeopardy finding is considered to be warranted, because of the relationship of each core area population to the survival and recovery of the species as a whole.

Adverse Modification Standard

The analytical framework described in the Director's December 9, 2004, memorandum is used to complete section 7(a)(2) analyses for Federal actions affecting mountain yellow-legged frog critical habitat. The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of mountain yellow-legged frog critical habitat units is to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species.

Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of critical habitat for the mountain yellow-legged frog is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for the mountain yellow-legged frog include, but are not limited to:

(1) Actions that would alter or reduce water flow in streams. Such activities could include, but are not limited to: Water diversion, recreational activities, water withdrawal, and hydropower generation. These activities could eliminate or reduce the habitat features needed for the growth and reproduction of the mountain yellow-legged frog by decreasing water flows to levels that would adversely affect the species' ability to complete its life cycle.

(2) Actions that would significantly increase sediment deposition within the stream channel. Such activities could include, but are not limited to: Livestock grazing, road construction, channel alteration, recreational mining, timber harvest, off-road vehicle use, and fire-fighting activities. These activities could eliminate or reduce the habitat features needed for the growth and reproduction of the mountain yellow-legged frog by increasing the sediment deposition to levels that would adversely affect the species' ability to complete its life cycle.

(3) Actions that would increase canopy cover. Such activities could include, but are not limited to: Protection of unnaturally dense riparian vegetation and construction of bridges. These activities could eliminate or reduce the habitat features needed for the growth of the mountain yellow-legged frog by decreasing the amount of basking sites necessary for the frogs to meet their thermoregulation requirements.

We consider all of the units designated as critical habitat, as well as those that have been excluded or not included, to contain features that contribute to the conservation of the mountain yellow-legged frog. Most units are within the geographic range of the species and were occupied by the species at the time of listing (based on observations made within the last 15 years), and are likely to be used by the mountain yellow-legged frog. Some

units are outside of the geographical area occupied by the species at the time the species was listed. Federal agencies already consult with us on activities in areas currently occupied by the mountain yellow-legged frog, or if the species may be affected by the action, to ensure that their actions do not jeopardize the continued existence of the mountain yellow-legged frog. If you have questions regarding whether specific activities may constitute adverse modification of critical habitat, contact the Field Supervisor of the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

Exclusion Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Secretary is afforded broad discretion and the Congressional record is clear that in making a determination under the section the Secretary has discretion as to which factors and how much weight will be given to any factor.

Under section 4(b)(2), in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and determine whether the benefits of exclusion outweigh the benefits of inclusion. If an exclusion is contemplated, then we must determine whether excluding the area would result in the extinction of the species. In the following sections, we address a number of general issues that are relevant to the exclusions we considered.

General Principles of Section 7 Consultations Used in the 4(b)(2) Balancing Process

In our critical habitat designations, we use the provision outlined in section 4(b)(2) of the Act to evaluate those specific areas that we formally designated as critical habitat. We have determined that non-Federal lands within the planning area of the Western Riverside County Multiple Species Habitat Conservation Plan are excluded under section 4(b)(2) of the Act. A detailed analysis of our use of these provisions is provided in the following paragraphs.

The most direct, and potentially largest, regulatory benefit of critical habitat is that federally authorized, funded, or carried out activities require consultation under section 7 of the Act to ensure that they are not likely to destroy or adversely modify critical habitat. There are two limitations to this regulatory effect. First, it only applies where there is a Federal nexus—if there is no Federal nexus, designation itself does not restrict actions that destroy or adversely modify critical habitat. Second, it only limits destruction or adverse modification. By its nature, the prohibition on adverse modification is designed to ensure those areas that contain the physical and biological features essential to the conservation of the species or unoccupied areas that are essential to the conservation of the species are not eroded. Critical habitat designation alone, however, does not require specific steps toward recovery.

Once consultation under section 7 of the Act is triggered, the process may conclude informally when the Service concurs in writing that the proposed Federal action is not likely to adversely affect the listed species or its critical habitat. However, if the Service determines through informal consultation that adverse impacts are likely to occur, then formal consultation would be initiated. Formal consultation concludes with a biological opinion issued by the Service on whether the proposed Federal action is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat, with separate analyses being made under both the jeopardy and the adverse modification standards. For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not contain any mandatory reasonable and prudent measures or terms and conditions. Mandatory reasonable and prudent alternatives to the proposed Federal action would only be issued when the biological opinion results in a jeopardy or adverse modification conclusion.

We also note that for 30 years prior to the Ninth Circuit Court's decision in *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F.3d 1059 (9th Cir 2004) (hereinafter *Gifford Pinchot*), the Service equated the jeopardy standard with the standard for destruction or adverse modification of critical habitat. In that decision, the Court ruled that the Service could no longer equate the two standards and that adverse modification evaluations require consideration of impacts on the recovery of species. Thus, under the *Gifford Pinchot* decision, critical habitat designations may provide greater benefits to the recovery of a species. However, we believe the conservation achieved through implementing habitat conservation plans (HCPs) or other habitat management plans is typically greater than would be achieved through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. Management plans commit resources to implement long-term management and protection to particular habitat for at least one and possibly other listed or sensitive species. Section 7 consultations only commit Federal agencies to prevent adverse modification to critical habitat caused by the particular project, and they are not committed to provide conservation or long-term benefits to areas not affected by the proposed project. Thus, any HCP or management plan which considers enhancement or recovery as the management standard will always provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision.

Educational Benefits of Critical Habitat

A benefit of including lands in critical habitat is that the designation of critical habitat serves to educate landowners, State and local governments, and the public regarding the potential conservation value of an area. This helps focus and promote conservation efforts by other parties by clearly delineating areas of high conservation value for the mountain yellow-legged frog. In general the educational benefit of a critical habitat designation always exists, although in some cases it may be redundant with other educational effects. For example, HCPs have significant public input and may largely duplicate the educational benefit of a critical habitat designation. This benefit is closely related to a second, more indirect benefit: That designation of critical habitat informs State agencies and local governments about areas that could be conserved under State laws or local ordinances.

However, we believe that there would be little additional informational benefit gained from the designation of critical

habitat for the exclusions we are making in this rule because these areas are described in this rule as having habitat containing the features essential to the conservation of the species. Consequently, we believe that the informational benefits are already provided even though these areas are not designated as critical habitat. Informing State agencies and local governments about areas that would benefit from protection and enhancement of habitat for the mountain yellow-legged frog is already well established among State and local governments and Federal agencies, as a result of the proposed critical habitat rule.

Conservation Partnerships on Non-Federal Lands

Most federally listed species in the United States will not recover without the cooperation of non-federal landowners. More than 60 percent of the United States is privately owned (National Wilderness Institute 1995) and at least 80 percent of endangered or threatened species occur either partially or solely on private lands (Crouse *et al.* 2002). Stein *et al.* (1995) found that only about 12 percent of listed species were found almost exclusively on Federal lands (*i.e.,* 90–100 percent of their known occurrences restricted to Federal lands) and that 50 percent of federally listed species are not known to occur on Federal lands at all.

Given the distribution of listed species with respect to land ownership, conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-federal landowners (Wilcove and Chen 1998; Crouse *et al.* 2002; James 2002). Building partnerships and promoting voluntary cooperation of landowners is essential to understanding the status of species on non-federal lands and is necessary to implement recovery actions such as reintroducing listed species, habitat restoration, and habitat protection.

Many non-Federal landowners derive satisfaction from contributing to endangered species recovery. The Service promotes these private-sector efforts through the Four Cs philosophy—conservation through communication, consultation, and cooperation. This philosophy is evident in Service programs such as Habitat Conservation Plans (HCPs), Safe Harbors, Candidate Conservation Agreements, Candidate Conservation Agreements with Assurances, and conservation challenge cost-share. Many private landowners, however, are wary of the possible consequences of encouraging endangered species to their property, and there is mounting evidence that some regulatory actions by the Federal government, while well-intentioned and required by law, can (under certain circumstances) have unintended negative consequences for the conservation of species on private lands (Wilcove *et al.* 1996; Bean 2002; Conner and Mathews 2002; James 2002; Koch 2002; Brook *et al.* 2003). Many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. Consequently, harboring endangered species is viewed by many landowners as a liability, resulting in anti-conservation incentives because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003).

The purpose of designating critical habitat is to contribute to the conservation of threatened and endangered species and the ecosystems upon which they depend. The outcome of the designation, triggering regulatory requirements for actions funded, authorized, or carried out by Federal agencies under section 7 of the Act, can sometimes be counterproductive to its intended purpose on non-Federal lands. According to some researchers, the designation of critical habitat on private lands significantly reduces the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). The magnitude of this negative outcome is greatly amplified in situations where active management measures (*e.g.,* reintroduction, fire management, control of invasive species) are necessary for species conservation (Bean 2002).

We believe that the judicious use of excluding specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone. For example, less than 17 percent of Hawaii is federally owned, but the State is home to more than 24 percent of all federally listed species, most of which will not recover without State and private landowner cooperation. On the island of Lanai, Castle and Cooke Resorts, LLC, which owns 99 percent of the island, entered into a conservation agreement with the Service. The conservation agreement provides conservation benefits to target species through management actions that remove threats (*e.g.*, axis deer, mouflon sheep, rats, invasive nonnative plants) from the Lanaihale and East Lanai Regions. Specific management actions include fire control measures, nursery propagation of native flora (including the target species), and planting of such flora. These actions will significantly improve the habitat for all currently occurring species. Due to the low likelihood of a Federal nexus on the island, we believe that the benefits of excluding the lands covered by the Memorandum of Agreement exceeded the benefits of including them. As stated in the final critical habitat rule for endangered plants on the Island of Lanai:

> On Lanai, simply preventing ''harmful activities'' will not slow the extinction of listed plant species. Where consistent with the discretion provided by the Act, the Service believes it is necessary to implement policies that provide positive incentives to private landowners to voluntarily conserve natural resources and that remove or reduce disincentives to conservation. While the impact of providing these incentives may be modest in economic terms, they can be significant in terms of conservation benefits that can stem from the cooperation of the landowner. The continued participation of Castle and Cooke Resorts, LLC, in the existing Lanai Forest and Watershed Partnership and other voluntary conservation agreements will greatly enhance the Service's ability to further the recovery of these endangered plants.

Cooperative conservation is the foundation of the Service's actions to protect species, and the Service has many tools by which it can encourage and implement partnerships for conservation. These tools include conservation grants, funding for Partners for Fish and Wildlife Program, the Coastal Program, and cooperative-conservation challenge cost-share grants. Our Private Stewardship Grant Program and Landowner Incentive Program provide assistance to private landowners in their voluntary efforts to protect threatened, imperiled, and endangered species, including the development and implementation of Habitat Conservation Plans.

Conservation agreements with non-Federal landowners (*e.g.,* Habitat Conservation Plans (HCPs), contractual conservation agreements, easements, and stakeholder-negotiated State regulations) enhance species conservation by extending species protections beyond those available through section 7 consultations. In the past decade we have encouraged non-Federal landowners to enter into conservation agreements, based on a view that we can achieve greater species conservation on non-Federal land through such partnerships than we can

through coercive methods (61 FR 63854; December 2, 1996).

Benefits of Excluding Lands With HCPs or Other Approved Management Plans From Critical Habitat

The benefits of excluding lands with HCPs or other approved management plans from critical habitat designation include relieving landowners, communities, and counties of any additional regulatory burden that might be imposed by a critical habitat designation. Most HCPs and other conservation plans take many years to develop and, upon completion, are consistent with the recovery objectives for listed species that are covered within the plan area. In addition, many conservation plans provide conservation benefits to unlisted sensitive species. In fact, designating critical habitat in areas covered by a pending HCP or conservation plan could result in the loss of some species' benefits if participants abandon the planning process. The time and cost of regulatory compliance for a critical habitat designation do not have to be quantified for the designation to be perceived as additional Federal regulatory burden sufficient to discourage continued participation in plans targeting listed species' conservation.

Imposing an additional regulatory review as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas. Designation of critical habitat within the boundaries of management plans that provide conservation measures for a species could be viewed as a disincentive to those entities currently developing these plans or contemplating them in the future, because one of the incentives for undertaking conservation is greater ease of permitting where listed species are affected. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning.

A related benefit of excluding lands within management plans from critical habitat designation is the unhindered, continued ability to seek new partnerships with future plan participants including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within approved management plan areas are designated as critical habitat, it would likely have a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and habitats. By preemptively excluding these lands, we preserve our current partnerships and encourage additional conservation actions in the future.

Furthermore, an HCP or NCCP/HCP application must itself be consulted upon. Such a consultation would review the effects of all activities covered by the HCP which might adversely impact the species under a jeopardy standard, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3), even without the critical habitat designation. In addition, Federal actions not covered by the HCP in areas occupied by listed species would still require consultation under section 7 of the Act and would be reviewed for possibly significant habitat modification in accordance with the definition of harm referenced above.

The information provided in this section applies to all the discussions below that discuss the benefits of inclusion and exclusion of critical habitat.

Relationship of Critical Habitat to Approved Habitat Conservation Plans (HCPs)—Exclusion Under Section 4(b)(2) of the Act

Western Riverside County Multiple Species Habitat Conservation Plan

The Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) is a large-scale, multi-jurisdictional habitat conservation plan (HCP) that addresses 146 listed and unlisted ''Covered Species,'' including the mountain yellow-legged frog, within the 1.26-million ac (510,000 ha) Plan Area in western Riverside County. Participants in the MSHCP include 14 cities in western Riverside County; the County of Riverside, including the Riverside County Flood Control and Water Conservation Agency, Riverside County Transportation Commission, Riverside County Parks and Open Space District, and Riverside County Waste Department; California Department of Parks and Recreation; and the California Department of Transportation (Caltrans). The MSHCP was designed to establish a multi-species conservation program that minimizes and mitigates the expected loss of habitat and the incidental take of Covered Species. On June 22, 2004, the Service issued a single incidental take permit under section 10(a)(1)(B) of the Act to 22 Permittees under the MSHCP for a period of 75 years. The Service granted the participating jurisdictions ''take authorization'' of listed species in exchange for their contribution to the assembly and management of the MSHCP Conservation Area.

In forming the 500,000 ac (202,343 ha) MSHCP Conservation Area, the MSHCP will establish approximately 153,000 ac (61,916 ha) of new conservation lands (Additional Reserve Lands) to complement the approximate 347,000 ac (140,426 ha) of existing natural and open space areas (*e.g.*, State Parks, USFS, and County Park lands known as Public/Quasi-Public (PQP) Lands). The precise configuration of the 153,000 ac (61,916 ha) Additional Reserve Lands is not mapped or precisely identified in the MSHCP but rather is based on textual descriptions within the boundaries of a 310,000-ac (125,453-ha) Criteria Area that is interpreted as implementation of the MSHCP proceeds. Subunits 3A and 3B are located entirely within the MSHCP Plan Area and are comprised of USFS, State Park, County of Riverside, and private lands. The USFS, State Park, and County of Riverside lands within these subunits are considered PQP lands under the MSHCP and as such are included within the overall MSHCP Conservation Area. As Permittees under the MSHCP, the County of Riverside and the California Department of Parks and Recreation have committed to manage their existing open-space lands in concert with the goals of the MSHCP. Thus, the State Park and County of Riverside lands within Subunits 3A and 3B will be managed consistent with conservation goals for the mountain yellow-legged frog.

The private lands within these subunits are not designated as PQP lands or located within the Criteria Area and, thus, are not specifically identified under the plan for inclusion within the MSHCP Conservation Area. Nonetheless, for areas potentially important to the mountain yellow-legged frog that are located outside of the Criteria Area or are not identified as PQP lands, the MSHCP includes special surveys and procedures to further address the conservation of this species in the plan area (Additional Survey Needs and Procedures; Section 6.3.2 of the MSHCP). The plan requires surveys for the mountain yellow-legged frog as part of the review process for public and private projects where suitable habitat is present within a ''Mountain Yellow-Legged Frog Amphibian Survey Area'' (referred to here as Survey Area; Figure 6–3 of the MSHCP, Volume I). These surveys are required until the Additional Reserve Lands are assembled and conservation objectives for the mountain yellow-legged frog are met. If populations of mountain yellow-legged frog are detected by these surveys and

the conservation objectives for the species have not been met, the MSHCP calls for avoidance of impacts to 90 percent of the project site's suitable habitat with long-term conservation value for this species.

Conservation objectives for the mountain yellow-legged frog in the MSHCP include: Conserving primary breeding habitat, secondary wooded habitat, and Core Areas within the San Jacinto Mountains; conducting surveys for this species as part of the MSHCP project review process within the amphibian species survey area; conserving mountain yellow-legged frog localities identified by these survey efforts; and, within the MSHCP Conservation Area, maintaining and, if feasible, restoring ecological processes within occupied habitat and suitable new areas within the Criteria Area and maintaining and monitoring successful reproduction of the species (Riverside County Integrated Project (RCIP) Volume I, Section 9, Table 9–2, pp. 9–37 and 9–38).

Conservation of the mountain yellow-legged frog under the MSHCP is also addressed through implementation of the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools procedures (RCIP, Volume I, Section 6.1.2, pp. 6–19—6–25). These procedures recognize the importance of protecting riparian/riverine areas and vernal pools to the overall conservation of aquatic and wetland-dependent species covered by the Plan. The overall purpose of the procedures is to ensure that the biological functions and values of riparian/riverine and vernal pool areas throughout the MSHCP Plan Area are maintained such that the habitat values for the species inside the MSHCP Conservation Area are also maintained. As projects are proposed within the Plan Area, an assessment of the potentially significant effects of those projects on riparian/riverine areas and vernal pools is performed. The documentation for the assessment includes mapping and a description of the functions and values of the mapped areas with respect to the riparian/riverine areas and vernal pools species, including the mountain yellow-legged frog. This assessment is used to identify aquatic resources such as riparian/riverine areas and vernal pools that may be acquired for inclusion in the MSHCP Conservation Area. If an avoidance alternative is not feasible and mapping identifies suitable habitat for the species covered by these procedures, surveys followed by avoidance and minimization measures are required in accordance with the species-specific objectives for those species.

We are excluding approximately 487 ac (197 ha) of non-Federal lands from critical habitat in subunits 3A and 3B within the MSHCP Plan Area under section 4(b)(2) of the Act. These non-Federal lands are comprised of portions of the Mount San Jacinto State Park owned by the California Department of Parks and Recreation (approximately 205 ac (83 ha)), private lands along Fuller Mill Creek (approximately 141 ac (57 ha)), lands owned by the County of Riverside Regional Parks and Open Space District at the confluence of Fuller Mill Creek and Dark Canyon (approximately 87 ac (35 ha)), and lands owned by the University of California at the James San Jacinto Mountains Reserve (approximately 54 ac (22 ha)) along Indian Creek at Hall Canyon. The State Parks and County Park lands will be managed consistent with the conservation goals for the mountain yellow-legged frog under the MSHCP. In addition, all of these lands are within the MSHCP's Survey Area and will receive conservation benefits under the Additional Survey Needs and Procedures policy. Federal lands managed by the USFS are an integral part of the conservation strategy of the MSHCP. However, USFS is not a permittee under the section 10(a)(1)(B) permit for the MSHCP, and therefore, we are designating critical habitat on their lands in subunits 3A and 3B within the MSHCP Plan Area.

Benefits of Exclusion Outweigh the Benefits of Inclusion

We expect the MSHCP to provide substantial protection of the PCEs and special management of essential habitat features for the mountain yellow-legged frog on MSHCP conservation lands. We expect the MSHCP to provide a greater level of management for the mountain yellow-legged frog on private lands than would designation of critical habitat on private lands. Moreover, inclusion of these non-Federal lands as critical habitat would not necessitate additional management and conservation activities that would exceed the approved MSHCP and its implementing agreement. As a result, we do not anticipate any action on these lands would destroy or adversely modify the areas designated as critical habitat. Therefore, we do not expect that including those areas in the final designation would lead to any changes to actions on the conservation lands to avoid destroying or adversely modifying that habitat.

The exclusion of these lands from critical habitat will help preserve the partnerships that we have developed with the local jurisdictions and project proponents in the development of the MSHCP, which provides for mountain yellow-legged frog conservation. The educational benefits of critical habitat, including informing the public of areas important for the long-term conservation of the species, are still accomplished from material provided on our Web site and through public notice-and-comment procedures required to establish the MSHCP. Further, many educational benefits of critical habitat designation will be achieved through the overall designation, and will occur whether or not this particular location is designated. For these reasons, we believe that designating critical habitat has little benefit in areas covered by the MSHCP.

We have reviewed and evaluated benefits of inclusion and exclusion of critical habitat for the mountain yellow-legged frog. Based on this evaluation, we find that the benefits of excluding land in the planning area for the MSHCP outweigh the benefits of including that portion of critical habitat in subunits 3A and 3B as critical habitat.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of 487 ac (197 ha) will result in the extinction of the mountain yellow-legged frog because the MSHCP provides for the conservation of this species and its habitat on currently known occupied areas, as well as areas that may be found to be occupied in the future. Importantly, as we stated in our biological opinion, while some loss of modeled habitat for the mountain yellow-legged frog is anticipated due to implementation of the Plan, we do not anticipate any individual frogs will be taken as a result of our permit issuance for the MSHCP.

Economic Analysis

Section 4(b)(2)of the Act requires us to designate critical habitat on the basis of the best scientific information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusion outweigh the benefits of specifying areas as critical habitat. We cannot exclude areas from critical habitat when exclusion will result in the extinction of the species concerned.

Following the publication of the proposed critical habitat designation, we conducted an economic analysis to estimate the potential economic effect of the designation. The draft analysis was

made available for public review on July 3, 2006 (71 FR 37881). We accepted comments on the draft analysis until July 24, 2006.

The primary purpose of the economic analysis is to estimate the potential economic impacts associated with the designation of critical habitat for the mountain yellow-legged frog. This information is intended to assist the Secretary in making decisions about whether the benefits of excluding particular areas from the designation outweigh the benefits of including those areas in the designation. This economic analysis considers the economic efficiency effects that may result from the designation, including habitat protections that may be co-extensive with the listing of the species. It also addresses distribution of impacts, including an assessment of the potential effects on small entities and the energy industry. This information can be used by the Secretary to assess whether the effects of the designation might unduly burden a particular group or economic sector.

The draft economic analysis considers the potential economic effects of actions relating to the conservation of the mountain yellow-legged frog, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the mountain yellow-legged frog in areas containing features essential to the conservation of this species. The analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the ''opportunity costs'' associated with the commitment of resources to comply with habitat protection measures (*e.g.*, lost economic opportunities associated with restrictions on land use). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this analysis looks retrospectively at costs that have been incurred since the date the species was listed as an endangered species and considers those costs that may occur in the 20 years following the designation of critical habitat.

Mountain yellow-legged frog conservation activities are likely to primarily impact recreation, including trout fishing, hiking, camping, and rock climbing in Angeles and San Bernardino National Forests. In particular, significant uncertainty exists regarding the potential impact to trout fishing. As a result, the analysis applied two methodologies to bound the range of potential costs. The lower-bound estimate assumed that anglers' overall welfare is unaffected, because numerous substitute fishing sites exist. The upper-bound estimate assumed that fishing trips currently taken to streams in essential habitat are lost and not substituted elsewhere. The actual impact will fall between these two bounds. Because the probability distribution of impacts between these bounds is constant, and there is no evidence that suggested the distribution was skewed toward either bound, the average of the two estimates represented the best estimate of trout fishing impacts.

The estimated total future impacts, including costs resulting from modifications to fishing and other types of activity, range from $11.4 million to $12.9 million (undiscounted) over 20 years. Discounted future costs are estimated to be $7.5 million to $8.9 million over this same time period ($704,000 to $842,000 annually) using a real rate of 7 percent, or $9.3 million to $10.8 million ($626,000 to $725,000 annually) using a real rate of 3 percent. In summary, most of the economic impacts were associated with three subunits: Big Rock Creek, South Fork (Subunit 1B), San Jacinto River, North Fork (Subunit 3A), and Little Rock Creek (Subunit 1C).

A copy of the final economic analysis with supporting documents is included in our administrative record and may be obtained by contacting the Carlsbad Fish and Wildlife Office (see **ADDRESSES**) or for downloading from the Internet at *http://www.fws.gov/carlsbad/MYLF_Docs.htm*.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues. However, because the draft economic analysis indicates the potential economic impact associated with a designation of all habitat with features essential to the conservation of this species would total no more than $704,000 to $842,000 annually, applying a 7 percent discount rate, we do not anticipate that this final rule will have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the time line for publication in the **Federal Register**, the Office of Management and Budget (OMB) did not formally review the proposed rule.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*e.g.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In our proposed rule, we withheld our determination of whether this designation would result in a significant effect as defined under SBREFA until we completed our draft economic analysis of the proposed designation so that we would have the factual basis for our determination.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the rule could significantly affect a substantial number of small entities, we considered the

number of small entities affected within particular types of economic activities (*e.g.*, recreational fishing, hiking, rock climbing, and residential development). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation.

Federal agencies must consult with us if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process. Our analysis determined that costs involving conservation measures for the mountain yellow-legged frog would be incurred for activities involving: (1) Recreational trout fishing activities; (2) recreational hiking activities; (3) recreational rock climbing activities; (4) residential development activity; (5) fire management activities; and (6) other activities on Federal lands. Of these six categories, impacts of frog conservation are not anticipated to affect small entities in three of these categories: residential development, fire management, and other activities on Federal lands. As stated in our economic analysis, residential development is unlikely to be impacted by frog conservation activities for several reasons, including the unsuitability of large-scale development of these private lands due to their location in mountainous areas and easy incorporation into building designs of a 50-foot buffer around streams to protect mountain yellow-legged frog habitat. Furthermore, since neither Federal nor State governments are defined as small entities by the Small Business Administration (SBA), the economic impacts borne by the USFS and the California Department of Fish and Game (CDFG) resulting from implementation of mountain yellow-legged frog conservation activities or modifications to activities on Federal lands, including installation of signs and relocation of hiking trails, fire suppression efforts, monitoring recreational mining activity, development of hazardous spills management plans, and surveying and monitoring activities, are not relevant to the screening analysis. Accordingly, the small business analysis focuses on economic impacts to recreational trout fishing and rock climbing activities.

The economic analysis considers two scenarios to estimate the economic impacts on recreational trout fishing activities. Under Scenario 1, future costs are limited to compliance costs associated with installing fish barriers and removing nonnative trout. The directly regulated entities under Scenario 1 include the USFS and CDFG, both of which are large government agencies. As a result, the directly affected entities are not subject to this screening analysis. Under Scenario 2, economic impacts are also estimated for recreational trout anglers whose activities may be interrupted by mountain yellow-legged frog conservation activities resulting in a decrease in the number of trout fishing trips. Scenario 2 concludes that fishing trips may decrease by as much as 6,800 to 8,200 trips per year. The welfare value lost to an angler is $53.28 per trip. Importantly, this per-trip impact represents the nonmarket value to anglers of a fishing experience, not changes in cash flow to local businesses.

If fewer recreational fishing trips occur to areas within critical habitat, local establishments providing services to anglers may be indirectly affected by mountain yellow-legged frog conservation activities. Decreased visitation may reduce the amount of money spent in the region across a variety of industries, including food and beverage stores, food service and drinking places, accommodations, transportation and rental services. To determine the potential regional economic impacts of decreases in recreational fishing trips, this analysis uses regional economic modeling to quantify the dollar value of goods and services produced and employment generated by consumer expenditures. Regional economic modeling accounts for the interconnectedness of industries within a geographic area that not only supply goods and services to consumers, but also to each other. Thus, spending in one economic sector tends to have a larger impact on the regional economy as a whole. This concept is commonly referred to as the ''multiplier'' effect.

In particular, this analysis utilizes a software package called IMPLAN to estimate the total economic effects of the reduction in economic activity in recreational fishing-related industries in the two counties associated with mountain yellow-legged frog conservation activities, Los Angeles and Riverside Counties. Commonly used by State and Federal agencies for policy planning and evaluation purposes, IMPLAN translates estimates of initial trip expenditures (*e.g.*, food, lodging, and gas) into changes in demand for inputs to affected industries. Changes in output and employment are calculated for all industries and then aggregated to determine the regional economic impact of reduced recreational fishing-related expenditures potentially associated with frog conservation activities.

Based on the 2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California, average expenditures per fishing trip are approximately $38 (2005), with the bulk of these expenditures occurring in the food service and gasoline industries. This per-trip estimate of expenditures is combined with the number of fishing trips potentially lost due to frog conservation activities (7,100 to 14,300 trips per year) to estimate total expenditures of $271,000 to $543,000 due to recreational trout fishing in proposed critical habitat areas. According to IMPLAN, these recreational fishing-related expenditures contribute between $471,000 and $943,000 per year to the regional economy. When compared to the total output of the industry sectors directly impacted by these expenditures (*e.g.*, groceries, restaurants, gasoline stations, and lodging) in the regional economy of Los Angeles and Riverside counties (or $29.4 billion), the potential loss generated by a decrease in recreational trout fishing trips is less than one hundredth of a percent. Therefore based on these results, this analysis determines no significant effect on recreational fishing-related industries due to frog conservation activities in Los Angeles and Riverside counties.

The economic analysis also estimates welfare losses to rock climbers as the result of a temporary one-year closure of Williamson Rock, adjacent to Little Rock Creek (Subunit 1C) in Los Angeles County. The analysis concludes that a one-year closure will result in the loss of approximately 10,600 to 14,600 rock climbing trips in 2006. The welfare value lost to a climber is $95.20 per trip. Importantly, this per-trip impact represents the nonmarket value to climbers of a climbing experience, not changes in cash flow to local businesses.

As for recreational fishing trips, if fewer rock climbing trips occur to areas within proposed critical habitat, local establishments providing services to rock climbers may be indirectly affected by frog conservation activities. Decreased visitation may reduce the amount of money spent in the region across a variety of industries, including food and beverage stores, food service

and drinking places, and gas and transportation services.

To determine the potential regional economic impacts of decreases in rock climbing trips, this analysis uses IMPLAN to quantify the dollar value of goods and services produced and employment generated by consumer expenditures.

Ideally, this analysis would develop and use a per-trip estimate of expenditures for rock climbing based on the existing economics literature. However, no such data is available for rock climbing activities. In the absence of this information, and in order to understand the magnitude of the potential impacts, this analysis uses the average expenditures of approximately $26.23 per trip reported by the 2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California for fishing, hunting and wildlife-associated recreation. This per-trip estimate of expenditures is then combined with the number of rock climbing trips potentially lost due to frog conservation activities (a one-year loss of 10,600 to 14,600 trips per year) to estimate total expenditures of $278,000 to $382,000 due to rock climbing in proposed critical habitat areas. According to IMPLAN, these rock climbing-related expenditures contribute between $480,000 and $660,000 per year to the regional economy. When compared to the total output of the industry sectors directly impacted by these expenditures (*e.g.*, groceries, restaurants and gasoline stations) in the regional economy of Los Angeles County (or $21.6 billion), the potential loss generated by a decrease in rock climbing trips is less than one hundredth of a percent. Therefore based on these results, this analysis determines no significant effect on rock climbing-related industries due to frog conservation activities in Los Angeles County.

It is important to note that the estimates of lost fishing and climbing trips assume that the trips are not substituted to another location within these counties (*e.g.*, anglers do not visit another lake or stream in the county where trout continue to be stocked). In addition, the analysis assumes that recreators do not undertake substitute activities (*e.g.*, rock climbers do not go hiking or biking instead of taking trips to Williamson's Rock). If recreators visit substitute sites or choose alternative activities, the regional impacts predicted in this section may be smaller or would not occur.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements for the approximately four small businesses, on average, that may be required to consult with us each year regarding their project's impact on the mountain yellow-legged frog and its habitat. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer ''reasonable and prudent alternatives.'' Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or result in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

Second, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal or plant species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with consultations under section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. We can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule (July 2, 2002; 67 FR 44382) and this critical habitat designation. Within the final critical habitat units, the types of Federal actions or authorized activities that we have identified as potential concerns are:

(1) Regulation of activities affecting waters of the United States by the Corps under section 404 of the Clean Water Act;

(2) Regulation of water flows, damming, diversion, and channelization implemented or licensed by Federal agencies;

(3) Regulation of timber harvest, grazing, mining, and recreation by the USFS;

(4) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities.

It is likely that a developer or other project proponent could modify a project or take measures to protect the mountain yellow-legged frog. The kinds of actions that may be included if future reasonable and prudent alternatives become necessary include conservation set-asides, management of competing nonnative species, restoration of degraded habitat, and regular monitoring. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and proposed critical habitat designation, and in this final rule. These measures are not likely to result in a significant economic impact to project proponents.

In summary, we have considered whether this rule would result in a significant economic effect on a substantial number of small entities. For the above reasons and based on currently available information, we certify that the rule will not have a significant economic impact on a substantial number of small entities. Federal involvement, and thus section 7 consultations, would be limited to a subset of the area designated. The most likely Federal involvement could include Corps permits, permits we may issue under section 10(a)(1)(B) of the Act; Federal Highway Administration funding for road improvements; hydropower licenses issued by Federal Energy Regulatory Commission; and regulation of timber harvest, grazing, mining, and recreation by the USFS. A regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C 801 et seq.)

Under SBREFA, this rule is not a major rule. Our detailed assessment of the economic effects of this designation is described in the economic analysis. Based on the effects identified in the economic analysis, we believe that this rule will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis (see **ADDRESSES**) for a discussion of the effects of this determination.

Executive Order 13211

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

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, Tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) A condition of Federal assistance; or (ii) A duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities who receive Federal funding, assistance, permits or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments because it will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments. As such, Small Government Agency Plan is not required.

Executive Order 12630—Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing critical habitat for the southern California DPS of the mountain yellow-legged frog in a takings implications assessment. The takings implications assessment concludes that this designation of critical habitat for the southern California DPS of the mountain yellow-legged frog does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with DOI and Department of Commerce policy, we requested information from, and coordinated development of, this final critical habitat designation with appropriate State resource agencies in California. The designation of critical habitat in areas currently occupied by the mountain yellow-legged frog may impose nominal additional regulatory restrictions to those currently in place and, therefore, may have little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Endangered Species Act. This final rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the mountain yellow-legged frog.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996).)

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands occupied at the time of listing that contain the features essential for the conservation of the mountain yellow-legged frog and no tribal lands that are unoccupied areas that are essential for the conservation of the mountain yellow-legged frog. Therefore, critical habitat for the mountain yellow-legged frog has not been designated on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Author(s)

The primary authors of this package are staff of the Carlsbad Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. In § 17.11(h), revise the entry for ''Frog, mountain yellow-legged (southern California DPS)'' under ''AMPHIBIANS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rule
Common name	Scientific name						
*	*	*	*	*	*	*	
AMPHIBIANS							
*	*	*	*	*	*	*	
Frog, mountain yellow-legged (southern California DPS).	*Rana muscosa*	U.S.A. (California, Nevada).	U.S.A., southern California.	E	728	17.95(d)	NA
*	*	*	*	*	*	*	

■ 3. In § 17.95(d), add an entry for ''Mountain yellow-legged frog (*Rana muscosa*), southern California DPS'' in the same alphabetical order in which this species appears in the table at 50 CFR 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(d) *Amphibians.*

* * * * *

Mountain yellow-legged frog (*Rana muscosa*), Southern California DPS

(1) Critical habitat units are depicted for Los Angeles, San Bernardino, and Riverside Counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for the mountain yellow-legged frog are:

(i) Water source(s) found between 1,214 to 7,546 ft (370 to 2,300 m) in elevation that are permanent. Water sources include, but are not limited to, streams, rivers, perennial creeks (or permanent plunge pools within intermittent creeks), pools (*i.e.*, a body of impounded water that is contained above a natural dam), and other forms of aquatic habitat. The water source should maintain a natural flow pattern including periodic natural flooding. Aquatic habitats that are used by mountain yellow-legged frog for breeding purposes must maintain water during the entire tadpole growth phase, which can be up to 2 years duration. During periods of drought, or less than average rainfall, these breeding sites may not hold water long enough for individuals to complete metamorphosis, but they would still be considered essential breeding habitat in wetter years. Further, the aquatic habitat includes:

(A) Bank and pool substrates consisting of varying percentages of soil or silt, sand, gravel cobble, rock, and boulders;

(B) Open gravel banks and rocks projecting above or just beneath the surface of the water for sunning posts;

(C) Aquatic refugia, including pools with bank overhangs, downfall logs or branches, and/or rocks to provide cover from predators; and

(D) Streams or stream reaches between known occupied sites that can function as corridors for adults and frogs for movement between aquatic habitats used as breeding and/or foraging sites.

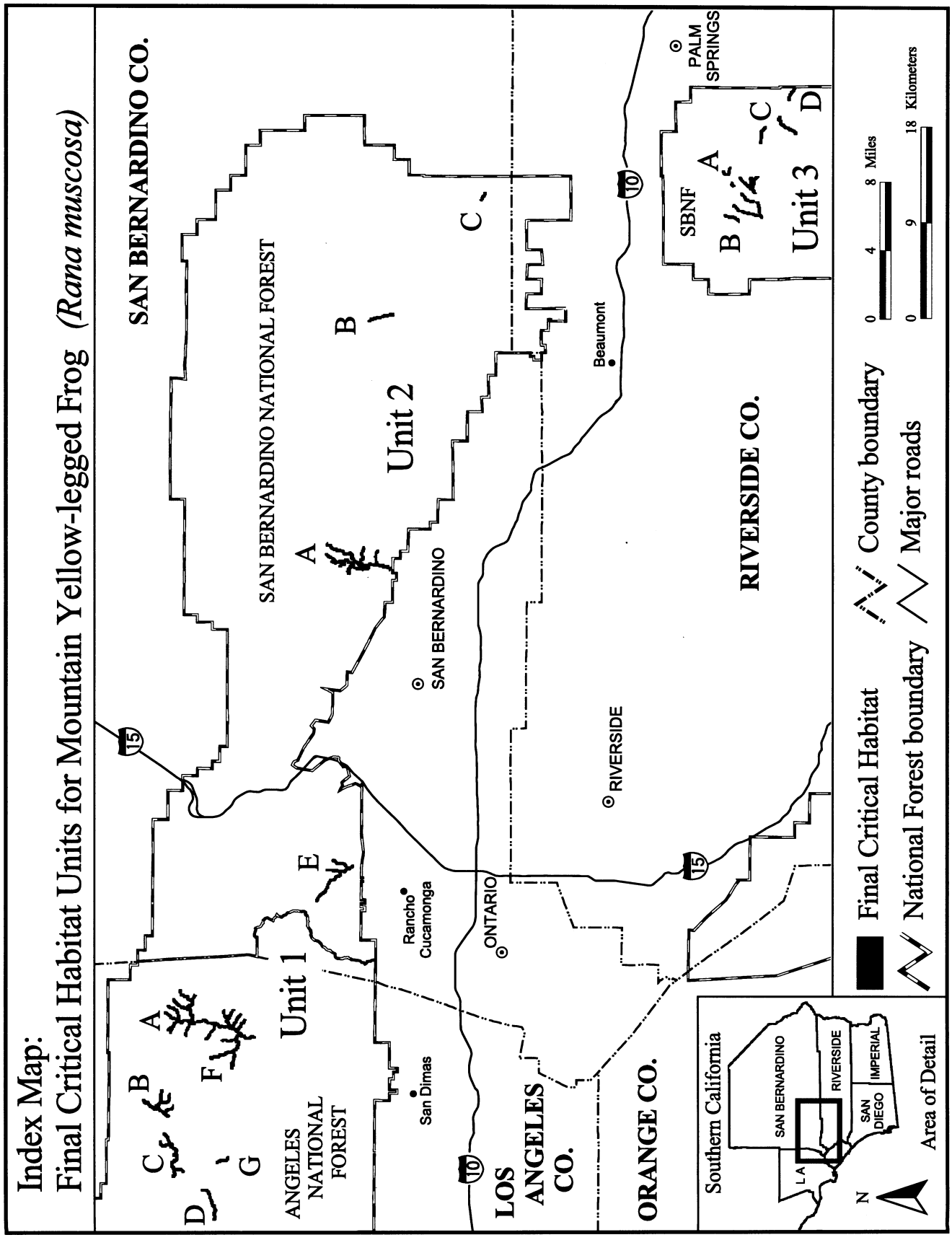
(ii) Riparian habitat and upland vegetation (*e.g.*, ponderosa pine, montane hardwood-conifer, montane riparian woodlands, and chaparral) extending 262 feet (80 m) from each side of the centerline of each identified stream and its tributaries, that provides areas for feeding and movement of mountain yellow-legged frog, with a

canopy overstory not exceeding 85 percent that allows sunlight to reach the stream and thereby provides basking areas for the species.

(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, aqueducts, airports, and roads, and the land on which such structures are located.

(4) *Critical Habitat Map Units.* Data layers defining map units were created on a base of USGS 7.5' quadrangles, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) coordinates. *Note:* Index map of critical habitat units for the southern California DPS of the mountain yellow-legged frog (Map 1) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(5) Unit 1: San Gabriel Mountains Unit, Los Angeles and San Bernardino Counties, California. From USGS 1:24,000 quadrangle maps Crystal Lake, Cucamonga Peak, Mount San Antonio Valyermo, and Waterman Mountain, California.

(i) Subunit 1A: San Gabriel River, East Fork Angeles National Forest, Los Angeles County, California.

(A) Land bounded by the following UTM North American Datum of 1927 (NAD27) coordinates (E, N): 434100, 3803300; 434400, 3803300; 434400, 3803100; 434300, 3803100; 434300, 3802900; 434200, 3802900; 434200, 3802800; 434100, 3802800; 434100, 3802600; 434000, 3802600; 434000, 3802500; 433800, 3802500; 433800, 3802200; 433700, 3802200; 433700, 3801900; 433600, 3801900; 433600, 3801800; 433800, 3801800; 433800, 3801900; 434200, 3801900; 434200, 3802000; 434400, 3802000; 434400, 3802100; 434500, 3802100; 434500, 3802300; 434600, 3802300; 434600, 3802500; 434700, 3802500; 434700, 3802800; 434800, 3802800; 434800, 3802900; 434900, 3802900; 434900, 3803000; 435100, 3803000; 435100, 3802700; 435000, 3802700; 435000, 3802600; 434900, 3802600; 434900, 3802200; 434800, 3802200; 434800, 3802100; 434700, 3802100; 434700, 3801900; 434600, 3801900; 434600, 3801800; 434400, 3801800; 434400, 3801700; 434000, 3801700; 434000, 3801600; 433400, 3801600; 433400, 3801500; 433300, 3801500; 433300, 3801400; 433400, 3801400; 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(B) Map depicting subunit 1A is located at paragraph (5)(vi)(B) of this section.

(ii) Subunit 1B: Big Rock Creek, South Fork, Angeles National Forest, Los Angeles County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 424400, 3805700; 424600, 3805700; 424600, 3805400; 424500, 3805400; 424500, 3805300; 424300, 3805300; 424300, 3805200; 424400, 3805200; 424400, 3805000; 424300, 3805000; 424300, 3804900; 424100, 3804900; 424100, 3804800; 424000, 3804800; 424000, 3804700; 423900, 3804700; 423900, 3804500; 423800, 3804500; 423800, 3804400; 423700, 3804400; 423700, 3804300; 424000, 3804300; 424000, 3804100; 424100, 3804100; 424100, 3804000; 424200, 3804000; 424200, 3803900; 424300, 3803900; 424300, 3803800; 425200, 3803800; 425200, 3803700; 425700, 3803700; 425700, 3803400; 425400, 3803400; 425400, 3803500; 424400, 3803500; 424400, 3803000; 424500, 3803000; 424500, 3802900; 425100, 3802900; 425100, 3802800; 425300, 3802800; 425300, 3802600; 424500, 3802600; 424500, 3802700; 424300, 3802700; 424300, 3802800; 424200, 3802800; 424200, 3803000; 424100, 3803000; 424100, 3803700; 423900, 3803700; 423900, 3803800; 423800, 3803800; 423800, 3804000; 423700, 3804000; 423700, 3803700; 423500, 3803700; 423500, 3803600; 423400, 3803600; 423400, 3803400; 423300, 3803400; 423300, 3803200; 423500, 3803200; 423500, 3803000; 423600, 3803000; 423600, 3802600; 423700, 3802600; 423700, 3802500; 423800, 3802500; 423800, 3802400; 424000, 3802400; 424000, 3802300; 423500, 3802300; 423500, 3802400; 423400, 3802400; 423400, 3802800; 423300, 3802800; 423300, 3802900; 423200, 3802900; 423200, 3803000; 423100, 3803000; 423100, 3803100; 423000, 3803100; 423000, 3803000; 422900, 3803000; 422900, 3802800; 422800, 3802800; 422800, 3802700; 422700, 3802700; 422700, 3802800; 422600, 3802800; 422600, 3803100; 422700, 3803100; 422700, 3803200; 422800, 3803200; 422800, 3803300; 422900, 3803300; 422900, 3803400; 423000, 3803400; 423000, 3803500; 423100, 3803500; 423100, 3803600; 423200, 3803600; 423200, 3803900; 423400, 3803900; 423400, 3804500; 423500, 3804500; 423500, 3804600; 423600, 3804600; 423600, 3804700; 423700, 3804700; 423700, 3804900; 423800, 3804900; 423800, 3805000; 423900, 3805000; 423900, 3805100; 424000, 3805100; 424000, 3805400; 424100, 3805400; 424100, 3805500; 424200, 3805500; 424200, 3805600; 424400, 3805600; returning to 424400, 3805700.

(B) Map depicting subunit 1B is located at paragraph (5)(vi)(B) of this entry.

(iii) Subunit 1C: Little Rock Creek, Angeles National Forest, Los Angeles County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 419500, 3803800; 420000, 3803800; 420000, 3803600; 419700, 3803600; 419700, 3803500; 419600, 3803500; 419600, 3803400; 419500, 3803400; 419500, 3803300; 419600, 3803300; 419600, 3803200; 419700, 3803200; 419700, 3802900; 420000, 3802900; 420000, 3803000; 420200, 3803000; 420200, 3803100; 420400, 3803100; 420400, 3803200; 420500, 3803200; 420500, 3803300; 420600, 3803300; 420600, 3803400; 420900, 3803400; 420900, 3803200; 420800, 3803200; 420800, 3803100; 420700, 3803100; 420700, 3803000; 420600, 3803000; 420600, 3802900; 420500, 3802900; 420500, 3802800; 420100, 3802800; 420100, 3802700; 419900, 3802700; 419900, 3802600; 419800, 3802600; 419800, 3802400; 419700, 3802400; 419700, 3802300; 419500, 3802300; 419500, 3802400; 419400, 3802400; 419400, 3802300; 419300, 3802300; 419300, 3802100; 419200, 3802100; 419200, 3802000; 419100, 3802000; 419100, 3801900; 419000, 3801900; 419000, 3801800; 418800, 3801800; 418800, 3801900; 418500, 3801900; 418500, 3801800; 417900, 3801800; 417900, 3801900; 417800, 3801900; 417800, 3802000; 417700, 3802000; 417700, 3802100; 417600, 3802100; 417600, 3802300; 417500, 3802300; 417500, 3802400; 417300, 3802400; 417300, 3802300; 417200, 3802300; 417200, 3802200; 417000, 3802200; 417000, 3801400; 416900, 3801400; 416900, 3801300; 416800, 3801300; 416800, 3801200; 416700, 3801200; 416700, 3801100; 416600, 3801100; 416600, 3801200; 416500, 3801200; 416500, 3801400; 416700, 3801400; 416700, 3802100; 416500, 3802100; 416500, 3802000; 416200, 3802000;

416200, 3802100; 416100, 3802100; 416100, 3802200; 416000, 3802200; 416000, 3802500; 416300, 3802500; 416300, 3802300; 416500, 3802300; 416500, 3802400; 416900, 3802400; 416900, 3802500; 417100, 3802500; 417100, 3802600; 417800, 3802600; 417800, 3802400; 417900, 3802400; 417900, 3802300; 418000, 3802300; 418000, 3802100; 418300, 3802100; 418300, 3802400; 418600, 3802400; 418600, 3802200; 419000, 3802200; 419000, 3802400; 419100, 3802400; 419100, 3802500; 419200, 3802500; 419200, 3802700; 419400, 3802700; 419400, 3803100; 419300, 3803100; 419300, 3803600; 419400, 3803600; 419400, 3803700; 419500, 3803700; returning to 419500, 3803800.

(B) Map depicting subunit 1C is located at paragraph (5)(vi)(B) of this entry.

(iv) Subunit 1D: Devil's Canyon, Angeles National Forest, Los Angeles County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 414500, 3799300; 414700, 3799300; 414700, 3798600; 414600, 3798600; 414600, 3798500; 414500, 3798500; 414500, 3798400; 414300, 3798400; 414300, 3798300; 413900, 3798300; 413900, 3798200; 413600, 3798200; 413600, 3798100; 413400, 3798100; 413400, 3798000; 413000, 3798000; 413000, 3797800; 412600, 3797800; 412600, 3797700; 412500, 3797700; 412500, 3797600; 412300, 3797600; 412300, 3797700; 412100, 3797700; 412100, 3797800; 411800, 3797800; 411800, 3797700; 411400, 3797700; 411400, 3797800; 411300, 3797800; 411300, 3798100; 411500, 3798100; 411500, 3798000; 411800, 3798000; 411800, 3798100; 412200, 3798100; 412200, 3798000; 412300, 3798000; 412300, 3797900; 412400, 3797900; 412400, 3798000; 412700, 3798000; 412700, 3798100; 412800, 3798100; 412800, 3798200; 413100, 3798200; 413100, 3798300; 413400, 3798300; 413400, 3798400; 413700, 3798400; 413700, 3798500; 414100, 3798500; 414100, 3798600; 414200, 3798600; 414200, 3798700; 414400, 3798700; 414400, 3798800; 414500, 3798800; returning to 414500, 3799300.

(B) Map depicting subunit 1D is located at paragraph (5)(vi)(B) of this entry.

(v) Subunit 1F: San Gabriel River, East Fork, Iron Fork, Los Angeles County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 429100, 3798400; 429400, 3798400; 429400, 3798000; 429500, 3798000; 429500, 3797400; 429700, 3797400; 429700, 3797100; 429600, 3797100; 429600, 3797000; 429700, 3797000; 429700, 3796800; 429800, 3796800; 429800, 3796700; 429900, 3796700; 429900, 3796500; 430000, 3796500; 430000, 3796000; 430100, 3796000; 430100, 3795800; 430200, 3795800; 430200, 3795500; 430100, 3795500; 430100, 3795400; 430000, 3795400; 430000, 3795600; 429600, 3795600; 429600, 3795500; 429300, 3795500; 429300, 3795600; 429000, 3795600; 429000, 3795700; 428700, 3795700; 428700, 3795800; 428600, 3795800; 428600, 3795700; 428300, 3795700; 428300, 3795800; 428000, 3795800; 428000, 3796100; 428700, 3796100; 428700, 3796000; 428900, 3796000; 428900, 3795900; 429400, 3795900; 429400, 3795800; 429800, 3795800; 429800, 3796000; 429700, 3796000; 429700, 3796400; 429600, 3796400; 429600, 3796600; 429500, 3796600; 429500, 3796800; 429400, 3796800; 429400, 3797200; 429300, 3797200; 429300, 3797300; 429200, 3797300; 429200, 3798000; 429000, 3798000; 429000, 3798300; 429100, 3798300; returning to 429100, 3798400.

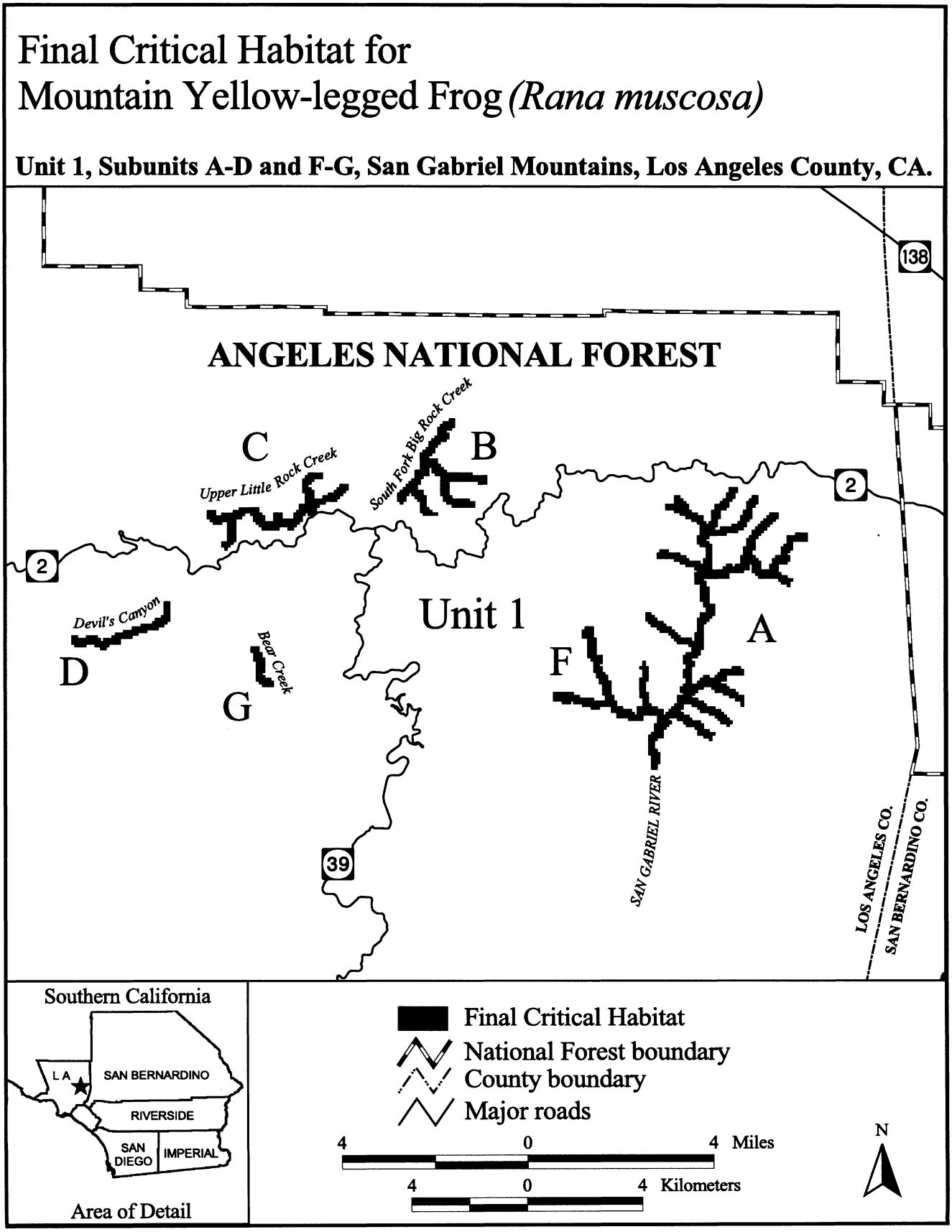
(B) Map depicting subunit 1F is located at paragraph (5)(vi)(B) of this entry.

(vi) Subunit 1G: Bear Creek, Angeles National Forest, Los Angeles County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 417500, 3797700; 417800, 3797700; 417800, 3797500; 417900, 3797500; 417900, 3797300; 418000, 3797300; 418000, 3796800; 417900, 3796800; 417900, 3796700; 418000, 3796700; 418000, 3796600; 418200, 3796600; 418200, 3796500; 418300, 3796500; 418300, 3796300; 417900, 3796300; 417900, 3796400; 417800, 3796400; 417800, 3796500; 417700, 3796500; 417700, 3797200; 417600, 3797200; 417600, 3797500; 417500, 3797500; returning to 417500, 3797700.

(B) Map of Unit 1, with subunits 1A, 1B, 1C, 1D, 1F, and 1G (Map 2), follows:

BILLING CODE 4310–55–P



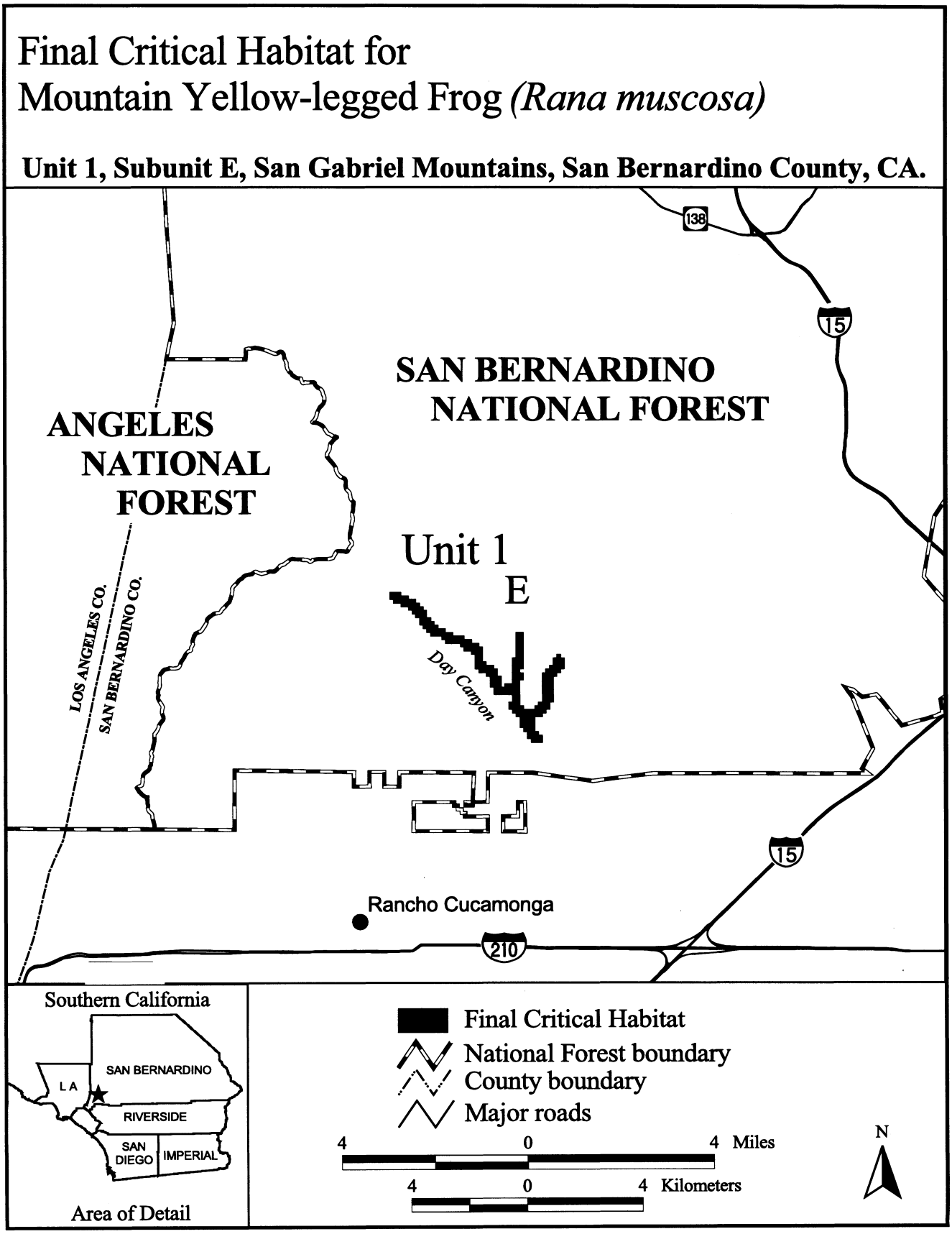
BILLING CODE 4310–55–C

(vii) Subunit 1E: Day Canyon, San Bernardino National Forest, San Bernardino County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 446400, 3786900; 446700, 3786900; 446700, 3786800; 446900, 3786800; 446900, 3786700; 447100, 3786700; 447100, 3786600; 447200, 3786600; 447200, 3786500; 447300, 3786500; 447300, 3786400; 447400, 3786400; 447400, 3786200; 447500, 3786200; 447500, 3786100; 447600, 3786100; 447600, 3786000; 447700, 3786000; 447700, 3785900; 447900, 3785900; 447900, 3785800; 448100, 3785800; 448100, 3785700; 448400, 3785700; 448400, 3785600; 448600, 3785600; 448600, 3785500; 448800, 3785500; 448800, 3785400; 448900, 3785400; 448900, 3785000; 449000, 3785000; 449000, 3784900; 449200, 3784900; 449200, 3784800; 449300, 3784800; 449300, 3784600; 449400, 3784600; 449400, 3784300; 449500, 3784300; 449500, 3784400; 449700, 3784400; 449700, 3785100; 449800, 3785100; 449800, 3785800; 450000, 3785800; 450000, 3784800; 449900, 3784800; 449900, 3784700; 450000, 3784700; 450000, 3784500; 449900, 3784500; 449900, 3783800; 450000, 3783800; 450000, 3783700; 450300, 3783700; 450300, 3783800; 450400, 3783800; 450400, 3783900; 450500, 3783900; 450500, 3784700; 450600, 3784700; 450600, 3784800; 450700, 3784800; 450700, 3784900; 450800, 3784900; 450800, 3785100; 450900, 3785100; 450900, 3785200; 451000, 3785200; 451000, 3785100; 451100, 3785100; 451100, 3784800; 451000, 3784800; 451000, 3784700; 450900, 3784700; 450900, 3784600; 450800, 3784600; 450800, 3783900; 450700, 3783900; 450700, 3783700; 450600, 3783700; 450600, 3783600; 450500, 3783600; 450500, 3783500; 450300, 3783500; 450300, 3783100; 450400, 3783100; 450400, 3783000; 450500, 3783000; 450500, 3782800; 450200, 3782800; 450200, 3782900; 450100, 3782900; 450100, 3783100; 450000, 3783100; 450000, 3783200; 449900, 3783200; 449900, 3783500; 449800, 3783500; 449800, 3783600; 449700, 3783600; 449700, 3783700; 449600, 3783700; 449600, 3783900; 449700, 3783900; 449700, 3784100; 449200, 3784100; 449200, 3784300; 449100, 3784300; 449100, 3784600; 449000, 3784600; 449000, 3784700; 448800, 3784700; 448800, 3784800; 448700, 3784800; 448700, 3785200; 448600, 3785200; 448600, 3785300; 448400, 3785300; 448400, 3785400; 448300, 3785400; 448300, 3785500; 447900, 3785500; 447900, 3785600; 447800, 3785600; 447800, 3785700; 447500, 3785700; 447500, 3785800; 447400, 3785800; 447400, 3785900; 447300, 3785900; 447300, 3786000; 447200, 3786000; 447200, 3786200; 447100, 3786200; 447100, 3786300; 447000, 3786300; 447000, 3786400; 446900, 3786400; 446900, 3786500; 446700, 3786500; 446700, 3786600; 446500, 3786600; 446500, 3786700; 446400, 3786700; returning to 446400, 3786900.

(B) Map of subunit 1E (Map 3) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

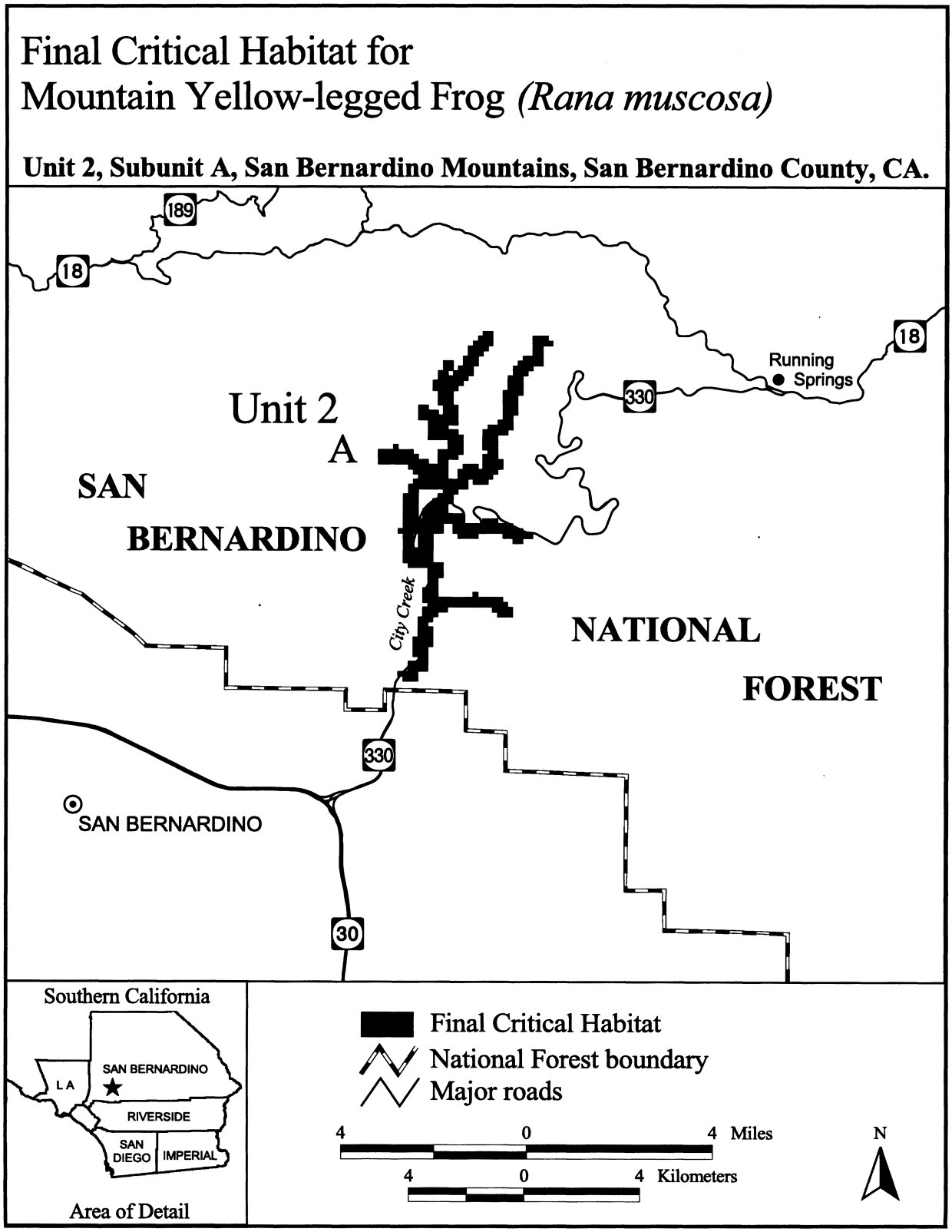
(6) Unit 2: San Bernardino Mountains, San Bernardino National Forest, San Bernardino County, California. From USGS 1:24,000 quadrangle maps Big Bear Lake, Catclaw Flat and Harrison Mountain, California.

(i) Subunit 2A: City Creek, East and West Forks, San Bernardino National Forest, San Bernardino County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 483800, 3785100; 483900, 3785100; 483900, 3785200; 484000, 3785200; 484000, 3785400; 484100, 3785400; 484100, 3785600; 484200, 3785600; 484200, 3785700; 484300, 3785700; 484300, 3785800; 484400, 3785800; 484400, 3785900; 484600, 3785900; 484600, 3785600; 484500, 3785600; 484500, 3785500; 484400, 3785500; 484400, 3785400; 484300, 3785400; 484300, 3785200; 484200, 3785200; 484200, 3785000; 484100, 3785000; 484100, 3784900; 484000, 3784900; 484000, 3784800; 483900, 3784800; 483900, 3784700; 483800, 3784700; 483800, 3784400; 483900, 3784400; 483900, 3784000; 483700, 3784000; 483700, 3783900; 483900, 3783900; 483900, 3783800; 484000, 3783800; 484000, 3783400; 483900, 3783400; 483900, 3783300; 483700, 3783300; 483700, 3782900; 483900, 3782900; 483900, 3783100; 484000, 3783100; 484000, 3783200; 484300, 3783200; 484300, 3783100; 484400, 3783100; 484400, 3783400; 484500, 3783400; 484500, 3783500; 484400, 3783500; 484400, 3783900; 484500, 3783900; 484500, 3784000; 484700, 3784000; 484700, 3784100; 484800, 3784100; 484800, 3784700; 484900, 3784700; 484900, 3785000; 485000, 3785000; 485000, 3785200; 485100, 3785200; 485100, 3785300; 485200, 3785300; 485200, 3785400; 485400, 3785400; 485400, 3785800; 485700, 3785800; 485700, 3785700; 485800, 3785700; 485800, 3785600; 485600, 3785600; 485600, 3785200; 485400, 3785200; 485400, 3785100; 485300, 3785100; 485300, 3785000; 485200, 3785000; 485200, 3784600; 485100, 3784600; 485100, 3784200; 485000, 3784200; 485000, 3783900; 484900, 3783900; 484900, 3783800; 484700, 3783800; 484700, 3783300; 484800, 3783300; 484800, 3783100; 484700, 3783100; 484700, 3783000; 484600, 3783000; 484600, 3782900; 484500, 3782900; 484500, 3782800; 484200, 3782800; 484200, 3782900; 484100, 3782900; 484100, 3782700; 483900, 3782700; 483900, 3782600; 483800, 3782600; 483800, 3782400; 483700, 3782400; 483700, 3782200; 484000, 3782200; 484000, 3782000; 484400, 3782000; 484400, 3782100; 484700, 3782100; 484700, 3782000; 485000, 3782000; 485000, 3781900; 485200, 3781900; 485200, 3781800; 485400, 3781800; 485400, 3781700; 485200, 3781700; 485200, 3781600; 485000, 3781600; 485000, 3781700; 484800, 3781700; 484800, 3781800; 484300, 3781800; 484300, 3781700; 483900, 3781700; 483900, 3781800; 483800, 3781800; 483800, 3782000; 483600, 3782000; 483600, 3781800; 483400, 3781800; 483400, 3781200; 483600, 3781200; 483600, 3780900; 483500, 3780900; 483500, 3780500; 484200, 3780500; 484200, 3780600; 484300, 3780600; 484300, 3780500; 484800, 3780500; 484800, 3780400; 484900, 3780400; 484900, 3780300; 485000, 3780300; 485000, 3780100; 484700, 3780100; 484700, 3780200; 484600, 3780200; 484600, 3780300; 483700, 3780300; 483700, 3780200; 483500, 3780200; 483500, 3780100; 483400, 3780100; 483400, 3780000; 483300, 3780000; 483300, 3779900; 483400, 3779900; 483400, 3779500; 483300, 3779500; 483300, 3779000; 483100, 3779000; 483100, 3778800; 482800, 3778800; 482800, 3778900; 482700, 3778900; 482700, 3779000; 482900, 3779000; 482900, 3779200; 483100, 3779200; 483100, 3779300; 483000, 3779300; 483000, 3779700; 483100, 3779700; 483100, 3780100; 483200, 3780100; 483200, 3780300; 483300, 3780300; 483300, 3780400; 483200, 3780400; 483200, 3780700; 483300, 3780700; 483300, 3781100; 482900, 3781100; 482900, 3781200; 482800, 3781200; 482800, 3781800; 482700, 3781800; 482700, 3781900; 482800, 3781900; 482800, 3782600; 482900, 3782600; 482900, 3782800; 483000, 3782800; 483000, 3782900; 483100, 3782900; 483100, 3783000; 483000, 3783000; 483000, 3783100; 482900, 3783100; 482900, 3783200; 482300, 3783200; 482300, 3783500; 482600, 3783500; 482600, 3783600; 482700, 3783600; 482700, 3783500; 483000, 3783500; 483000, 3783400; 483100, 3783400; 483100, 3783300; 483300, 3783300; 483300, 3783200; 483500, 3783200; 483500, 3783500; 483700, 3783500; 483700, 3783700; 483300, 3783700; 483300, 3784100; 483100, 3784100; 483100, 3784400; 483300, 3784400; 483300, 3784300; 483500, 3784300; 483500, 3784200; 483600, 3784200; 483600, 3784400; 483500, 3784400; 483500, 3784700; 483400, 3784700; 483400, 3784900; 483500, 3784900; 483500, 3785100; 483600, 3785100; 483600, 3785300; 483800, 3785300; returning to 483800, 3785100; excluding land bounded by 483700, 3785100; 483800, 3785100; 483800, 3785000; 483700, 3785000; 483700, 3785100; land bounded by 483100, 3782700; 483600, 3782700; 483600, 3782600; 483500, 3782600; 483500, 3782500; 483400, 3782500; 483400, 3782400; 483300, 3782400; 483300, 3782300; 483200, 3782300; 483200, 3782100; 483100, 3782100; 483100, 3782700; and land bounded by 483000, 3781800; 483100, 3781800; 483100, 3781500; 483000, 3781500; 483000, 3781800.

(B) Map of subunit 2A (Map 4) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(ii) Subunit 2B: Barton Creek, East Fork, San Bernardino National Forest, San Bernardino County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 510000, 3781300; 510100, 3781300; 510100, 3781200; 510200, 3781200; 510200, 3781100; 510400, 3781100; 510400, 3780700; 510500, 3780700; 510500, 3780400; 510600, 3780400; 510600, 3780200; 510500, 3780200; 510500, 3780100; 510600, 3780100; 510600, 3779800; 510700, 3779800; 510700, 3779600; 510800, 3779600; 510800, 3779400; 510700, 3779400; 510700, 3779300; 510800, 3779300; 510800, 3779000; 510900, 3779000; 510900, 3778500; 510600, 3778500; 510600, 3779100; 510500, 3779100; 510500, 3779600; 510400, 3779600; 510400, 3779900; 510300, 3779900; 510300, 3780400; 510200, 3780400; 510200, 3780700; 510100, 3780700; 510100, 3781000; 510000, 3781000; returning to 510000, 3781300.

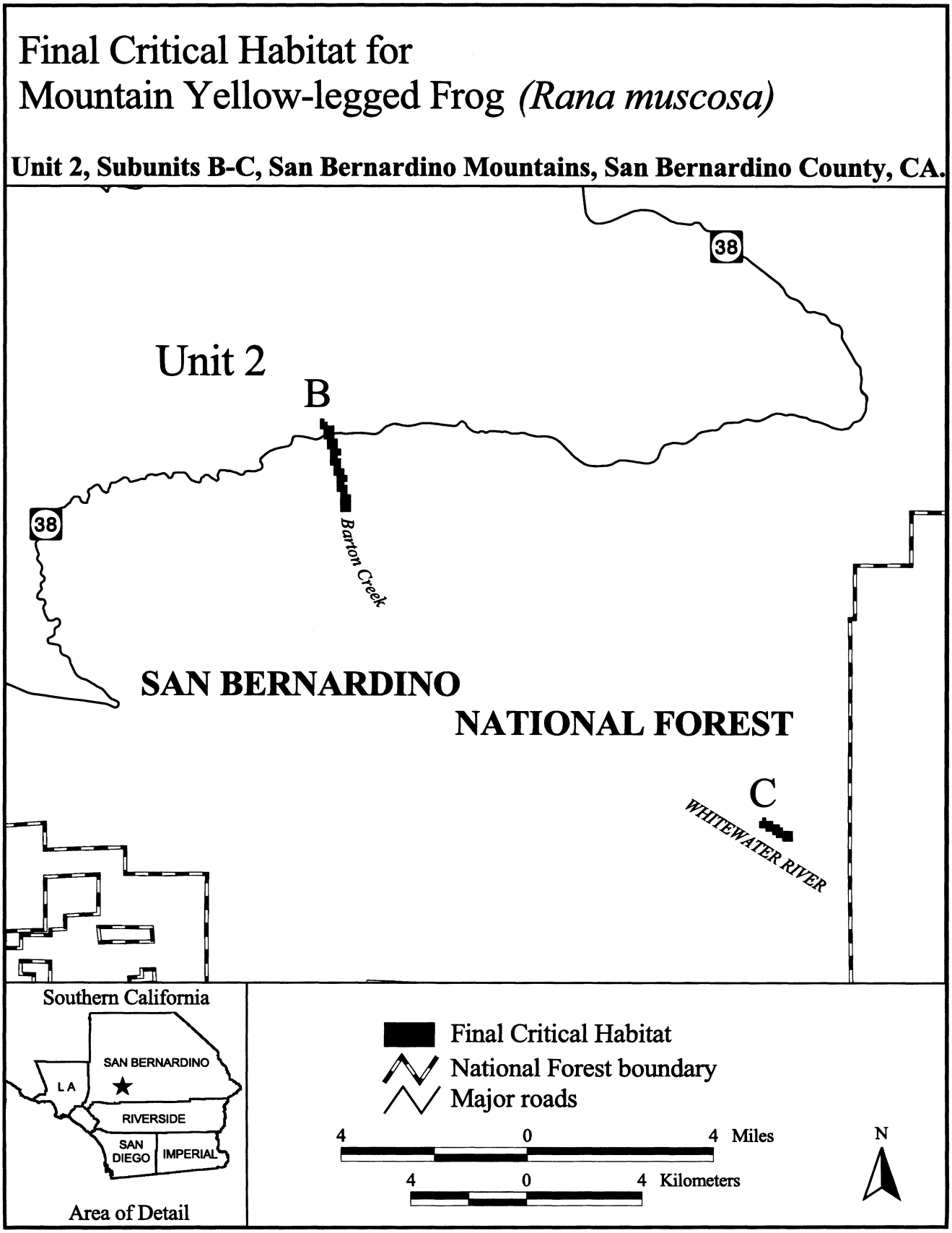
(B) Map depicting subunit 2B is located at paragraph (6)(iii)(B) of this entry.

(iii) Subunit 2C: Whitewater River, North Fork, San Bernardino National Forest, San Bernardino County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 523300, 3769200; 523400, 3769200; 523400, 3769100; 523600, 3769100; 523600, 3769000; 523800, 3769000; 523800, 3768900; 523900, 3768900; 523900, 3768800; 524200, 3768800; 524200, 3768500; 523900, 3768500; 523900, 3768600; 523700, 3768600; 523700, 3768700; 523600, 3768700; 523600, 3768800; 523400, 3768800; 523400, 3768900; 523200, 3768900; 523200, 3769100; 523300, 3769100; returning to 523300, 3769200.

(B) Map of subunits 2B and 2C (Map 5) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(7) Unit 3: San Jacinto Mountains, San Bernardino National Forest, Riverside County, California. From USGS 1:24,000 quadrangle maps Lake Fulmor, Palm Springs and San Jacinto Peak, California

(i) Subunit 3A: San Jacinto River, North Fork, San Bernardino National Forest, Riverside County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 526400, 3743000; 526600, 3743000; 526600, 3742700; 526400, 3742700; 526400, 3742600; 526300, 3742600; 526300, 3742500; 526200, 3742500; 526200, 3742400; 526600, 3742400; 526600, 3742300; 526900, 3742300; 526900, 3742200; 527000, 3742200; 527000, 3742000; 526800, 3742000; 526800, 3742100; 526300, 3742100; 526300, 3742200; 526100, 3742200; 526100, 3742800; 526200, 3742800; 526200, 3742900; 526400, 3742900; returning to 526400, 3743000; land bounded by: 525000, 3742100; 525200, 3742100; 525200, 3742000; 525400, 3742000; 525400, 3741900; 525300, 3741900; 525300, 3741800; 525100, 3741800; 525100, 3741700; 525000, 3741700; 525000, 3741600; 524900, 3741600; 524900, 3741800; 524800, 3741800; 524800, 3741900; 524900, 3741900; 524900, 3742000; 525000, 3742000; returning to 525000, 3742100; land bounded by: 522600, 3741900; 522800, 3741900; 522800, 3741800; 522900, 3741800; 522900, 3741600; 522800, 3741600; 522800, 3741400; 522600, 3741400; 522600, 3741300; 522500, 3741300; 522500, 3741200; 522400, 3741200; 522400, 3741100; 522300, 3741100; 522300, 3740700; 522200, 3740700; 522200, 3740500; 522100, 3740500; 522100, 3740000; 522000, 3740000; 522000, 3739500; 521900, 3739500; 521900, 3739200; 521800, 3739200; 521800, 3739000; 522000, 3739000; 522000, 3739100; 522600, 3739100; 522600, 3739200; 523000, 3739200; 523000, 3739300; 523100, 3739300; 523100, 3739400; 523200, 3739400; 523200, 3739000; 522900, 3739000; 522900, 3738900; 522600, 3738900; 522600, 3738800; 521800, 3738800; 521800, 3738700; 521700, 3738700; 521700, 3738600; 521400, 3738600; 521400, 3738800; 521500, 3738800; 521500, 3738900; 521600, 3738900; 521600, 3739500; 521700, 3739500; 521700, 3739700; 521800, 3739700; 521800, 3740300; 521900, 3740300; 521900, 3740700; 522000, 3740700; 522000, 3740900; 522100, 3740900; 522100, 3741300; 522200, 3741300; 522200, 3741400; 522400, 3741400; 522400, 3741600; 522600, 3741600; returning to 522600, 3741900; land bounded by: 525800, 3741200; 525900, 3741200; 525900, 3740900; 525800, 3740900; 525800, 3740800; 525600, 3740800; 525600, 3740700; 525500, 3740700; 525500, 3740600; 525400, 3740600; 525400, 3740400; 525300, 3740400; 525300, 3740300; 525200, 3740300; 525200, 3740200; 525100, 3740200; 525100, 3740100; 525000, 3740100; 525000, 3740000; 525600, 3740000; 525600, 3740100; 525800, 3740100; 525800, 3740000; 525900, 3740000; 525900, 3739700; 525800, 3739700; 525800, 3739800; 525500, 3739800; 525500, 3739700; 525700, 3739700; 525700, 3739600; 525800, 3739600; 525800, 3739500; 525900, 3739500; 525900, 3739400; 526000, 3739400; 526000, 3739000; 525900, 3739000; 525900, 3739100; 525800, 3739100; 525800, 3739200; 525700, 3739200; 525700, 3739300; 525600, 3739300; 525600, 3739400; 525100, 3739400; 525100, 3739500; 524800, 3739500; 524800, 3739600; 524600, 3739600; 524600, 3739500; 524500, 3739500; 524500, 3739400; 524200, 3739400; 524200, 3739300; 524100, 3739300; 524100, 3739600; 524200, 3739600; 524200, 3739700; 524400, 3739700; 524400, 3739800; 524500, 3739800; 524500, 3740000; 524600, 3740000; 524600, 3740100; 524700, 3740100; 524700, 3740200; 524800, 3740200; 524800, 3740300; 524900, 3740300; 524900, 3740400; 525000, 3740400; 525000, 3740500; 525100, 3740500; 525100, 3740600; 525200, 3740600; 525200, 3740700; 525300, 3740700; 525300, 3740800; 525400, 3740800; 525400, 3740900; 525500, 3740900; 525500, 3741000; 525600, 3741000; 525600, 3741100; 525800, 3741100; returning to 525800, 3741200; and land bounded by 523900, 3741000; 524200, 3741000; 524200, 3740800; 524100, 3740800; 524100, 3740700; 524000, 3740700; 524000, 3740600; 523900, 3740600; 523900, 3740500; 523800, 3740500; 523800, 3740400; 523600, 3740400; 523600, 3740300; 523500, 3740300; 523500, 3740100; 523400, 3740100; 523400, 3739500; 523200, 3739500; 523200, 3739600; 523100, 3739600; 523100, 3740000; 523200, 3740000; 523200, 3740300; 523300, 3740300; 523300, 3740500; 523400, 3740500; 523400, 3740600; 523600, 3740600; 523600, 3740700; 523800, 3740700; 523800, 3740900; 523900, 3740900; returning to 523900, 3741000.

(B) Map depicting subunit 3A is located at paragraph (7)(iv)(B) of this entry.

(ii) Subunit 3B: Indian Creek at Hall Canyon, San Bernardino National Forest, Riverside County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 521600, 3742800; 521800, 3742800; 521800, 3742500; 521700, 3742500; 521700, 3741700; 521600, 3741700; 521600, 3741500; 521500, 3741500; 521500, 3741400; 521400, 3741400; 521400, 3741200; 521300, 3741200; 521300, 3741100; 520900, 3741100; 520900, 3741200; 521000, 3741200; 521000, 3741300; 521100, 3741300; 521100, 3741400; 521200, 3741400; 521200, 3741600; 521300, 3741600; 521300, 3741700; 521400, 3741700; 521400, 3742300; 521500, 3742300; 521500, 3742700; 521600, 3742700; returning to 521600, 3742800.

(B) Map depicting subunit 3B is located at paragraph (7)(iv)(B) of this entry.

(iii) Subunit 3C: Tahquitz Creek, San Bernardino National Forest, Riverside County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 529600, 3739000; 529900, 3739000; 529900, 3738900; 531000, 3738900; 531000, 3738800; 531100, 3738800; 531100, 3738700; 531200, 3738700; 531200, 3738600; 531300, 3738600; 531300, 3738500; 531400, 3738500; 531400, 3738400; 531500, 3738400; 531500, 3738200; 531200, 3738200; 531200, 3738300; 531100, 3738300; 531100, 3738400; 531000, 3738400; 531000, 3738500; 530900, 3738500; 530900, 3738600; 530200, 3738600; 530200, 3738700; 529600, 3738700; returning to 529600, 3739000; and land bounded by 532100, 3737000; 532400, 3737000; 532400, 3736900; 532600, 3736900; 532600, 3736600; 532300, 3736600; 532300, 3736700; 532200, 3736700; 532200, 3736500; 531800, 3736500; 531800, 3736300; 531700, 3736300; 531700, 3736200; 531600, 3736200; 531600, 3736100; 531500, 3736100; 531500, 3736000; 531400, 3736000; 531400, 3735700; 531300, 3735700; 531300, 3735500; 531200, 3735500; 531200, 3735300; 531100, 3735300; 531100, 3735100; 531000, 3735100; 531000, 3735000; 530900, 3735000; 530900, 3734900; 530600, 3734900; 530600, 3735200; 530800, 3735200; 530800, 3735300; 530900, 3735300; 530900, 3735500; 531000, 3735500; 531000, 3735800; 531100, 3735800; 531100, 3735900; 531200, 3735900; 531200, 3736200; 531300, 3736200; 531300, 3736300; 531400, 3736300; 531400, 3736400; 531500, 3736400; 531500, 3736600; 531600, 3736600; 531600, 3736700; 531700, 3736700; 531700, 3736800; 532000, 3736800; 532000, 3736900; 532100, 3736900; returning to 532100, 3737000.

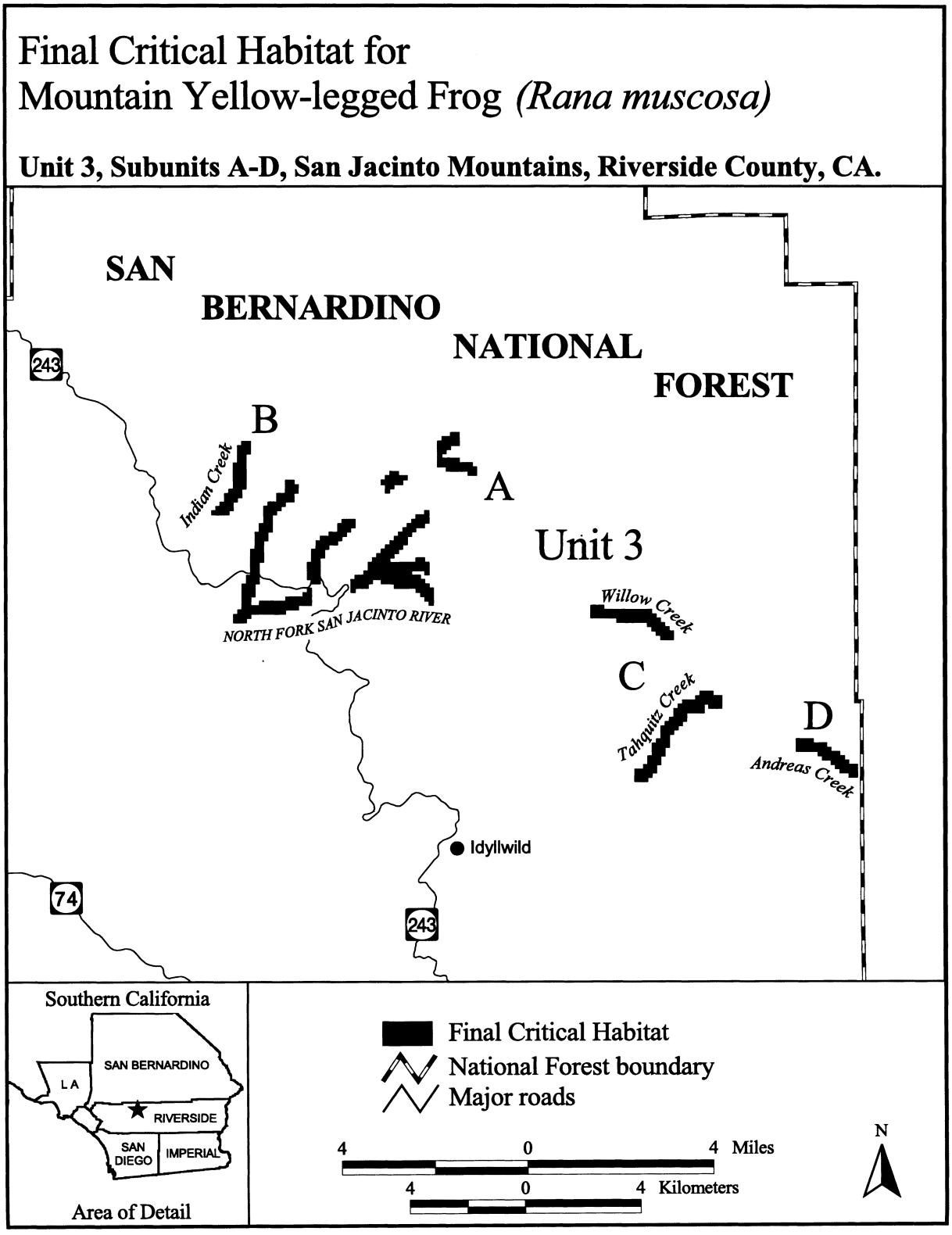
(B) Map depicting subunit 3C is located at paragraph (7)(iv)(B) of this entry.

(iv) Subunit 3D: Andreas Creek, San Bernardino National Forest, Riverside County, California.

(A) Land bounded by the following UTM NAD27 coordinates (E, N): 534300, 3735900; 534700, 3735900; 534700, 3735800; 535000, 3735800; 535000, 3735700; 535100, 3735700; 535100, 3735600; 535300, 3735600; 535300, 3735500; 535400, 3735500; 535400, 3735400; 535500, 3735400; 535500, 3735300; 535700, 3735300; 535700, 3735000; 535500, 3735000; 535500, 3735100; 535300, 3735100; 535300, 3735200; 535200, 3735200; 535200, 3735300; 535100, 3735300; 535100, 3735400; 534900, 3735400; 534900, 3735500; 534800, 3735500; 534800, 3735600; 534300, 3735600; returning to 534300, 3735900.

(B) Map of Unit 3, with Subunits 3A, 3B, 3C, and 3D (Map 6), follows:

BILLING CODE 4310–55–P



* * * * *

Dated: September 1, 2006.

David M. Verhey,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–7578 Filed 9–13–06; 8:45 am]

BILLING CODE 4310–55–C

Federal Register

Thursday,
September 14, 2006

Part III

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, et al.

Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications; Final Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, 173, 175, 177, 178 and 180

[Docket No. PHMSA–2006–25496 (HM–189Z)]

RIN: 2137–AE20

Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR). The intended effect of this rule is to enhance the accuracy, and reduce misunderstandings of the regulations. The amendments contained in this rule are minor changes and do not impose new requirements.

DATES: *Effective date:* October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Kevin Leary, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA annually reviews the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to identify errors that may confuse readers. Inaccuracies corrected in this final rule include typographical errors; incorrect references to regulations in the CFR; inaccurate office names and internet addresses; inconsistent use of terminology; and misstatements of certain regulatory requirements. In response to inquiries PHMSA received concerning the clarity of certain requirements specified in the HMR, certain other changes are made to reduce uncertainties.

Because these amendments do not impose new requirements, notice and public procedure are unnecessary. By making these amendments effective without the customary 30-day delay following publication, the changes will appear in the next revision of 49 CFR.

The following is a summary by section of the changes made in this final rule. It does not discuss all minor editorial corrections (*e.g.*, punctuation errors), and certain other minor adjustments to enhance the clarity of the HMR (*e.g.*, corrections to office names and internet addresses).

II. Section-by-Section Review

Part 107

Section 107.105. In paragraph (a), we are removing the term ''exemption'' and adding the term ''special permit'' in each place it appears.

Section 107.504. In paragraph (d)(2), we are correcting the reference ''107.503(a)(3)'' to read ''107.503(a)(4)''.

Section 107.616. In paragraph (a), we are revising the internet and mailing addresses to which persons must submit registration statements and payments.

Part 171

Section 171.6. In paragraph (b)(2), the table of OMB control numbers is revised to update report titles, and affected sections for control numbers 2137–0018, 2137–0022, 2137–0034, 2137–0039, 2137–0557 and to add a new entry for OMB control number 2137–0621.

Part 172

Section 172.101 The Hazardous Materials Table (HMT). We are correcting entries in the HMT as follows:

- For the entry ''Acetylene, dissolved'' UN1001, we are correcting column (7) to add N86. This was inadvertently omitted.
- For the entry ''Acetylene, solvent free'', we are correcting Column (2) to italicize the words ''Acetylene, solvent free''. We are correcting Column (3), Hazard class or division to place the word ''Forbidden'' in Roman type. This correction appears as a ''Remove/Add'' in this rulemaking.
- For the entry ''Aerosols, non-flammable, (each not exceeding 1 L capacity)'' UN1950, we are correcting column (10A) to read ''A''.
- For the entry ''Aerosols, poison, each not exceeding 1 L capacity'' UN1950, we are correcting Column (2) to italicize the word ''poison.'' This correction appears as a ''Remove/Add'' in this rulemaking.
- For the entry ''Ammonia solution, relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia'' we are correcting Column (2) to italicize the words ''relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia'' UN3318, we are correcting Column (3) Hazard class or division, to read ''2.3''. This correction appears as a ''Remove/Add'' in this rulemaking.
- For the entry ''Ammonia solutions, relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia'' UN2073, we are correcting Column (2) to italicize the words ''relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia''. This correction appears as a ''Remove/Add'' in this rulemaking.
- For the entry ''Fertilizer ammoniating solution with free ammonia'' UN1043, we are correcting Column (2) to italicize the words ''with free ammonia''. This correction appears as a ''Remove/Add'' in this rulemaking.
- For the entry ''Hydrogen bromide, anhydrous'' UN1048, we are correcting Column (6) to read ''2.3, 8''.
- For the entry ''hydrogen chloride, anhydrous'' UN1050 we are correcting Column (6) to read ''2.3, 8''.
- For the entry ''Hydrogen iodide, anhydrous'' UN2197, we are correcting Column (7) by adding N86. This was inadvertently omitted.
- For the entry ''methyl chloride or Refrigerant gas R 40'' UN1063, we are correcting Column (2) to italicize the word ''or'' This correction appears as a ''Remove/Add'' in this rulemaking.
- For the entry ''Organoarsenic compound, liquid, n.o.s.'' UN3280, PG I, we are correcting Column (8B) to read ''201''.
- For the entry ''Organoarsenic compound, liquid, n.o.s.'' UN3280, PG II, we are correcting Column (8B) to read ''202''.
- For the entry ''Organoarsenic compound, liquid, n.o.s.'' UN3280, PG III, we are correcting Columns (8B) and (8C) to read ''203'' and ''241'' respectively.
- For the entry ''Organometallic compound, toxic, liquid, n.o.s.'' UN3282, PG I, we are correcting Column (8B) to read ''201''.
- For the entry ''Organometallic compound, toxic, liquid, n.o.s.'' UN3282, PG II, we are correcting Column (8B) to read ''202''.
- For the entry ''Organometallic compound, toxic, liquid, n.o.s.'' UN3282, PG III, we are correcting Columns (8B) and (8C) to read ''203'' and ''241'' respectively.
- For the entry ''Oxygen difluoride, compressed'' UN2190, we are correcting column (10A) to read ''D'' and we are correcting Column (10B) Other provisions to read ''13, 40, 89, 90''.
- For the entry ''Radioactive material, uranium hexafluoride, fissile'' UN2977, we are correcting Column (1) to remove the symbol ''I''.

Section 172.312. In paragraph (c)(5), we are correcting the wording

''hermetically-sealed'' to read ''hermetically sealed''. In paragraph (c)(6), we are correcting the abbreviation ''ml'' to read ''mL'' for consistency with its use elsewhere in the HMR.

Part 173

Section 173.13. In paragraph (c), we are correcting the wording ''hermetically-sealed'' to read ''hermetically sealed'' each place it appears.

Section 173.133. We are correcting the abbreviation ''ml'' to read ''mL'' each place it appears for consistency with its use elsewhere in the HMR.

Section 173.153. In the introductory text to paragraph (b), we are making minor editorial revisions.

Section 173.166. We are removing paragraph (d)(5) because the transition period for transporting approved ''Air bag inflators, compressed gas, or air bag modules, compressed gas or Seat-belt pretensioners, compressed gas'' UN3353 has expired.

Section 173.301. In the introductory text to paragraph (h), we are correcting ''173.301b(f)'' to read ''173.301b(c)''. In paragraph (i), we are correcting a section citation.

Section 173.301b. In paragraph (a)(4), we are correcting the wording ''(a)(6) or (g)(1)'' to read ''(c)(2)(vi) or (d)(1)''.

Section 173.302a. In paragraph (a)(3), the wording ''(75 in^3 is corrected to read ''(75 in^3)''.

Section 173.306. In paragraph (a)(4), we are correcting the wording ''hermetically-sealed'' to read ''hermetically sealed''. In the last sentence in paragraph (b), we are correcting the reference ''i'' to read ''h''. In paragraph (i), we are correcting the abbreviation ''ml'' to read ''mL'' for consistency with its use elsewhere in the HMR.

Section 173.309. In paragraph (a)(3)(iv), we are correcting a section reference by revising the wording ''29 CFR 1910.157(e)'' to read ''29 CFR 1910.157'' of the Department of Labor, Occupational Safety and Health Administration's requirements for the requalification frequency and retest requirements for non-specification cylinders used as fire extinguishers. This revision is based on a petition for rulemaking (P–1224) submitted by the National Association of Fire Equipment Distributors Inc.

Section 173.334. The first paragraph (a), is reformatted as introductory text.

Section 173.435. In the Table of A_1 and A_2 values for radionuclides, a typographical error in the entry for ''Cm-243'' is corrected.

Part 175

Section 175.75. In paragraph (c), we are adding a sentence to clarify the requirements of this paragraph do not apply to Class 9 and ORM–D materials. A similar sentence is added in paragraph (e)(5). The beginning of the introductory text to paragraph (e) is revised to add ''For cargo aircraft only'' to clarify the exceptions provided by this section apply to cargo aircraft and not to passenger aircraft. Finally, the quantity and loading tables are revised and footnotes are added for the benefit of the reader.

Section 175.78. In paragraph (c)(4)(i)(C), we are correcting the reference ''(c)(3)(ii)'' to read ''(c)(4)(ii)''. In paragraph (c)(4)(iv), we are correcting the reference ''(c)(3)(iii)'' to read ''(c)(4)(iii)''.

Section 175.702. In paragraph (a)(2)(ii), we are correcting the limits for the transport indexes. The reference to ''131.1 to 140.0'' is corrected to read ''130.1 to 140.0'' and the reference ''151.1 to 160.0'' is corrected to read ''150.1 to 160.0''.

Part 177

Section 177.835. In the introductory text to paragraph (g)(2), we are correcting the reference ''173.63'' to read ''173.62''.

Part 178

Section 178.70. In paragraph (e)(4), we are making a minor editorial correction.

Section 178.71. Paragraph (f) is reserved. In paragraph (l)(2), we are clarifying ISO 11119–2 and 11119–3 composite gas cylinders constructed in accordance with the requirements for underwater use must bear the ''UW'' mark. In paragraphs (p) and (r) we are correcting several paragraph designations.

Section 178.245. We are removing sections 178.245 through 178.245–7. These sections contain specifications for Specification 51; Steel portable tanks. The manufacture of new portable tanks to this specification has not been authorized since December 31, 2002.

Section 178.270. We are removing sections 178.270 through 178.272–2. These sections contain specifications for IM 101 and IM 102 portable tanks. The manufacture of new IM portable tanks to these specifications has not been authorized since December 31, 2002.

Section 178.338–9. In paragraph (b)(2), we are correcting the reference ''178.338–18(b)(9)'' to read ''178.338–18(c)(10)''.

Part 180

Section 180.207. In paragraph (d), we are revising the introductory text and paragraph (d)(1) containing the requalification requirements for UN cylinders made of high strength seamless steel for clarity.

Section 180.209. In paragraph (a)(1), we are revising Table 1 to specify a seven-year requalification interval is permitted for DOT specification 4B, 4BA, 4BW, and 4E cylinders as currently stated in § 180.209(e).

Section 180.211. In paragraph (d)(3), we are correcting the reference ''180.215(d)'' to read ''180.215(c)''.

Section 180.212. In paragraph (a)(1), we are revising the wording ''subchapter'' to read ''chapter'' each place it appears.

Section 180.215. In paragraph (b), we are removing the words ''if present'' after manufacturer's name or symbol because the manufacturer's name or symbol is required to be marked on cylinders.

Section 180.509. The introductory text to paragraph (l) is reformatted to correct paragraph designations.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). This final rule will not result in increased compliance costs for hazardous materials shippers or carriers; therefore, it is not necessary to prepare a regulatory impact analysis.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 (''Federalism''). This final rule does not adopt any regulation that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. PHMSA is not aware of any State, local, or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient

federalism impacts to warrant the preparation of a federalism assessment.

C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

D. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

E. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $120.7 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

F. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

G. Environmental Impact Analysis

There are no environmental impacts associated with this final rule.

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; 49 CFR 1.45, 1.53.

■ 2. In § 107.105, the introductory text to paragraph (a) is revised to read as follows:

§ 107.105 Application for special permit.

(a) *General.* Each application for a special permit or modification of a special permit must be written in English and must—

* * * * *

§ 107.504 [Amended]

■ 3. In § 107.504, in paragraph (d)(2), the phrase ''107.503(a)(3)'' is revised to read ''107.503(a)(4)''.

■ 4. In § 107.616, paragraph (a) is revised to read as follows:

§ 107.616 Payment procedures.

(a) Except as provided in paragraph (d) of this section, each person subject to the requirements of this subpart must mail the registration statement and payment in full to the U.S. Department of Transportation, Hazardous Materials Registration, P.O. Box 70985, Charlotte, NC 28272–0985, or submit the statement and payment electronically through the Department's e-Commerce Internet site. Access to this service is provided at *http://hazmat.dot.gov/regs/register/register.htm.* A registrant required to file an amended registration statement under § 107.608(c) must mail it to the same address or submit it through the same Internet site.

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 5. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 6. In § 171.6, in paragraph (b)(2) table, the following changes are made:

■ a. The entries for Current OMB Control Nos. ''2137–0018'', ''2137–0022'', ''2137–0034,'' ''2137–0039,'' and ''2137–0557,'' are revised; and

■ b. An entry for OMB Control No. ''2137–0621'' is added, in numerical order.

The revisions and addition read as follows:

§ 171.6 Control numbers under the Paperwork Reduction Act.

* * * * *

(b) * * *

(2) Table.

Current OMB control No.	Title	Title 49 CFR part or section where identified and described
*	*	*
2137–0018	Inspection and Testing of Portable Tanks and Intermediate Bulk Containers.	§§ 173.24, 173.32, 178.3, 178.255, 178.273, 178.274, 178.703, 178.801, 180.352, 180.605.
2137–0022	Testing, Inspection, and Marking Requirements for Cylinders.	§§ 173.302a, 173.303, 173.304, 173.309, 178.2, 178.3, 178.35, 178.44, 178.45, 178.46, 178.57, 178.59, 178.60, 178.61, 178.68, 180.205, 180.209, 180.211, 180.213, 180.215, Appendix C to Part 180.
2137–0034	Hazardous Materials Shipping Papers and Emergency Response Information.	§§ 172.200, 172.201, 172.202, 172.203, 172.204, 172.505, 172.600, 172.602, 172.604, 172.606, 173.6, 173.7, 173.22, 173.56, 174.24, 174.26, 174.114, 175.30, 175.31, 175.33, 176.24, 176.27, 176.30, 176.36, 176.89, 177.817.
2137–0039	Hazardous Materials Incidents Reports ...	§§ 171.15, 171.16, 171.21.
*	*	*
2137–0557	Approvals for Hazardous Materials	§§ 107.402, 107.403, 107.405, 107.502, 107.503, 107.705, 107.713, 107.715, 107.717, 107.803, 107.805, 107.807, 110.30, 172.101, 172.102, Special Provisions 19, 26, 53, 55, 60, 105, 118, 121, 125, 129, 131, 133, 136, B45, B55, B61, B69, B77, B81, N10, N72, 173.2a, 173.4, 173.7, 173.21, 173.22, 173.24, 173.31, 173.38, 173.51, 173.56, 173.58, 173.59, 173.124, 173.128, 173.159, 173.166, 173.171, 173.214, 173.222, 173.224, 173.225, 173.245, 173.301, 173.305, 173.306, 173.314, 173.315, 173.316, 173.318, 173.334, 173.340, 173.411, 173.433, 173.457, 173.471, 173.472, 173.476, 174.50, 174.63, 175.8, 175.85, 175.701, 175.703, 176.168, 176.340, 176.704, 178.3, 178.35, 178.47, 178.53, 178.270–3, 178.270–13, 178.273, 178.274, 178.503, 178.509, 178.605, 178.606, 178.608, 178.801, 178.813, 180.213.
*	*	*
2137–0621	Requirements for United Nations (UN) Cylinders.	§§ 173.301, 173.304, 173.304b, 178.69, 178.70, 178.74, 178.75, 180.207, 180.209, 180.212, 180.215, 180.217.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 7. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.53.

■ 8. In § 172.101, the Hazardous Materials Table is amended by removing, adding and revising, in the appropriate alphabetical sequence, the following entries to read as follows:

§ 172.101 HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	Packaging (§ 173.***) (8)			Quantity limitations (9)		Vessel stowage (10)	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
[REMOVE]													
	*	*	*	*	*	*	*	*	*	*			
	Acetylene, solvent free.	*Forbidden*											
	*	*	*	*	*	*	*	*	*	*			
	Aerosols, poison, (*each not exceeding 1 L capacity*).	2.2	UN1950		2.2, 6.1		306	None	None	Forbidden	Forbidden	A	48, 87, 126
	*	*	*	*	*	*	*	*	*	*			
I	Ammonia solution, relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.	2.2	UN2188		2.3, 8	4, N87, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 57
	*	*	*	*	*	*	*	*	*	*			
	Ammonia solutions, relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia.	2.2	UN2073		2.2	N87	306	304	314, 315	Forbidden	150 kg	E	40, 57
	*	*	*	*	*	*	*	*	*	*			
	Fertilizer ammoniating solution with free ammonia.	2.2	UN1043		2.2	N87	306	304	314, 315	Forbidden	150 kg	E	40
	*	*	*	*	*	*	*	*	*	*			
	Methyl chloride or Refrigerant gas R 40.	2.1	UN1063		2.1	N86, T50	306	304	314, 315	5 kg	100 kg	D	40
	*	*	*	*	*	*	*	*	*	*			
[ADD]													
	*	*	*	*	*	*	*	*	*	*			
	Acetylene, solvent free.	Forbidden											
	*	*	*	*	*	*	*	*	*	*			
	Aerosols, *poison, (each not exceeding 1 L capacity).*	2.2	UN1950		2.2, 6.1		306	None	None	Forbidden	Forbidden	A	48, 87, 126

		*		*		*	*	*	*	*	*						
I	Ammonia solution, *relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.*		2.3	UN3318			2.3, 8	4, N87, T50	None	304	314, 315	Forbidden	Forbidden	D		40, 57	
		*		*		*	*	*	*	*	*						
	Ammonia solutions, *relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia.*		2.2	UN2073			2.2	N87	306	304	314, 315	Forbidden	150 kg	E		40, 57	
		*		*		*	*	*	*	*	*						
	Fertilizer ammoniating solution *with free ammonia.*		2.2	UN1043			2.2	N87	306	304	314, 315	Forbidden	150 kg	E		40	
		*		*		*	*	*	*	*	*						
	Methyl chloride or Refrigerant gas R 40.		2.1	UN1063			2.1	N86, T50	306	304	314, 315	5 kg	100 kg	D		40	
		*		*		*	*	*	*	*	*						
[REVISE]																	
		*		*		*	*	*	*	*	*						
	Acetylene, dissolved		2.1	UN1001			2.1	N86, N88	None	303	None	Forbidden	15 kg	D		25, 40, 57	
		*		*		*	*	*	306	None	None	75 kg	150 kg	A		48, 87, 126	
	Aerosols, *non-flammable (each not exceeding 1 L capacity).*																
		*		*		*	*	*	*	*	*						
	Hydrogen bromide, anhydrous.		2.3	UN1048			2.3, 8	3, B14, N86, N89	None	304	314, 315	Forbidden	Forbidden	D		40	
		*		*		*	*	*	*	*	*						
	Hydrogen chloride, anhydrous.		2.3	UN1050			2.3, 8	3, N86, N89	None	304	None	Forbidden	Forbidden	D		40	
		*		*		*	*	*	*	*	*						
	Hydrogen iodide, anhydrous.		2.3	UN2197			2.3	3, B14, N86, N89	None	304	314, 315	Forbidden	Forbidden	D		40	
		*		*		*	*	*	*	*	*						
	Organoarsenic compound, liquid, n.o.s.		6.1	UN3280		I	6.1	5, T14, TP2, TP13, TP27.	None	201	242	1 L	30 L	B		
						II	6.1	IB2, T11, TP2, TP27	153	202	242	5 L	60 L	B			
						III	6.1	IB3, T7, TP1, TP28 ..	153	203	241	60 L	220 L	A			
		*		*		*	*	*	*	*	*						
G	Organometallic compound, toxic, liquid, n.o.s..		6.1	UN3282		I	6.1	T14, TP2, TP13, TP27.	None	201	242	1 L	30 L	B		
						II	6.1	IB2, T11, TP2, TP27	153	202	242	5 L	60 L	B			
						III	6.1	IB3, T7, TP1, TP28 ..	153	203	241	60 L	220 L	A.			

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	Packaging (§ 173.***) (8)			Quantity limitations (9)		Vessel stowage (10)	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	*	*	*		*	*	*		*	*			
	Oxygen difluoride, compressed.	2.3	UN2190		2.3, 5.1, 8	1, N86	None	304	None	Forbidden	Forbidden	D	13, 40, 89, 90
	*	*	*		*	*	*		*	*			
	Radioactive material, uranium hexafluoride, fissile.	7	UN2977		7, 8		453	417, 420	417, 420			A	95, 132

* * * * *

§ 172.312 [Amended]

■ 9. In § 172.312, the following changes are made:

■ a. In paragraph (c)(5), the phrase ''hermetically-sealed'' is revised to read ''hermetically sealed''; and

■ b. In paragraph (c)(6), the abbreviation ''ml'' is revised to read ''mL''.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 10. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

§ 173.13 [Amended]

■ 11. In § 173.13, the phrase ''hermetically-sealed'' is revised to read ''hermetically sealed'' in paragraphs (c)(1)(ii), (c)(1)(iv) and (c)(2)(ii).

■ 12. In § 173.133, the abbreviation ''ml'' is revised to read ''mL'' each place it appears, and paragraph (b)(1)(iv) is revised to read as follows:

§ 173.133 Assignment of packing group and hazard zones for Division 6.1 materials.

* * * * *

(b) * * *

(1) * * *

(iv) Using the calculated values LC_{50} (mixture) and R, the packing group for the mixture is determined as follows:

Packaging group (hazard zone)	Ratio of volatility and LC_{50}
I (Hazard Zone A)	R ≥ 500 and LC_{50} (mixture) ≤ 200 mL/m^3.
I (Hazard Zone B)	R ≥ 10 and LC_{50} (mixture) ≤ 1000 mL/m^3; and the criteria for Packing Group I, Hazard Zone A are not met.
II	R ≥ 1 and LC_{50} (mixture) ≤ 3000 mL/m^3; and the criteria for Packing Group I, Hazard Zones A and B are not met.
III	R ≥ 1/5 and LC_{50} (mixture) ≤ 5000 mL/m^3; and the criteria for Packing Group I, Hazard Zones A and B and Packing Group II are not met.

* * * * *

■ 13. In § 173.153, the introductory text to paragraph (b) is revised to read as follows:

§ 173.153 Exceptions for Division 6.1 (poisonous materials).

* * * * *

(b) *Limited quantities of Division 6.1 materials.* The exceptions in this paragraph do not apply to poison-by-inhalation materials. Limited quantities of poisonous materials (Division 6.1) in Packing Group II and III are excepted from the specification packaging requirements of this subchapter when packaged in combination packagings in accordance with the following:

* * * * *

§ 173.166 [Amended]

■ 14. In § 173.166, paragraph (d)(5) is removed.

§ 173.301 [Amended]

■ 15. In § 173.301, the following changes are made

■ a. In the introductory text to paragraph (h), the phrase ''173.301b(f)'' is revised to read ''173.301b(c)''; and

■ b. In the introductory text to paragraph (i), the phrase ''173.313'' is revised to read ''173.312''.

§ 173.301b [Amended]

■ 16. In § 173.301b, in paragraph (a)(4), the phrase ''(a)(6) or (g)(1)'' is revised to read ''(c)(2)(vi) or (d)(1)''.

§ 173.302a [Amended]

■ 17. In § 173.302a, in paragraph (a)(3), the phrase ''1.23 L (75 in^3'' is corrected to read ''1.23 L (75 in^3)''.

§ 173.306 [Amended]

■ 18. In § 173.306, the following changes are made:

■ a. In paragraph (a)(4)(iii), the phrase ''hermetically-sealed'' is revised to read ''hermetically sealed'';

■ b. In the last sentence of paragraph (b) introductory text the phrase ''paragraph (i) of this section.'' is revised to read ''paragraph (h) of this section.''; and

■ c. In paragraph (i), the abbreviation ''ml'' is revised to read ''mL''.

§ 173.309 [Amended]

■ 19. In § 173.309, in paragraph (a)(3)(iv), the phrase ''29 CFR 1910.157(e)'' is revised to read ''29 CFR 1910.157''.

■ 20. In § 173.334, the introductory text is revised to read as follows:

§ 173.334 Organic phosphates mixed with compressed gas.

Hexaethyl tetraphosphate, parathion, tetraethyl dithio pyrophosphate, tetraethyl pyrophosphate, or other Division 6.1 organic phosphates (including a compound or mixture), may be mixed with a non-flammable compressed gas. This mixture may not contain more than 20 percent by weight of organic phosphate and must be packaged in DOT 3A240, 3AA240, 3B240, 4B240, 4BA240, 4BW240 or UN cylinders meeting all of the following requirements:

* * * * *

§ 173.435 [Amended]

■ 21. In § 173.435, in the Table of A1 and A2 values in column seven under the heading ''(TBq/g)'' for the entry ''Cm-243'', the value ''1.9×10^{-3}'' is revised to read ''1.9''.

PART 175—CARRIAGE BY AIRCRAFT

■ 22. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.53.

■ 23. In § 175.75 the following changes are made:

■ a. A new sentence is added at the end of paragraph (c);

■ b. The introductory text to paragraph (e) is revised; and

■ c. Paragraph (e)(5) is revised.

The addition and revisions read as follows:

§ 175.75 Quantity limitations and cargo location.

* * * * *

(c) * * * These requirements do not apply to Class 9 and ORM–D materials.

* * * * *

(e) For cargo aircraft only, the requirements of paragraph (c) and (d) do not apply to the following hazardous materials:

* * * * *

(5) At a minimum, quantity limits and loading instructions in the following quantity and loading tables must be followed to maintain acceptable quantity and loading distances between packages containing hazardous materials. These requirements do not apply to Class 9 or ORM–D materials. The quantity and loading tables are as follows:

Section 175.75 Quantity and Loading Tables

* * * * *

CARGO ONLY AIRCRAFT

[Packages authorized for transport onboard a passenger aircraft]

In an accessible cargo compartment		
If packages are accessible	If packages are inaccessible	If packages are in a Freight Container
No limit	25 kg per compartment plus an additional 75 kg of Division 2.2 material (see Note 1).	25 kg per container plus an additional 75 kg of Division 2.2 material (see Note 1).

In an inaccessible cargo compartment	
If packages are not in a freight container	If packages are in a freight container
25 kg per compartment plus an additional 75 kg of Division 2.2 material	25 kg per compartment plus an additional 75 kg of Division 2.2 material (see Note 1). 25 kg per compartment plus an additional 75 kg of Division 2.2 material (see Note 1).

PACKAGES ONLY AUTHORIZED FOR TRANSPORT ABOARD A CARGO AIRCRAFT

In an accessible cargo compartment			
If packages are accessible	If packages are inaccessible	If packages are in a freight container and are accessible	If packages are in a freight container and are inaccessible
No limit	Forbidden (see Note 1)	No Limit	Forbidden (see Note 1).

In an inaccessible cargo compartment	
If packages are not in a freight container	If packages are in a freight container
Forbidden (see Note 1)	Forbidden (see Note 1).

Note 1: Except the following materials are not subject to this restriction:

a. Class 3, PG III (unless the hazardous material meets the definition of another hazard class)

b. Class 6 (unless also labeled as a flammable liquid)

c. Class 7 (unless the hazardous material meets the definition of another hazard class)

§ 175.78 [Amended]

■ 24. In § 175.78, the following changes are made:

■ a. In paragraph (c)(4)(i)(C), the phrase ''(c)(3)(ii)'' is revised to read ''(c)(4)(ii)''; and

■ b. In the introductory text to paragraph (c)(4)(iv), the phrase ''(c)(3)(iii)'' is revised to read ''(c)(4)(iii)''.

■ 25. In § 175.702, paragraph (a)(2)(ii) is revised to read as follows:

§ 175.702 Separation distance requirements for packages containing Class 7 (radioactive) materials in cargo aircraft.

(a) * * *

(2) * * *

(ii) The minimum separation distances between the radioactive material and any areas occupied by persons that are specified in the following table are maintained:

Transport index or sum of transport indexes of all packages in the aircraft of predesignated area	Minimum separation distances	
	Centimeters	Inches
50.1 to 60.0	465	183
60.1 to 70.0	505	199
70.1 to 80.0	545	215
80.1 to 90.0	580	228
90.1 to 100.0	610	240
100.1 to 110.0	645	254
110.1 to 120.0	670	264
120.1 to 130.0	700	276
130.1 to 140.0	730	287
140.1 to 150.0	755	297
150.1 to 160.0	780	307
160.1 to 170.0	805	317
170.1 to 180.0	830	327
180.1 to 190.0	855	337
190.1 to 200.0	875	344

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 26. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

§ 177.835 [Amended]

■ 27. In § 177.835, in the introductory text to paragraph (g)(2), the reference to ''173.63'' is revised to read ''173.62''.

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 28. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 29. In § 178.70, paragraph (e)(4) is revised to read as follows:

§ 178.70 Approval of UN pressure receptacles.

* * * * *

(e) * * *

(4) Ensure that the various design type approval examinations and tests are performed accurately;

* * * * *

■ 30. In § 178.71, the following changes are made:

■ a. Paragraph (f) is added and reserved;

■ b. Paragraphs (l)(2), (p)(1) and (p)(2) are revised; and

■ c. The first sentence in paragraph (r)(1) is revised.

The revisions read as follows:

§ 178.71 Specifications for UN pressure receptacles.

* * * * *

(l) * * *

(2) ISO 11119–2 and ISO 11119–3 gas cylinders of composite construction manufactured in accordance with the requirements for underwater use must bear the ''UW'' mark.

* * * * *

(p) * * *

(1) The top grouping contains manufacturing marks and must appear consecutively in the sequence given in paragraphs (o)(11) through (17) of this section.

(2) The middle grouping contains operational marks described in paragraphs (o)(6) through (10) of this section.

* * * * *

(r) * * *

(1) The marking requirements and sequence listed in paragraphs (o)(1) through (17) of this section are required, except the markings in paragraphs (o)(7), (8), (11) and (17) are not applicable. * * *

* * * * *

§§ 178.245, 178.245–1, 178.245–2, 178.245–3, 178.245–4, 178.245–5, 178.245–6, 178.245–7 [Removed]

■ 31. In part 178, §§ 178.245, 178.245–1, 178.245–2, 178.245–3, 178.245–4, 178.245–5, 178.245–6, 178.245–7 are removed.

* * * * *

§§ 178.270, 178.270–1, 178.270–2, 178.270–3, 178.270–4, 178.270–5, 178.270–6, 178.270–7, 178.270–8, 178.270–9, 178.270–10, 178.270–11, 178.271, 178.270–1, 178.272, 178.272–1, 178.272–2 [Removed]

■ 32. In part 178, §§ 178.270, 178.270–1, 178.270–2, 178.270–3, 178.270–4, 178.270–5, 178.270–6, 178.270–7, 178.270–8, 178.270–9, 178.270–10, 178.270–11, 178.271, 178.271–1, 178.272, 178.272–1 and 178.272–2 are removed.

§ 178.338–9 [Amended]

■ 33. In § 178.338–9, in paragraph (b)(2), the reference ''178.338–18(b)(9)'' is revised to read ''178.338–18(c)(10)''.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

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

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 35. In § 180.207, paragraphs (d) introductory text and (d)(1) are revised to read as follows:

§ 180.207 Requirements for requalification of pressure receptacles.

* * * * *

(d) *Requalification procedures.* Each UN pressure receptacle that becomes due for requalification must be requalified at the interval prescribed in paragraph (c) of this section and in accordance with the procedures contained in the following standard, as applicable. When a pressure test is performed on a UN pressure receptacle, the test must be a water jacket volumetric expansion test suitable for the determination of the cylinder expansion or a hydraulic proof pressure test. The test equipment must conform to the accuracy requirements in § 180.205(g). Alternative methods (*e.g.* acoustic emission) or requalification procedures may be performed if prior approval has been obtained in writing from the Associate Administrator.

(1) Seamless steel: Each seamless steel UN pressure receptacle, including MEGC's pressure receptacles, must be requalified in accordance with ISO 6406 (IBR, *see* § 171.7 of this subchapter). However, UN cylinders with a tensile strength greater than or equal to 950 MPa must be requalified by ultrasonic examination in accordance with ISO 6406.

* * * * *

■ 36. In § 180.209, in paragraph (a)(1), the first and third entries in Table 1 are revised to read as follows:

§ 180.209 Requirements for requalification of specification cylinders.

(a) * * *

(1) * * *

TABLE 1.—REQUALIFICATION OF CYLINDERS

Specification under which cylinder was made	Minimum test pressure (psig) [2]	Requalification period (years)
* *	* * *	* *
4B, 4BA, 4BW, 4B240ET	2 times service pressure, except non-corrosive (*see* § 180.209(g)).	5, 7, 10, or 12 (*see* § 180.209(e), (f), and (j)).
* *	* * *	* *
DOT 4E	2 times service pressure, except non-corrosive (*see* § 180.209(g)).	5 or 7 (see § 180.209(e)).

§ 180.211 [Amended]

■ 37. In § 180.211(d)(3), the reference ''180.215(d)'' is revised to read ''180.215(c)''.

§ 180.212 [Amended]

■ 38. In § 180.212, the following changes are made:

■ a. In paragraph (a)(1)(i), the phrase ''subchapter'' is revised to read ''chapter''.

■ b. In paragraph (a)(1)(ii), the phrase ''subchapter'' is revised to read ''chapter''.

§ 180.215 [Amended]

■ 39. In § 180.215, in the third sentence in paragraph (b), the phrase ''manufacturer's name or symbol, if present'' is revised to read ''manufacturer's name or symbol''.

■ 40. In § 180.509, the introductory text to paragraph (l) is revised and paragraph (l)(1) is added to read as follows:

§ 180.509 Requirements for inspection and test of specification tank cars.

* * * * *

(l) *Inspection and test compliance date for tank cars.* (1) After July 1, 2000, each tank car with a metal jacket or with a thermal protection system shall have an inspection and test conforming to this section no later than the date the tank car requires a periodic hydrostatic pressure test (*i.e.*, the marked due date on the tank car for the hydrostatic test).

* * * * *

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Stacey Gerard,

Assistant Administrator/Chief Safety Officer.

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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. 4646/P.L. 109–273

To designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the ''Coach John Wooden Post Office Building''. (Aug. 17, 2006; 120 Stat. 773)

H.R. 4811/P.L. 109–274

To designate the facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, as the ''John Paul Hammerschmidt Post Office Building''. (Aug. 17, 2006; 120 Stat. 774)

H.R. 4962/P.L. 109–275

To designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the ''Captain George A. Wood Post Office Building''. (Aug. 17, 2006; 120 Stat. 775)

H.R. 5104/P.L. 109–276

To designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the ''Morris W. Milton Post Office''. (Aug. 17, 2006; 120 Stat. 776)

H.R. 5107/P.L. 109–277

To designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the ''Earl D. Hutto Post Office Building''. (Aug. 17, 2006; 120 Stat. 777)

H.R. 5169/P.L. 109–278

To designate the facility of the United States Postal Service located at 1310 Highway 64 NW. in Ramsey, Indiana, as the ''Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office''. (Aug. 17, 2006; 120 Stat. 778)

H.R. 5540/P.L. 109–279

To designate the facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, as the ''Sergeant Jacob Dan Dones Post Office''. (Aug. 17, 2006; 120 Stat. 779)

H.R. 4/P.L. 109–280

Pension Protection Act of 2006 (Aug. 17, 2006; 120 Stat. 780)

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