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

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Federal Register
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Friday, October 13, 2006

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1421 and 1427

RIN 0560–AH38 and RIN 0560–AH48

Grains and Similarly Handled Commodities-Marketing Assistance Loans and Loan Deficiency Payments for the 2006 Through 2007 Crop Years; Cotton

Storage, Handling, and Ginning Requirements for Cotton Marketing Assistance Loan Collateral

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects changes made by final rules published on June 6, 2006, and August 30, 2006, amending the regulations for the Marketing Assistance Loan (MAL) and Loan Deficiency Payment (LDP) Program of the Commodity Credit Corporation (CCC). A correction is needed because the final rule of June 6 erroneously deleted provisions required by Cotton Marketing Cooperative Associations and an amendatory instruction in the August 30, 2006 rule, intended to correct that error, inadvertently amended the wrong sections of the regulations.

DATES: *Effective Date:* June 6, 2006.

FOR FURTHER INFORMATION CONTACT: Phillip Elder, Regulatory Review Group, Economic and Policy Analysis Staff, Farm Service Agency (FSA), United States Department of Agriculture (USDA), Stop 0572, 1400 Independence Ave., SW., Washington, DC 20250–0572. Telephone: (202) 690–8104; e-mail: *Phillip.Elder@wdc.usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, *etc.*) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

This rule corrects the final rule published in the **Federal Register** on June 6, 2006 (71 FR 32415) that amended the regulations governing the Marketing Assistance Loan (MAL) and Loan Deficiency Payment (LDP) Program of the Commodity Credit Corporation (CCC). The final rule, among other things, revised section 1427.5 of 7 CFR part 1427 and, in doing so, removed the provisions formerly contained in section 1427.5(e)(3) regarding beneficial interest in cotton used as collateral for a marketing assistance loan as it relates to loans made available to cotton producers through Cooperative Marketing Associations. An attempt was made to correct this error in the CCC final rule published on August 30, 2006 by adding provisions dealing with beneficial interest into 7 CFR part 1421 as section 1421.6(j). However, the correction was supposed to have been made in part 1427, which governs marketing assistance loans for cotton, since part 1421 applies only to grains and similar commodities, not cotton. Further, the new section 1421.6(j) is redundant and simply repeats, verbatim, section 1421.6(f). This document corrects the regulatory text that was amended erroneously and makes the correct revision.

List of Subjects in 7 CFR

Part 1421

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

Part 1427

Agricultural commodities, Cotton, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

■ For this reason, 7 CFR part 1421 is amended as follows:

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

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

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

Subpart A—General

§ 1421.6 [Amended]

■ 2. Amend § 1421.6 by removing paragraph (j).

PART 1427—COTTON

■ 3. The authority citation for part 1427 continues to read as follows:

Authority: 7 U.S.C. 7231–7237 and 7931–7939; and 15 U.S.C. 714b and 714c.

Subpart A—Nonrecourse Cotton Loan and Loan Deficiency Payments

■ 4. Amend section 1427.5 by adding paragraph (o) to read as follows:

* * * * *

(o) If marketing assistance loans or loan deficiency payments are made available to producers through a CMA under part 1425 of this chapter, the beneficial interest in the cotton must always have been held by the producer-member who delivered the cotton to the CMA or its member, except as otherwise provided in this section. Cotton delivered to such a CMA shall not be eligible to receive a marketing assistance loan or a loan deficiency payment if the producer-member who delivered the cotton does not retain the right to share in the proceeds from the marketing of the cotton as provided in part 1425 of this chapter.

Signed in Washington, DC, on October 6, 2006.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E6–16944 Filed 10–12–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24010; Directorate Identifier 2006–CE–14–AD; Amendment 39–14787; AD 2006–21–03]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Cirrus Design Corporation (CDC) Models SR20 and SR22 airplanes. This AD requires you to check the maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection. If the O-rings were not replaced, this AD requires you to replace the O-ring seals with new seals or replace brake calipers. This AD also requires you to modify the main landing gear wheel fairings to add temperature indicator sticker inspection holes, trim the wheel fairings to prevent them from holding fluids, install temperature indicator stickers on the brake calipers, and insert Revision A6 (with revised preflight walk-around, a limitation on the engine speed used to taxi, and brake inspection/servicing intervals) into the Pilot's Operating Handbook (POH). This AD results from several reports of airplanes experiencing brake fires and two airplanes losing directional control. We are issuing this AD to detect, correct, and prevent overheating damage to the brake caliper piston O-ring seals, which could result in leakage of brake hydraulic fluid. Consequently, this could lead to the loss of braking with loss of airplane directional control or brake fire.

DATES: This AD becomes effective on November 17, 2006.

As of November 17, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727–2737 or on the Internet at *http://www.cirrusdesign.com*.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is Docket No. FAA–2006–24010; Directorate Identifier 2006–CE–14–AD.

FOR FURTHER INFORMATION CONTACT: Wess Rouse, Aerospace Engineer, ACE–117C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

On May 1, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain CDC Models SR20 and SR22 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 8, 2006 (71 FR 26707). The NPRM proposed to require you to check the maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection. If the O-rings were not replaced, this proposed AD would require you to replace the O-ring seals with new seals or replace brake calipers. This proposed AD would also require you to modify the main landing gear wheel fairings to add temperature indicator sticker inspection holes, trim the wheel fairings to prevent them from holding fluids, install temperature indicator stickers on the brake calipers, and insert Revision A6 (with revised preflight walk-around and taxi procedures) into the Pilot's Operating Handbook (POH).

Comments

We provided the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal and FAA's response to the comment:

Comment Issue: Increase Emphasis on the Operational Aspects of Overheating of the Brakes

CDC points out that the brakes, as delivered, meet certification requirements, and when properly used, will provide the expected performance and service. We conclude that CDC believes that the AD overemphasizes the required maintenance actions and hardware upgrades, without explaining the operational details that will prevent brake caliper O-ring damage.

Our intent is that the AD stress continued operational safety by removing and replacing potentially damaged O-rings or replacement of existing brake calipers with new heavier duty calipers (with new O-rings installed), adding brake caliper temperature stickers with a new inspection hole in the wheel fairings (to detect potential O-ring damage before brake fluid leaks develop), and adding a revision to the Pilot's Operating Handbook (to emphasize brake preflight inspections, checking the color of the brake caliper temperature sticker for evidence of brake caliper overheating, and limiting the engine RPM during taxi to 1000 RPM).

We agree that the operational change to limit engine RPM during taxi (found in Revision A6 to the POH) is the most important consideration toward preventing brake caliper O-ring seal damage. This AD is requiring this action so we are not changing the AD as a result of this comment.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 2,135 airplanes in the U.S. registry.

We estimate the following costs to do the check of maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × $80 = $80	Not Applicable	$80	$170,800

We estimate the following costs to install any necessary O-ring seals that would be required based on the results of this check of maintenance records. We have no way of determining the number of airplanes that may need this seal installation:

Labor cost	Parts cost	Total cost per airplane
4 work-hours × $80 = $320	$8	$328

We estimate the following costs to replace any brake calipers on Model SR20 airplanes, serial numbers (S/Ns) 1005 through 1194, that would be required based on the results of this check of maintenance records. We have no way of determining the number of these Model SR20 airplanes that may need to replace brake calipers:

Labor cost	Parts cost	Total cost per airplane
12 work-hours × $80 = $960	$1,167	$2,127

We estimate the following costs to replace any brake calipers on Model SR20 airplanes, S/Ns 1195 through 1600, that would be required based on the results of this check of maintenance records. We have no way of determining the number of these Model SR20 airplanes that may need to replace brake calipers:

Labor cost	Parts cost	Total cost per airplane
8 work-hours × $80 = $640	$1,167	$1,807

We estimate the following costs to replace any brake calipers on Model SR22 airplanes that would be required based on the results of this check of maintenance records. We have no way of determining the number of Model SR22 airplanes that may need to replace brake calipers:

Labor cost	Parts cost	Total cost per airplane
5 work-hours × $80 = $400	$845	$1,245

We estimate the following costs to do the modification of the MLG wheel fairings to add the temperature indicator sticker inspection holes, trim the wheel fairings to prevent them from holding fluids, and install the temperature indicator sticker on the brake calipers:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 work-hours × $80 = $160	$2	$162	$345,870

The CDC has indicated that CDC will provide warranty credit as stated in the service information for modifying the MLG wheel fairings by adding the temperature indicator sticker inspection holes, trimming the wheel fairings to prevent them from holding fluids, and installing the temperature indicator sticker on the brake calipers.

We estimate the following costs to do the insertion of Revision A6 into the POH:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × $80	Not Applicable	$80	$170,800

Authority for This Rulemaking

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

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

that is likely to exist or develop on products identified in this AD.

Regulatory Findings

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

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

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

2. Is not a ''significant rule'' under 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 other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–24010; Directorate Identifier 2006–CE–14–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

■ Accordingly, 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. FAA amends § 39.13 by adding a new AD to read as follows:

2006–21–03 Cirrus Design Corporation: Amendment 39–14787; Docket No. Docket No. FAA–2006–24010; Directorate Identifier 2006–CE–14–AD.

Effective Date

(a) This AD becomes effective on November 17, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following airplane models and serial numbers (S/N) that are certificated in any category:

(1) Group 1: Model SR20 Airplanes, S/N 1005 through 1600.

(2) Group 2: Model SR22 Airplanes, S/N 0002 through 1739.

(3) Group 3: Model SR20 Airplanes, S/N 1005 through 1592.

(4) Group 4: Model SR22 Airplanes, S/N 0002 through 1727.

Unsafe Condition

(d) This AD results from several reports of airplanes that experienced brake fires and two airplanes that lost directional control. The actions specified in this AD are intended to detect, correct, and prevent overheating damage to the brake caliper piston O-ring seals, which could result in leakage of brake hydraulic fluid. Consequently, this could lead to the loss of braking with loss of airplane directional control or brake fire.

Compliance

(e) To address this problem, you must do the following:

TABLE 1.—ACTIONS/COMPLIANCE/PROCEDURES

Actions	Compliance	Procedures
(1) *For Group 1 and Group 2 airplanes:* Check the maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection.	Within 50 hours time-in-service (TIS) after November 17, 2006 (the effective date of this AD), unless already done.	No special procedures necessary to check the maintenance records. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may make this check. You must make an entry into the airplane records that shows compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) *For Group 1 and Group 2 airplanes:* If you find as a result of the check required by paragraph (e)(1) of this AD that there is no record of the replacement of brake caliper piston O-ring seals at the last annual or 100-hour inspection, then do the following: (i) Replace the O-ring seals with new O-ring seals or (ii) Replace old brake calipers with new brake calipers.	Before further flight after the check required by paragraph (e)(1) of this AD.	For the replacement, follow the brake maintenance procedures in Section 32–42 of the SR20 or SR22 Aircraft Maintenance Manual. For the replacement of the new brake calipers, follow Cirrus Design Corporation Service Bulletin SB 2X–32–13 R1, Issued: December 15, 2005, Revised May 16, 2006.
(3) *For Group 3 and Group 4 airplanes:* (i) Modify the main landing gear (MLG) wheel fairings to add temperature indicator sticker inspection holes and trim the wheel fairings to prevent them from holding fluids; and (ii) Install a temperature indicator sticker on the brake calipers.	Do the modification within 50 hours TIS after November 17, 2006 (the effective date of this AD), unless already done. Do the temperature indicator sticker installation within 50 hours TIS after November 17, 2006 (the effective date of this AD), unless already done, and thereafter before further flight anytime you have the O-ring seals replaced due to overheating of the brake assembly (temperature indicator sticker turned black).	Follow Cirrus Design Corporation Service Bulletin SB 2X–32–14 R1, Issued: January 18, 2006, Revised: February 17, 2006.

TABLE 1.—ACTIONS/COMPLIANCE/PROCEDURES—Continued

Actions	Compliance	Procedures
(4) *For all airplanes:* Insert the appropriate Revision A6 part number (P/N) into the Pilot's Operating Handbook (POH), as presented in TABLE 2.—REVISION A6 TO THE PILOT'S OPERATING HANDBOOK, in paragraph (f) of this AD.	Within 50 hours TIS after November 17, 2006 (the effective date of this AD), unless already done.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the POH as specified in paragraph (e)(4) of this AD. Make an entry into the airplane maintenance records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(5) *For Group 3 and Group 4 airplanes:* (i) Do not install any MLG fairings without also doing the modifications required by paragraph (e)(3)(i) of this AD; and (ii) Do not replace any brake calipers without also installing the temperature indicator sticker required by paragraph (e)(3)(ii) of this AD.	As of November 17, 2006 (the effective date of this AD).	Follow Cirrus Design Corporation Service Bulletin SB 2X–32–14 R1, Issued: January 18, 2006, Revised: February 17, 2006.

(f) The following table specifies the POH Revision A6 part number as required in paragraph (e)(4) of this AD:

TABLE 2.—REVISION A6 TO THE PILOT'S OPERATING HANDBOOK

Affected airplanes	Model SR20 or SR22 airplane POH P/N	Date FAA-approved
(1) Model SR20, S/N 1148 through 1267	11934–002	January 18, 2006.
(2) Model SR20, S/N 1005 through 1147 that have the 3,000-pound gross weight modification following Cirrus Design Corporation Service Bulletin SB 20–01–00, Issued: February 25, 2003.	11934–002	January 18, 2006.
(3) SR20, S/N 1268 through 1739	11934–003	January 18, 2006.
(4) SR22, S/N 002 through 1739	13772–001	January 18, 2006.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Chicago Aircraft Certification Office (ACO), ATTN: Wess Rouse, Aerospace Engineer, FAA, ACE–117C, Chicago ACO, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; facsimile: (847) 294–7834, has the authority to approve alternative methods of compliance for this AD, if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(h) You must do the actions required by this AD following the instructions in Cirrus Design Corporation Service Bulletin SB 2X–32–13 R1, Issued: December 15, 2005, Revised May 16, 2006; and Cirrus Design Corporation Service Bulletin SB 2X–32–14 R1, Issued: January 18, 2006, Revised: February 17, 2006. 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. To get a copy of this service information, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727–2737 or on the Internet at *www.cirrusdesign.com.* To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is Docket No. FAA–2006–24010; Directorate Identifier 2006–CE–14–AD.

Issued in Kansas City, Missouri, on October 3, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–16741 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2004–NM–36–AD; Amendment 39–14788; AD 2006–21–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ and EMB–145XR Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ and Model EMB–145XR airplanes. This AD requires, for all airplanes, installation of an additional indication device to the clear-ice indication system. For certain airplanes, this AD requires replacing the existing clear-ice indication lamp with a new,

improved lamp. For certain other airplanes, this AD also requires modifying certain electrical connections to add an indication device to the clear-ice indication system, removing a certain placard, and re-activating the clear-ice additional indicator lamp. The actions specified by this AD are intended to prevent undetected build-up of clear ice on the wing surfaces, which could lead to reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 17, 2006.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 17, 2006.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ and Model EMB–145XR airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on May 26, 2006 (71 FR 30335). That action proposed to require, for all airplanes, installation of an additional indication device to the clear-ice indication system. For certain airplanes, that action also proposed to require replacing the existing clear-ice indication lamp with a new, improved lamp. For certain other airplanes, that action also proposed to require modifying certain electrical connections to add an indication device to the clear-ice indication system, removing a certain placard, and re-activating the clear-ice additional indicator lamp. That action also proposed to add airplanes to the applicability of an earlier supplemental NPRM.

Comments

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

Request To Withdraw the Second Supplemental NPRM

ExpressJet requests that we withdraw the second supplemental NPRM. ExpressJet states that it is the only U.S. operator of these airplanes, and that it has accomplished all the actions specified in the service bulletins. ExpressJet also explains that any future airplanes of this type will be equipped in production, so there is no reason to include this type of airplane in the final rule.

We do not agree with ExpressJet's request to withdraw the second supplemental NPRM. EMBRAER has advised us that not all of the affected airplanes worldwide have been modified; therefore, it is possible that an unmodified airplane could be imported to the U.S. in the future. Even if the current U.S.-registered fleet is in compliance with all of the proposed requirements, issuing the AD will ensure that the imported airplane is modified before it is permitted to operate in the U.S. We have not changed the AD in this regard.

Conclusion

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

Cost Impact

The FAA estimates that about 49 airplanes of U.S. registry are affected by this AD. The average labor rate is $80 per work hour.

For 41 Model EMB–145XR airplanes, it will take 16 work hours per airplane to accomplish the actions. Required parts cost between $242 and $817 per airplane. Based on these figures, the cost impact of this AD on U.S. operators of Model EMB–145XR airplanes is estimated to be between $62,402 and $85,977, or between $1,522 and $2,097 per airplane.

For 8 Model EMB–135BJ airplanes, it will take 16 work hours per airplane to accomplish the actions. Required parts will cost between $240 and $820 per airplane. Based on these figures, the cost impact of this AD on U.S. operators of Model EMB–135BJ airplanes is estimated to be between $12,160 and $16,800, or between $1,520 and $2,100 per airplane.

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

Authority for This Rulemaking

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

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

Regulatory Impact

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

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

Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–21–04 Empresa Brasileira De Aeronautica S.A. (EMBRAER): Amendment 39–14788. Docket 2004–NM–36–AD.

Applicability: Model EMB–145XR airplanes, as listed in EMBRAER Service Bulletin 145–30–0035, Revision 03, dated March 8, 2005; and Model EMB–135BJ airplanes, as listed in EMBRAER Service Bulletin 145LEG–30–0002, Revision 01, dated January 4, 2005; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent undetected build-up of clear ice on the wing surfaces, which could lead to reduced controllability of the airplane, accomplish the following:

Modification of Clear-Ice Indication System

(a) For Model EMB–145XR airplanes: Within 24 months or 5,000 flight hours after the effective date of this AD, whichever comes first, perform the actions specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–30–0035, Revision 03, dated March 8, 2005.

(1) Install complete electrical connections and provisions to add an additional indication device to the clear-ice indication system, as specified in Part I of the Accomplishment Instructions of the service bulletin.

(2) Replace the existing clear-ice indication lamp with a new lamp having a new part number, as specified in Part II of the Accomplishment Instructions of the service bulletin.

(b) For Model EMB–135BJ airplanes: Within 24 months or 5,000 flight hours after the effective date of this AD, whichever comes first, perform the actions in paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–30–0002, Revision 01, dated January 4, 2005.

(1) Install complete electrical connections and provisions to add an additional indication device to the clear-ice indication system, as specified in Part I of the Accomplishment Instructions of the service bulletin.

(2) Modify the electrical connections of factory-provisioned airplanes to add an additional indication device to the clear-ice indication system, as specified in Part II of the Accomplishment Instructions of the service bulletin.

(3) Remove the ''Clear-Ice Inoperative'' placard and reactivate the clear-ice additional indicator lamp, as specified in Part III of the Accomplishment Instructions of the service bulletin.

(4) Replace the existing clear-ice indicator lamp with a new, improved lamp having a new part number, as specified in Part IV or V of the Accomplishment Instructions of the service bulletin.

Actions Accomplished Per Previous Issues of Service Bulletins

(c) Actions accomplished before the effective date of this AD in accordance with EMBRAER Service Bulletin 145–30–0035, Revision 02, dated January 6, 2005, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance

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

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

Note 1: The subject of this AD is addressed in Brazilian airworthiness directive 2004–01–01, effective January 27, 2004.

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions must be done in accordance with EMBRAER Service Bulletin 145–30–0035, Revision 03, dated March 8, 2005; or EMBRAER Service Bulletin 145LEG–30–0002, Revision 01, dated January 4, 2005; as applicable. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of this service information, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(f) This amendment becomes effective on November 17, 2006.

Issued in Renton, Washington, on October 4, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–16895 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25831; Airspace Docket No. 06–AWA–1]

RIN 2120–AA66

Modification of the Class B Airspace Area; Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action makes minor modifications to the floor of the Atlanta, GA, Class B airspace area in order to contain large, turbine-powered aircraft within Class B airspace during simultaneous triple instrument landing system (STILS) operations at the Hartsfield-Jackson Atlanta International Airport (ATL). In addition, this action makes two editorial changes to the Atlanta Class B airspace legal description. The FAA is taking this action to enhance safety and to prevent significant air traffic delays in the National Airspace System (NAS).

DATES: Effective 0901 UTC, October 26, 2006. Comments must be received on or before November 27, 2006. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: Address your comments in triplicate to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2006–25831 and Airspace Docket No. 06–AWA–1, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW.,

Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA is adopting this final rule without prior notice and comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979) provide that to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, we invite interested persons to participate in this rulemaking by submitting such written date, views, or arguments, as they may desire.

Communications should identify both docket numbers (FAA Docket No. FAA–2006–25831 and Airspace Docket No. 06–AWA–1) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2006–25831 and Airspace Docket No. 06–AWA–1.'' The postcard will be date/time stamped and returned to the commenter.

Availability of Final Rule

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html.* You may review the public docket containing the final rule and any comments received in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Background

On May 27, 2006, a new runway (10/28) was commissioned at ATL. The new runway allowed the introduction of simultaneous triple arrival operations at Atlanta which led to a significant decrease in arrival delays at the airport. For example, arrival delays in June 2006 were 1,349 compared to 5,401 in June 2005 (Note: triple arrivals did not actually begin at Atlanta until June 8, 2006). In July 2006, arrival delays were 257 as opposed to 8,059 delays in July 2005. August 2006 recorded 323 delays versus 7,352 in August 2005. Additionally, since the start of triple arrival procedures, ground delay programs for aircraft destined to Atlanta decreased (from 42 in July/August 2005 to zero in July/August 2006), miles-in-trail restrictions were reduced for adjacent air route traffic control centers, and on-time performance for Atlanta's customers saw significant improvement.

Initial modeling of the new procedures, conducted several years ago, indicated that STILS approaches could be accomplished within the confines of the current Class B airspace configuration. Further modeling, conducted in the fall of 2005, indicated that the volume of arrivals to the north runway (8L/26R) would have to be managed, but aircraft could still be contained within the confines of Class B airspace. However, after the actual implementation of STILS approaches in June 2006, it was found that when STILS approaches were conducted during those periods when both peak traffic volume and instrument flight rules (IFR) weather conditions existed, aircraft on approach to Runway 8L/26R would exit and reenter Class B airspace when between 25 and 20 nautical miles (NM) from the airport. Experience showed that, when STILS was in progress in IFR conditions and the traffic volume was running at the airport's maximum efficiency arrival rate, airspace constraints made it necessary for air traffic control to place the Runway 8L/26R arrivals at 5,000 feet MSL in order to provide proper separation from aircraft on approach to the center runway. An aircraft at 5,000 feet MSL on final approach to Runway 8L/26R will exit Class B airspace northeast or northwest of Atlanta (depending on the landing direction) when between 25 and 20 NM from the airport. This occurs because the floor of the existing Class B airspace is 6,000 feet MSL between 25 and 20 NM. At the 20 NM point, the Class B airspace floor drops to 3,500 feet MSL so arriving aircraft reenter Class B airspace at that point. With the current Class B airspace configuration, approximately 300–400 aircraft per day would leave and reenter Class B airspace when STILS operations are conducted during less than visual conditions.

It is important to note that this situation exists primarily when simultaneous triple ILS approaches are conducted during peak arrival periods in less than visual weather conditions. Atlanta arrivals typically do not exit Class B airspace when visual approaches are being conducted to Runway 8L/26R. When visual approaches are in use during triple arrival operations, the Atlanta arrival rate is 134 aircraft per hour.

The air traffic controller's options to resolve the above situation and retain all aircraft within Class B airspace are limited. Required procedures for vectoring aircraft to the final approach course and maintaining standard separation, along with the present Class B airspace design, all combine to present a very limited window of airspace for controllers to use when vectoring aircraft to intercept the ILS localizer course for Runway 8L/26R. Under these conditions, the arrival flow rate must be reduced to allow the controller to vector aircraft to this small turn-on area, maintain required separation from other arriving aircraft, and keep the aircraft within Class B airspace. For that reason, on August 30, 2006, the FAA elected to significantly reduce arrival rates when STILS operations are in use at Atlanta, during IFR conditions, to avoid having arrivals exit and reenter Class B airspace. The FAA took this step pending rulemaking action to modify the floor of the Atlanta Class B airspace area. It is acknowledged that this reduction in the arrival rate will require an expanded use of traffic management initiatives during the conditions discussed above.

The reduction of Atlanta's arrival rate during STILS approaches has a significant impact on operations at Atlanta and on the National Airspace System (NAS). As discussed earlier, actual experience with the STILS operation demonstrated that it is not possible to contain all arrivals in the Atlanta Class B airspace and maintain the most efficient arrival rate. If the changes in this rule are not implemented, Atlanta will be unable to fully utilize STILS procedures during those traffic and weather conditions when it is most needed. In order to ensure Class B airspace containment, the arrival rate must be reduced by at least 20–25% during STILS operations. This drops the airport's arrival rate from 116 aircraft per hour, to a maximum of 96 per hour. When demand exceeds capacity, traffic management initiatives, such as extended miles-in-trail restrictions and ground stops or ground delay programs, must be used to reduce the ATL arrival flow. Normally, nine periods daily exceed the 96 aircraft per hour rate. Flights that can't be accommodated in the hour they are scheduled to arrive would roll over into subsequent hours creating additional delays throughout the day. These delays can easily number in the hundreds per day. The impact of delays at Atlanta quickly ripples throughout the entire

NAS and affects traffic at airports nationwide. The impact on NAS efficiency, aircraft operators, and passengers is significant. For example, carriers that utilize the hub concept not only experience delays for Atlanta arrivals and departures, but also encounter disruption of schedule integrity for their entire national operations. Since ground stop or ground delay programs and other traffic management initiatives can lead to missed connections and expiration of crew duty times, operators often must cancel some flights to maintain overall schedule integrity. Ground and in-flight delays also impact operations through increased fuel consumption and the added expense of providing overnight accommodations for affected passengers. The flying public is adversely affected by the inability to get to their destinations on time resulting in missed connections, missed appointments, and added expenses.

To correct the situation where arriving aircraft exit and reenter Class B airspace, and to maximize runway capacity, this rule lowers the existing floor of the Atlanta Class B airspace area from 6,000 feet MSL to 5,000 feet MSL within two small areas as described below. Lowering the Class B airspace floor to 5,000 feet MSL in these areas will provide controllers with a larger window to accomplish the turn-on phase and minimize the need to reduce the arrival rate during certain STILS operations.

Impact of the Class B Modification on Other Airspace Users

The FAA believes that lowering the floor of Class B airspace to 5,000 feet MSL, as described in this rule, will not adversely affect other airspace users in the Atlanta area. Presently, the airspace between 5,000 feet and 6,000 feet MSL, within the two sections concerned, includes east/west transitions for aircraft primarily departing and landing at DeKalb-Peachtree Airport, Fulton County Airport, Cobb County Airport, and Dobbins Air Reserve Base. The two airspace segments are not useful as north/south transition areas due to the adjacent Class B airspace to the south where the Class B floor is already at 4,000 feet MSL. No aerobatic practice areas or parachute drop areas are affected by the change. Very few visual flight rules (VFR) aircraft presently conduct operations between 5,000 and 5,900 feet MSL in these areas due to the high volume of Atlanta arrival traffic that uses the airspace. A recently conducted 42-day random sampling (using the Performance Data Analysis and Reporting System) found that an average of 1.21 aircraft per day transitioned through the described area. In addition, the current Atlanta VFR Flyway Planning Chart provides multiple suggested routes and altitudes to help VFR pilots avoid major traffic flows and to avoid flight within Class B airspace (if desired) while transiting the Atlanta area. The changes in this rule will not impact the existing charted VFR flyways. Two of these flyways pass beneath the airspace in question, with the suggested altitudes of ''below 4,000'' on the west side, and ''below 3,500 feet'' on the east side. The current flyways still allow transiting VFR aircraft to remain well clear of the new 5,000 foot MSL Class B airspace floor.

Outreach Efforts

The issue of aircraft exiting Class B airspace was discussed at the April 24, 2006 Precision Runway Monitor Site Implementation Team meeting. This group consists of representatives from FAA, the three major users at Hartsfield-Jackson Atlanta International Airport, the Airline Pilots Association, and the Atlanta Department of Aviation. Additionally, this issue was briefed at the May 11, 2006 Capacity Enhancement Work Group meeting. This group consists of representatives from FAA, all Atlanta air carriers, the National Business Aviation Association, and the Atlanta Department of Aviation. The FAA also issued a Letter to Airmen discussing this issue on May 15, 2006.

In conjunction with this rule, the FAA will reprint the Atlanta Sectional Aeronautical Chart and the Atlanta VFR Terminal Area Chart to reflect the modifications. The FAA will also issue an additional letter to airmen describing the Class B airspace change.

The FAA considers this final rule to be a critical action necessary to enhance the safety and efficiency of the National Airspace System. Although the FAA is taking this action by immediate adoption of the final rule, the agency intends to initiate a thorough review, in 2007, of the Atlanta Class B airspace area design. This effort will include public participation through the ad hoc user committee, informal airspace meeting, and notice of proposed rulemaking procedures.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Atlanta Class B airspace area to lower the floor of Class B airspace from 6,000 feet MSL to 5,000 feet MSL within two small areas as described below. Specifically, this action (depicted on the attached chart) modifies the description of Area F to add the two new sections wherein Class B airspace extends upward from 5,000 feet MSL. These sections are: to the east of the airport, that airspace within an area bounded on the west by the 20 NM arc of the Atlanta Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC), on the east by the 25 NM arc of the Atlanta VORTAC, on the south by the Atlanta VORTAC 090° radial, and on the north by a line 8 NM north of and parallel to the Runway 8L/26R localizer course; and to the west of the airport, that airspace within an area bounded on the east by the 20 NM arc of the Atlanta VORTAC, on the west by the 25 NM arc of the Atlanta VORTAC, on the south by the Atlanta VORTAC 270° radial, and on the north by a line 8 NM north of and parallel to the Runway 8L/26R localizer course. The description of Area G is amended to reflect the above change by adjusting the boundaries wherein Class B airspace extends upward from 6,000 feet MSL.

In addition, this rule makes two editorial changes to the Atlanta Class B airspace legal description to update the airport name and the coordinates of the airport reference point as listed in 14 CFR part 71. The airport name is changed from ''The William B. Hartsfield Atlanta International Airport,'' to ''Hartsfield-Jackson Atlanta International Airport,'' in order to reflect the current airport name. A minor change is made to the ARP coordinates to reflect the latest survey information. The ARP coordinates are changed from ''lat. 33°38′25″ N., long. 84°25′37″ W.,'' to ''lat. 38°38′12″ N., long. 84°26′41″ W.'' These editorial changes do not affect the charting or the operation of the Class B airspace area.

Except for the changes described above, the descriptions of all other areas in the Atlanta Class B airspace area remain as currently published.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9P dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory

Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Good Cause for Immediate Adoption

Section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures when the agency for ''good cause'' finds that those procedures are ''impractical, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. Based on the information presented above, the FAA has determined that prompt remedial action is necessary to enhance safety and avoid significant adverse impact on the operation of the NAS. Without immediate action, the traveling public will continue to experience substantially more flight delays. Therefore, the FAA finds that it is impractical and contrary to the public interest to delay action in order to follow the normal notice and comment procedures.

Good Cause for Early Effective Date

Under 5 U.S.C. 553(d), publication of a substantive rule shall be made not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule. The FAA is issuing this rule with an effective date of October 26, 2006, which is less than 30 days after publication. The FAA finds good cause because this rule will enhance safety and end significant adverse impact on the operation of the NAS. As noted before, the FAA is taking additional steps to advise the public of this action, including reprinting the affected aeronautical charts and sending a letter to airmen in the Atlanta area regarding the airspace change.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

■ By removing the current airport name and reference point, and Area F and Area G descriptions, and substituting the following:

Paragraph 3000 Class B Airspace.

* * * * *

ASO GA B Atlanta, GA [Amended]

Hartsfield-Jackson Atlanta International Airport (Primary Airport)
(Lat. 33°38′12″ N., long. 84°25′41″ W.)

* * * * *

Boundaries.

* * * * *

Area F. That airspace extending upward from 5,000 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 25-mile radius of the Atlanta VORTAC, clockwise between a line 12 miles south of and parallel to the Runway 09R/27L localizer courses and the Atlanta VORTAC 138° radial; and clockwise between the Atlanta VORTAC 218° radial and a line 12 miles south of and parallel to the Runway 09R/27L localizer courses; and that airspace west of the airport between the 20-mile radius of the Atlanta VORTAC and the 25-mile radius of the Atlanta VORTAC, from the Atlanta VORTAC 270° radial north to a line 8 miles north of and parallel to the Runway 8L/26R localizer course; and that airspace east of the airport between the 20-mile radius of the Atlanta VORTAC and the 25-mile radius of the Atlanta VORTAC from the Atlanta VORTAC 090° radial north to a line 8 miles north of and parallel to the Runway 8L/26R localizer course; excluding that airspace contained in Areas A, C, D, and E.

Area G. That airspace extending upward from 6,000 feet MSL to and including 12,500 feet MSL within a 25-mile radius of the Atlanta VORTAC north of a line 8 miles north of and parallel to the Runway 8L/26R localizer course; and south of Atlanta VORTAC in an area bounded on the north by a line 8 miles south of and parallel to the Runway 09R/27L localizer courses, on the east by the Atlanta VORTAC 138° radial, on the south by a line 12 miles south of and parallel to the Runway 09R/27L localizer courses, and on the west by the Atlanta VORTAC 218° radial; excluding that airspace clockwise between the Atlanta VORTAC 323° and 031° radials north of a line 12 miles north of and parallel to the Runway 08L/26R localizer courses, and that airspace contained in Areas A, B, C, and D.

* * * * *

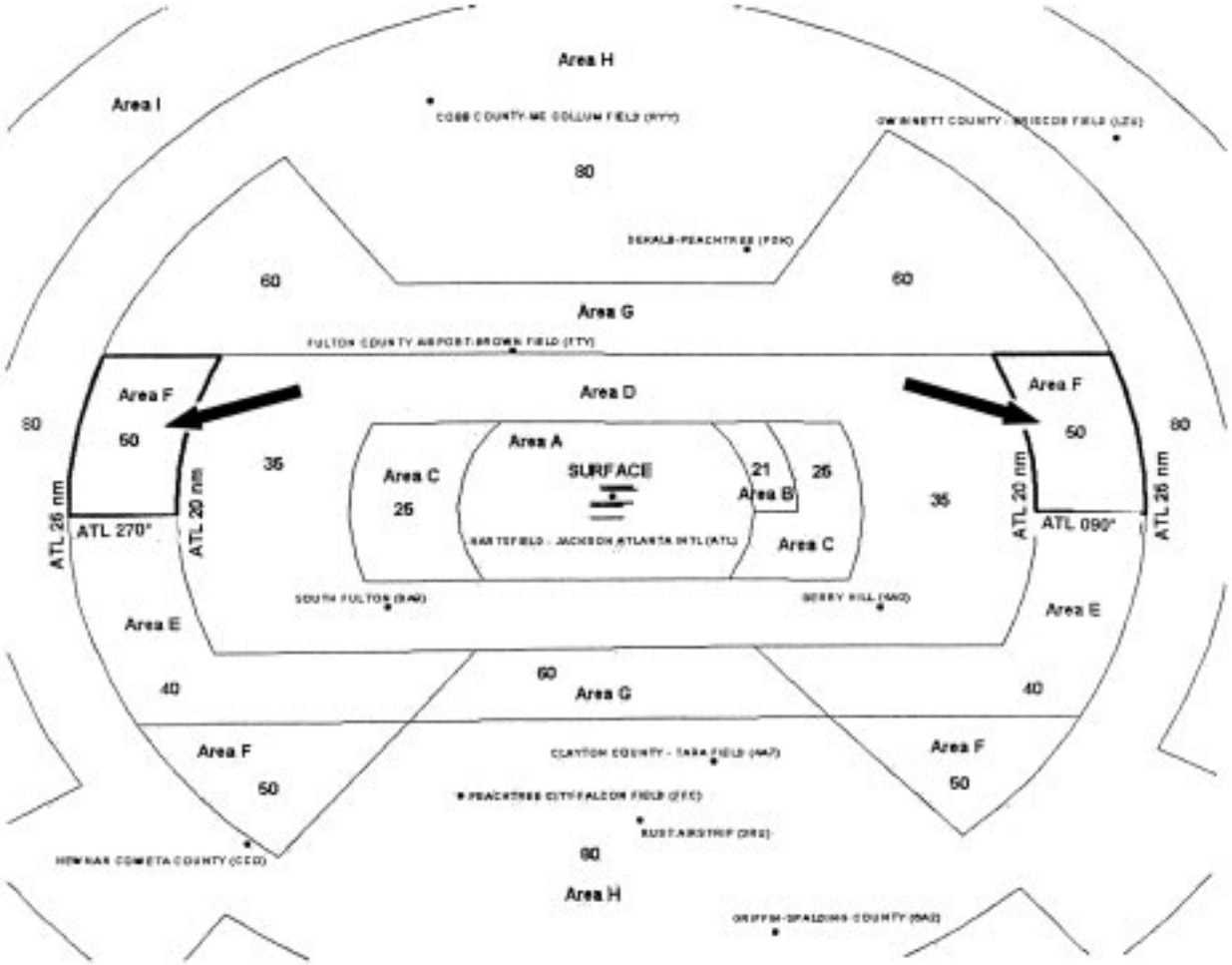
Issued in Washington, DC, on October 10, 2006.

Edith V. Parish,

Manager, Airspace and Rules.

BILLING CODE 4910–13–P

MODIFICATION OF THE ATLANTA CLASS B AIRSPACE AREA
(Docket No. 06-AWA-1)



Partial Depiction --- Not To Scale

(NOT TO BE USED FOR NAVIGATION)

ARROWS INDICATE THE TWO AREAS WHERE FLOOR OF CLASS B AIRSPACE IS LOWERED FROM 6,000 FEET MSL TO 5,000 FEET MSL

[FR Doc. 06–8688 Filed 10–12–06; 8:45 am]
BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

14 CFR Part 93

[Docket No. FAA 2005–20704; Amendment No. 93–86]

RIN 2120–AI87

Amending the Congestion and Delay Reduction at Chicago O'Hare International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule with Request for Comment.

SUMMARY: The FAA published a final rule on August 29, 2006, (71 FR 51382), to address persistent flight delays from overscheduling at O'Hare International Airport (O'Hare). This amendment revises section 93.25, ''Initial assignment of Arrival Authorizations to U.S. and Canadian air carriers for domestic and U.S./Canada transborder service,'' to direct the FAA to assign each U.S. and Canadian conducting scheduled service at O'Hare by January 27, 2007, Arrival Authorizations based on their permanent holdings as of the 7-day period of October 22 through October 28, 2006, as evidenced by the FAA's records. While the FAA is making this rule effective without notice and comment, the FAA invites the public to comment on the amendment. The FAA will consider the comments to see whether the rule should be further modified.

DATES: Effective October 29, 2006.

Comment Date: Comments must be received on or before December 12, 2006.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA is adopting this final rule without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979), provide that to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, we invite interested persons to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. We also invite comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment. Please include the regulatory docket or amendment number and send two copies to the address above. We will file all comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, in the public docket. The docket is available for public inspection before and after the comment closing date.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

The FAA will consider all comments received on or before the closing date for comments. We will consider late comments to the extent practicable. We may amend this final rule in light of the comments received.

Commenters who want the FAA to acknowledge receipt of their comments submitted in response to this final rule must include a preaddressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–2005–20704.'' The postcard will be date-stamped by the FAA and mailed to the commenter.

Availability of Final Rule

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/*; or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBRFA on the Internet at our site, *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

Justification for Final Rule Without Prior Notice

Based on the circumstances described herein, the FAA believes immediate regulatory action is warranted. Section 553 of the Administrative Procedures Act (APA) permits an agency to forego notice and comment rulemaking when ''the agency for good cause finds * * * that notice and public procedures thereon are impracticable, unnecessary or contrary to the public interest.'' The FAA finds that the use of notice and public procedures for this rule is impracticable and contrary to the public interest.

The FAA determined that it was to the public interest to modify the August 18, 2004 Order (the Order) that regulated scheduled arrivals at O'Hare International Airport in order for carriers to modify their schedules for competitive or operational reasons through various market mechanisms prior to the effective date of the August 29, 2006, final rule. The FAA modified the Order after issuing a show-cause order that gave the public an opportunity to comment on its proposed modification, 71 FR 56213 (September 26, 2006), and considered the responses to its show-cause order when it determined to adopt the proposed modification. Modification of the Order requires us to also amend the final rule in order to recognize changes in holder and operator status of scheduled arrivals that may occur during the duration of the Order, which affect the assignment of Arrival Authorizations on October 29, 2006, the effective date of the rule. The changes in the rule are necessary to make the Order's modification effective.

We are inviting comments on this rule and may modify the rule in response to those comments.

Justification for an Effective Date Less Than 30 Days

Likewise, the FAA has determined that the effective date for this final rule should coincide with the effective date of the August 29, 2006 final rule. Ordinarily agencies are required to provide an effective date of at lest 30 days after publication of a rule in the **Federal Register**. An agency need not adhere to this requirement if it demonstrates that a shorter time frame is in the public interest. Since this final rule has a direct impact on allocations that will be made on the first day of the

August 29, 2006 final rule, the FAA has determined that it is in the public interest for the effective dates of both rules to be the same.

Background

The FAA issued an order limiting capacity at Chicago O'Hare International Airport on August 18, 2004. That Order resulted from the August 4, 2004, scheduling reduction meeting. The Order limited arrivals by domestic carriers to 88 during most hours of the day. The Order was set originally set to expire in April 2005 but was extended three times to ensure that overscheduling would not occur between the original expiration of the order and the effective date of the rule. The Order will expire on October 28, 2006, and the August 29, 2006 final rule will take effect on October 29, 2006 (71 FR 51382).

Previously, under the Order, carriers were not allowed to make any permanent transfers or trades of their scheduled arrivals. The FAA, however, recently reconsidered this position and issued a modification to the Order and eliminated the prohibition on trading or transferring (buying, selling, or leasing) scheduled arrivals for consideration for the remaining duration of the Order. Because the Order allows permanent trades and transfers of arrivals, § 93.25 must be amended so that when the FAA assigns Arrival Authorizations under the rule, we recognize changes in scheduled arrival holdings that may have been made through October 28, 2006.

Under § 93.25, Arrival Authorizations for O'Hare are assigned (1) based on published scheduled service during the 7-day period of November 1 through 7, 2004 or (2) if the carrier did not publish a scheduled service during the 7-day period of November 1 through 7, 2004, the scheduled service the carrier is entitled to publish under the August 2004 Order, as long as the carrier is conducting scheduled service at O'Hare on the effective date of the final rule. The following is an example of how this initial allocation provision does not clearly accommodate transfers that could be made during the remaining duration of the Order: A carrier sells a scheduled arrival in October 2006 pursuant to modified paragraph 6 of the Order. While it is the seller that published the scheduled arrival during the 7-day period of November 1 through 7, 2004, it is the purchaser of the scheduled arrival who holds the authorizations during the final period of the Order and at the effective date of the Final Rule. Applying § 93.25 as it currently exists could lead us to assign the Arrival Authorization to the seller in accordance with paragraph (a), and to the purchaser in accordance with paragraph (b).

Another, more pointed example of how the language in § 93.25 could impede transactions of the Order, as amended, is that of a new entrant carrier that receives, purchases or leases Arrival Authorizations under the Order, but does not actually commence scheduled service at O'Hare prior to the effective date of the final rule. The current initial assignment provision under § 93.25(b) requires a carrier to conduct scheduled service at O'Hare on the effective date of the rule (*i.e.*, October 29) in order to receive its assignment of Arrival Authorizations. It, however, is not reasonable to expect a new entrant carrier who could obtain scheduled arrivals under the Order as late as October 28 to be prepared to conduct operations by October 29. The FAA has determined that January 27, 2007, is an appropriate date, because it recognized in the August 29, 2006 Final Rule that it could reasonably take up to 90 days to actually conduct operations after acquiring an Arrival Authorization.

Because of modifications to the Order and the ability of carriers to change the holder and operator status of scheduled arrivals prior to the effective date of the rule, the FAA also must clarify that in applying the definitions of ''new entrant,'' ''limited incumbent'' and ''incumbent,'' the FAA will look to any authorizations held or operated by an air carrier during the duration of the Order. Thus, for example, if a carrier were to hold ten scheduled arrivals on October 1, 2006 but then sold or transferred 4 of those arrivals to another carrier on October 15, 2006, the FAA will view that carrier has an incumbent because, at one time, the carrier held more than 8 authorizations to arrive at O'Hare.

Paperwork Reduction Act

There are no new requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both he costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that its economic impact is minimal. Since its costs and benefits do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory impact analysis.'' Similarly, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

Economic Evaluation, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

In conducting these analyses, FAA has determined this rule (1) has benefits which do justify its costs, is not a ''significant regulatory action'' as defined in the Executive Order and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (2) will not have a significant impact on a

substantial number of small entities; (3) reduces barriers to international trade; and (4) does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601–612, directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as defined in the Act. If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.''

This final rule directs the FAA to assign each U.S. and Canadian conducting scheduled service at O'Hare by January 27, 2007, Arrival Authorizations based on their permanent holdings as of the 7-day period of October 22 through October 28, 2006, as evidenced by the FAA's records. Its economic impact is minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA Pub. L. 94–163), as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (air), Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the above, the Federal Aviation Administration amends chapter l of Title 14, Code of Federal Regulations as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, and 46301.

■ 2. Amend § 93.25 to revise the last sentence in paragraph (a) and by revising paragraph (b) to read as follows:

§ 93.25 Initial assignment of Arrival Authorizations to U.S. and Canadian air carriers for domestic and U.S./Canada transborder service

(a) * * * A carrier's total assignment under this paragraph shall be reduced accordingly by (i) any international Arrival Authorizations assigned under § 93.29 (a), and (ii) if the carrier transferred or traded for consideration any arrival authorizations to another carrier under the October 2006 order amending the August 18, 2004 order and the transferee carrier meets the conditions of paragraph (b) of this section, the number of such traded or transferred authorizations.

(b) The FAA shall assign an Arrival Authorization to each U.S. and Canadian air carrier that did not publish a scheduled domestic or U.S./Canada transborder arrival during the period of time referenced in paragraph (a) of this section for arrivals for which the carrier:

(1) Was entitled to under the August 18, 2004, ''Order Limiting Scheduled Operations at O'Hare International Airport,'' as amended, and is conducting scheduled service at O'Hare as of the effective date of this rule; or

(2) Has initiated scheduled service or received FAA approval of a trade or transfer under the August 18, 2004, ''Order Limiting Scheduled Operations at O'Hare International Airport,'' as amended, as long as operations conducted under the Arrival Authorization begin no later than January 27, 2007.

* * * * *

Issued in Washington, DC, on October 6, 2006.

Marion C. Blakey,

Administrator.

[FR Doc. 06–8651 Filed 10–10–06; 11:49 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1300

[Docket No. DEA–288F]

RIN 1117–AB02

Technical Correction of Two Anabolic Steroid Names

AGENCY: Drug Enforcement Administration (DEA), U.S. Department of Justice.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to correct the chemical names of two anabolic steroids in the Drug Enforcement Administration's (DEA) regulations. The Anabolic Steroid Control Act of 2004 included typographical errors in the chemical names of two anabolic steroids designated as Schedule III substances. Section 1180 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 corrects these typographical errors. This Final Rule amends DEA regulations to conform to the Act.

EFFECTIVE DATE: October 13, 2006.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 2004, the President signed into law the Anabolic Steroid Control Act of 2004 (Pub. L. 108–358), which became effective on January 20, 2005. Section 2(a) of the Anabolic Steroid Control Act of 2004 amended the Controlled Substances Act (CSA) by listing 59 specific substances as being Schedule III anabolic steroids (21 U.S.C. § 802(41)(A)). This list included two typographical errors in the chemical names of two anabolic steroids. Congress corrected this error under ''Section 1180 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109–162). Section 1180 amends the CSA (21 U.S.C. 802(41)(A)) by replacing the chemical names for the following anabolic steroids:13β-ethyl-17β -hydroxygon-4-en-3-one and stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole). By this Final Rule, DEA is amending its regulations to conform to statute. Consequently, public comments are not being solicited since they could not alter this rule.

Regulatory Certifications

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (5 U.S.C. 553), including notice of proposed rulemaking and the opportunity for public comment, if it is determined to be unnecessary, impracticable, or contrary to the public interest. The Violence Against Women and Department of Justice Reauthorization Act (Pub. L. 109–162) made two technical corrections to the CSA to correct typographical errors that were made in previous legislation. This Final Rule merely makes conforming amendments to DEA regulations implementing the Act to correct these typographical errors. Therefore, DEA finds it unnecessary to publish this rule for public notice and comment.

Further, the Administrative Procedure Act permits an agency to make this rule effective upon the date of publication if the agency finds good cause to do so (5 U.S.C. 553(d)(3)). As delaying the effective date of typographical corrections to the Code of Federal Regulations would serve no purpose and could, in fact, cause confusion were a person to misinterpret existing regulations, DEA finds good cause to make this rule effective upon publication.

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This Final Rule merely corrects typographical errors in the chemical names of two anabolic steroids.

Executive Order 12866

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with Executive Order 12866, § 1(b). DEA has determined that this rule is not a significant regulatory action. Therefore, the Office of Management and Budget has not reviewed this action.

Executive Order 12988

This regulation meets the applicable standards set forth in §§ 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $118,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 21 CFR Part 1300

Chemicals, Drug traffic control.

■ For the reasons set out above, 21 CFR part 1300 is amended as follows:

PART 1300—DEFINITIONS

■ 1. The authority citation for part 1300 continues to read as follows:

Authority: 21 U.S.C. 802, 871(b), 951, 958(f).

■ 2. Section 1300.01 is amended by revising paragraphs (b)(4)(xxiii) and (b)(4)(liv) to read as follows:

§ 1300.01 Definitions relating to controlled substances.

* * * * *

(b) * * *

(4) * * *

(xxiii) 13β-ethyl-17β-hydroxygon-4-en-3-one

* * * * *

(liv) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole)

* * * * *

Dated: September 29, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6–16992 Filed 10–12–06; 8:45 am]

BILLING CODE 4410–09–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in November 2006. Interest assumptions are also published on the PBGC's Web site *http://www.pbgc.gov.*

DATES: Effective November 1, 2006.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

This amendment (1) adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during November 2006, (2) adds to Appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during November 2006, and (3) adds to Appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during November 2006.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.70 percent for the first 20 years following the valuation date and 4.75 percent thereafter. These interest assumptions represent a decrease (from those in effect for October 2006) of 0.30 percent for the first 20 years following the valuation date and are otherwise unchanged. These interest assumptions reflect the PBGC's recently updated mortality assumptions, which are effective for terminations on or after January 1, 2006. See the PBGC's final rule published December 2, 2005 (70 FR 72205), which is available at *http://www.pbgc.gov/docs/05-23554.pdf.* Because the updated mortality assumptions reflect improvements in mortality, these interest assumptions are higher than they would have been using the old mortality assumptions.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 2.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for October 2006) of 0.25 percent in the immediate annuity rate and are otherwise unchanged. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during November 2006, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 157, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* *	*		*	*		*		*
157	11–1–06	12–1–06	2.75	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 157, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* *	*		*	*		*		*
157	11–1–06	12–1–06	2.75	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for November 2006, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*		*	
November 2006	.0570	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 5th day of October 2006.

James C. Gerber,

Acting Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E6–16958 Filed 10–12–06; 8:45 am]

BILLING CODE 7709–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA OAR–2003–0083; FRL–8231–1]

Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas With Deferred Effective Dates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action corrects the 8-hour ozone nonattainment boundary for Monroe County, Georgia by deleting a highway from the boundary description, and clarifies the 8-hour ozone nonattainment boundary for Murray County, Georgia by adding a boundary description. Monroe County, Georgia is part of the Macon, Georgia 8-hour ozone nonattainment area and a portion of Murray County, Georgia makes up the Murray County (Chattahoochee National Forest Mountains), Georgia 8-hour ozone nonattainment area. The nonattainment boundaries for these two counties were described in EPA's final 8-hour ozone designations rule which was published in the **Federal Register** on April 30, 2004. EPA is clarifying the exact location of the 8-hour ozone nonattainment boundary for Murray County by including the precise descriptions of the boundary in the Code of Federal Regulations. In addition, pursuant to Clean Air Act (CAA) section 110(k)(6), EPA is also correcting an error made in identifying the 8-hour ozone nonattainment boundary for Monroe County.

EFFECTIVE DATE: This action is effective: October 13, 2006.

ADDRESSES: EPA has established dockets for this action under Docket ID No. EPA OAR–2003–0083 (Designations) and EPA OAR–2003–0090 (Early Action Compacts). All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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* Web site or in hard copy at the Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The telephone number for the

Public Reading Room is (202) 566–1744, and the telephone number for the Office of Air and Radiation Docket and Information Center is (202) 566–1742. In addition, we have placed a copy of the rule and a variety of materials regarding designations on EPA's designation Web site at: *http://www.epa.gov/oar/oaqps/glo/designations* and on the tribal Web site at: *http://www.epa.gov/air/tribal.* Materials relevant to Early Action Compact (EAC) areas are on EPA's Web site at: *http://www.epa.gov/ttn/naaqs/ozone/eac.* In addition, the public may inspect the rule and technical support at the following locations:

Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Schutt, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9033. Mr. Schutt can also be reached via electronic mail at *schutt.dick@epa.gov.*

SUPPLEMENTARY INFORMATION: On April 30, 2004, (69 FR 23858), EPA published a rule designating and classifying areas for the 8-hour ozone National Ambient Air Quality Standards (NAAQS). That rule designated portions of both Monroe County and Murray County, Georgia, as nonattainment for the 8-hour ozone NAAQS. Those designations appear in 40 CFR 81.311. Today, EPA is clarifying the exact location of the 8-hour ozone nonattainment boundary for Murray County by precisely describing the boundary as was recommended by the State of Georgia and approved by EPA in the April 2004 8-hour ozone designations rulemaking. In addition, pursuant to CAA section 110(k)(6), EPA is correcting an error made in identifying the 8-hour ozone nonattainment boundary for Monroe County.

Murray County

In letters dated October 20, 2003, and March 4, 2004, the State of Georgia recommended an 8-hour ozone nonattainment boundary for Murray County, Georgia (Murray County, Chattahoochee National Forest Mountains, Georgia 8-hour ozone nonattainment area) and described the boundary as being ''enclosed to the east by Murray County's eastern border, to the north by latitude of 34.9004 degrees, to the west by longitude 84.7200 degrees, and to the south by 34.7040 degrees. All mountain peaks within the Chattahoochee National Forest area of Murray County that have an elevation greater than or equal to 2,400 feet and that are enclosed by contour lines that close on themselves.'' See, Letter from Ron Methier, Georgia Environmental Protection Division, to Kay Prince, EPA Region 4, dated March 4, 2004. EPA concurred with this nonattainment boundary for Murray County, but in our subsequent April 30, 2004, 8-hour ozone designations rulemaking we described the nonattainment boundary only generally as ''Murray Co. (Chattahoochee Nat Forest), GA: Murray County (part).'' See, 69 FR 23857 (April 30, 2004).

The purpose of today's rule is not to change the Murray County, Georgia, 8-hour ozone nonattainment boundary, but to clarify the exact boundary description as recommended by Georgia and concurred upon by EPA as part of the April 30, 2004 8-hour ozone designations rulemaking. Thus, EPA is more clearly describing the Murray County 8-hour ozone nonattainment boundary (found at 40 CFR 81. 311) as:

- The area enclosed to the east by Murray County's eastern border, to the north by latitude of 34.9004 degrees, to the west by longitude 84.7200 degrees, and to the south by 34.7040 degrees. All mountain peaks within the Chattahoochee National Forest area of Murray County that have an elevation greater than or equal to 2,400 feet and that are enclosed by contour lines that close on themselves.

Monroe County

Monroe County and Bibb County, Georgia make up the Macon, Georgia, 8-hour ozone nonattainment area. 69 FR 23857, 23894 (April 30, 2004). Monroe County is adjacent to the core Consolidated Metropolitan Statistical Area (CMSA) county of Bibb and has a large source of nitrogen oxides (NO_X) emissions from Georgia Power Company's Plant Scherer. Based on EPA's technical analysis in 2004, the portion of Monroe County that contains Plant Scherer was determined to be contributing to the 8-hour ozone violations recorded in Bibb County.

In its initial designation recommendation in July 2003, Georgia did not recommend any portion of Monroe County be included as part of the designated 8-hour ozone nonattainment area. In EPA's December 2003 response to the State's recommendation, EPA indicated that Monroe County should be included as part of the designated nonattainment area. Just prior to EPA's signature on the 8-hour ozone nonattainment designations on April 15, 2004, EPA's Office of Air Quality, Planning and Standards (OAQPS) requested that Georgia provide EPA with a boundary description for the Monroe County portion of the Macon, Georgia 8-hour ozone nonattainment area. In response, on April 13, 2004, the State of Georgia submitted a recommended boundary to OAQPS that included Georgia Power's Plant Scherer and that included the portion of the county that was contiguous to Bibb County. That recommendation included a road—U.S. Hwy 23/Georgia Hwy 87—as part of the recommended area to be designated nonattainment. The April 13, 2004 recommended boundary description read as follows:

- From the point where Bibb and Monroe Counties meet at the Ocmulgee River, follow the Ocmulgee River boundary north to 33 degrees, 05 minutes, due west to 83 degrees, 50 minutes, due south to the intersection with Georgia Hwy 18, east along Georgia Hwy 18 to U.S. Hwy 23/Georgia Hwy 87, south on U.S. Hwy 23/Georgia Hwy 87 to the Monroe/Bibb County line, and east to the intersection with the Ocmulgee River.

Following EPA's signature on the 8-hour ozone designations rule on April 15, 2004, but just prior to EPA's announcement of its 8-hour ozone designations on April 30, 2004, the State of Georgia submitted a corrected boundary description for Monroe County (on April 29, 2004). The corrected boundary description was provided to EPA Region 4, rather than OAQPS and continued to be contiguous to Bibb County and continued to include Georgia Power's Plant Scherer. The correction, however, excluded U.S. Hwy 23/Georgia Hwy 87. The State's April 29, 2004 corrected boundary description for Monroe County read as follows:

- From the point where Bibb and Monroe Counties meet at U.S. Hwy 23/Georgia Hwy 87 follow the Bibb/Monroe County line westward 150′ from the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed northward 150′ west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to 33 degrees, 04 minutes, 30 seconds; proceed westward to 83 degrees, 49 minutes, 45 seconds; proceed due south to 150′ north of the Georgia Hwy 18 centerline, proceed eastward 150′ north of and parallel to the Georgia Hwy 18 centerline to 1150′ west of the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed southward 1150′ west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to the Monroe/Bibb County line; then follow

the Monroe/Bibb County line to 150′ west of the U.S. Hwy 23/Georgia Hwy 87 centerline.

EPA Region 4 reviewed this corrected boundary recommendation at the time it was submitted and agreed with the recommendation, finding that it continued to include Georgia Power's Plant Scherer and was consistent with EPA's 11-factor nonattainment boundary guidance. However, at the time EPA Region 4 received Georgia's corrected boundary description for Monroe County, it was unaware that Georgia had previously provided a different description to OAQPS. In addition, EPA Region 4 believed, erroneously, that Georgia had simultaneously provided its April 29, 2004 corrected boundary description to OAQPS. Yet, Georgia had not provided its boundary correction to OAQPS and as a result, no effort was made by either EPA Region 4 or OAQPS to correct the Monroe County boundary description prior to the June 15, 2004, effective date of designation.

EPA is taking action today to correct its error in failing to correct the boundary prior to the area's effective date of designation. Because the April 29, 2004 letter was submitted in sufficient time for EPA to have corrected the boundary prior to the effective date of designation and such correction was not made due to a breakdown in communication between two EPA offices, EPA is today correcting its error. The corrected boundary description will read as follows:

• From the point where Bibb and Monroe Counties meet at U.S. Hwy 23/Georgia Hwy 87 follow the Bibb/Monroe County line westward 150′ from the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed northward 150′ west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to 33 degrees, 04 minutes, 30 seconds; proceed westward to 83 degrees, 49 minutes, 45 seconds; proceed due south to 150′ north of the Georgia Hwy 18 centerline, proceed eastward 150′ north of and parallel to the Georgia Hwy 18 centerline to 1150′ west of the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed southward 1150′ west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to the Monroe/Bibb County line; then follow the Monroe/Bibb County line to 150′ west of the U.S. Hwy 23/Georgia Hwy 87 centerline.

EPA is making this correction pursuant to the authority of CAA section 110(k)(6). Section 110(k)(6) provides:

• ''Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation, revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.''

As discussed above, the Administrator erroneously allowed the 8-hour ozone area designation for Monroe County, Georgia to become effective without reflecting Georgia's April 29, 2004 correction of its boundary recommendation. EPA's recent discovery of this error prompted today's correction.

Public Participation

EPA is clarifying the 8-hour ozone nonattainment boundary for Murray County, Georgia without notice and comment in accordance with CAA section 107(d)(2), which exempts the promulgation or announcement of a designation (including boundary determinations) from the notice and comment provisions of the Administrative Procedure Act (APA).

In addition, EPA is correcting the 8-hour ozone nonattainment boundary for Monroe County, Georgia without notice and comment for several reasons. First, CAA section 110(k)(6) provides that corrections to the promulgation of area designations (including boundary corrections) may be accomplished by the Administrator ''in the same manner'' as the promulgation. EPA's April 30, 2004 final 8-hour ozone designations rule was published as a final rule without public notice and comment in accordance with CAA section 107(d)(2), which exempts the promulgation or announcement of a designation (including boundary determinations) from the notice and comment provisions of the Administrative Procedure Act. Further, EPA's correction of the Monroe County, Georgia, 8-hour ozone nonattainment boundary falls under the ''good cause'' exemption in APA section 553(b)(3)(B). Section 553(b)(3)(B) provides that, upon finding ''good cause,'' agencies may dispense with public participation where public notice and comment procedures are impracticable, unnecessary or contrary to the public interest. Public notice and comment for EPA's correction of the 8-hour ozone nonattainment boundary for Monroe County, Georgia, is unnecessary because the correction makes no substantive difference to EPA's analysis of the designation status of the Macon, Georgia, 8-hour nonattainment area, as set out in EPA's April 30, 2004, final 8-hour ozone designations rule (69 FR 23858). In the April 30, 2004 rulemaking, EPA included, as part of the Macon, Georgia, 8-hour ozone nonattainment, the portion of Monroe County that contains Georgia Power's Plant Scherer because that portion was determined to be contributing to the 8-hour ozone violations recorded in Bibb County, Georgia. Today's correction of the boundary for Monroe County does not impact this prior technical analysis since the boundary continues to include Georgia Power's Plant Scherer and continues to be consistent with EPA's 11-factor ozone nonattainment boundary guidance. Finally, EPA can identify no particular reason why the public would be interested in being notified of this correction or in having the opportunity to comment on the correction prior to this action being finalized, since the corrected boundary for Monroe County continues to include Georgia Power's Plant Scherer and continues to be consistent with EPA's 11-factor ozone nonattainment boundary guidance.

Effective Date

EPA also finds that there is good cause under APA section 553(d)(3) for today's actions to become effective on the date of publication of this final rule. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule merely corrects the 8-hour ozone nonattainment boundary for Monroe County, Georgia, to exclude a highway, and clarifies the 8-hour ozone nonattainment boundary for Murray County, Georgia, by adding a boundary description to 40 CFR part 81. For these reasons, EPA finds good cause under APA section 553(d)(3) for today's actions to become effective on the date of publication of this final rule.

Final Actions

EPA is taking two actions today. First, EPA is clarifying the exact location of the 8-hour ozone nonattainment boundary for Murray County by including the boundary that was

recommended by the State of Georgia and approved by EPA in the April 2004 ozone designations rulemaking, but that was not included in 40 CFR part 81. Second, pursuant to CAA section 110(k)(6), EPA is also correcting the 8-hour ozone nonattainment boundary for Monroe County to reflect Georgia's April 29, 2004 recommended boundary.

Statutory and Executive Order Reviews:

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the above factors applies. As such, this final rule was not formally submitted to OMB for review.

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule only clarifies and corrects the 8-hour nonattainment boundaries for Murray County and Monroe County, Georgia. This rule does not establish any new information collection burden apart from that required by law. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the APA or any other statute unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.); (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. This rule only clarifies and corrects the 8-hour nonattainment boundaries for Murray County and Monroe County, Georgia. The clarification and correction of these boundaries will not impose any requirements on small entities. After considering the economic impacts of today's final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's final rule does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any one year by either state, local, or tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. It does not create any additional requirements beyond those of the 8-hour NAAQS for ozone (62 FR 38894; July 18, 1997), and therefore, no UMRA analysis is needed. This rule only clarifies and corrects the 8-hour nonattainment boundaries for Murray County and Monroe County, Georgia. EPA believes that any new controls imposed as a result of this rule will not cost in the aggregate $100 million or more annually. Thus, this Federal rule will not impose mandates that will require expenditures of $100 million or more in the aggregate in any one year.

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 final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The Clean Air Act establishes the scheme whereby states take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the states and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this rule. Although Executive Order 13132 does not apply to this rule, EPA discussed the designation process and compact program with representatives of state and local air pollution control agencies, and tribal governments, as well as the Clean Air Act Advisory Committee, which is also composed of state and local representatives.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have ''tribal implications'' as specified in Executive Order 13175. This rule only clarifies and corrects the 8-hour ozone nonattainment boundaries for Murray County and Monroe County, Georgia. The Clean Air Act provides for states to develop plans to regulate emissions of air pollutants within their jurisdictions. The Tribal Authority Rule (TAR) gives tribes the opportunity to develop and implement Clean Air Act programs such as programs to attain and maintain the 8-hour ozone NAAQS, but it leaves to the discretion of the tribe whether to develop these programs and which programs, or appropriate elements of a program, they will adopt. This rule only clarifies and corrects the 8-hour ozone nonattainment boundaries for Murray County and Monroe County, Georgia, of which no tribal land is included. This final rule does not have tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian tribes, since no tribe has implemented a Clean Air Act program to attain the 8-hour ozone NAAQS at this time. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian tribes. The Clean Air Act and the TAR establish the relationship of the Federal government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Because this rule does not have tribal implications, Executive Order 13175 does not apply. Although Executive Order 13175 does not apply to this rule, prior to designations action promulgated on April 15, 2004, EPA did outreach to tribal representatives regarding the designations and to inform them about the compact program and its impact on designations. EPA supports a national ''Tribal Designations and Implementation Work Group'' which provides an open forum for all tribes to voice concerns to EPA about the designation and implementation process for the NAAQS, including the 8-hour ozone standard. These discussions informed EPA about key tribal concerns regarding designations as the rule was under development.

G. Executive Order 13045: Protection of Children From Environmental Health and

Safety Risks

Executive Order 13045: ''Protection of Children From Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be (economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. Nonetheless, we have evaluated the environmental health and safety effects of the 8-hour ozone NAAQS on children. The results of this risk assessment are contained in the National Ambient Air Quality Standards for Ozone, Final Rule (62 FR 38855–38896; specifically, 62 FR 38854, 62 FR 38860 and 62 FR 38865).

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Information on the methodology and data regarding the assessment of potential energy impacts is found in Chapter 6 of U.S. EPA 2002, Cost, Emission Reduction, Energy, and Economic Impact Assessment of the Proposed Rule Establishing the Implementation Framework for the 8-Hour, 0.08 ppm Ozone National Ambient Air Quality Standard, prepared by the Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC April 24, 2003.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This rule does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective October 13, 2006.

K. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *December 12, 2006*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: October 5, 2006.

Stephen L. Johnson,

Administrator.

■ 40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.311 the table entitled (Georgia—Ozone (8-hour standard) is amended:

■ a. By adding footnote 3 to heading ''Macon, GA:'',

■ b. Under Macon, GA by revising entries for ''Monroe County (part)'' and ''Murray Co (Chattahoochee Nat Forest), GA:'' to read as follows:

§ 81.311 Georgia

* * * * *

GEORGIA—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Macon, GA: [3]				
* * *	*	*	*	*
Monroe County (part)		Nonattainment		Subpart 1.
From the point where Bibb and Monroe Counties meet at U.S. Hwy 23/Georgia Hwy 87 follow the Bibb/Monroe County line westward 150′ from the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed northward 150′ west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to 33 degrees, 04 minutes, 30 seconds; proceed westward to 83 degrees, 49 minutes, 45 seconds; proceed due south to 150′ north of the Georgia Hwy 18 centerline, proceed eastward 150′ north of and parallel to the Georgia Hwy 18 centerline to 1150′ west of the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed southward 1150′ west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to the Monroe/Bibb County line; then follow the Monroe/Bibb County line to 150′ west of the U.S. Hwy 23/Georgia Hwy 87 centerline.				
* * *	*	*	*	*
Murray Co (Chattahoochee Nat Forest), GA:				
Murray County (part)		Nonattainment		Subpart 1.
The area enclosed to the east by Murray County's eastern border, to the north by latitude of 34.9004 degrees, to the west by longitude 84.7200 degrees, and to the south by 34.7040 degrees. All mountain peaks within the Chattahoochee National Forest area of Murray County that have an elevation greater than or equal to 2,400 feet and that are enclosed by contour lines that close on themselves.				
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.

[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[3] The boundary change is effective October 13, 2006.

* * * * *

[FR Doc. E6–17012 Filed 10–12–06; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 62

RIN 1660–AA41

National Flood Insurance Program; Appeal of Decisions Relating to Flood Insurance Claims

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule amends and finalizes the Federal Emergency Management Agency's (FEMA's) May 2006 interim rule establishing an appeals process for National Flood Insurance policyholders as required under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004.

DATES: This final rule is effective November 13, 2006.

FOR FURTHER INFORMATION CONTACT: James Shortley, Director of Claims, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3418 (Phone), (202) 646–2818 (facsimile), or *James.Shortley@dhs.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Background

In the face of mounting flood losses and escalating costs of disaster relief to the taxpayers, the National Flood Insurance Program (NFIP) was established by Congress as part of the National Flood Insurance Act of 1968 (the Act). Pub. L. 90–448, Title XII (Aug. 1, 1968), as amended, 42 U.S.C. 4001, *et seq.* The intent of the NFIP is to reduce future flood damage through community floodplain management ordinances, and to make risk-based flood insurance generally available for property owners. FEMA was designated by Congress to be the administrator of the NFIP.

In 1983, FEMA partnered with the private insurance industry to expand the NFIP policy base. This partnership between FEMA and the private sector property insurance companies is termed the Write Your Own (WYO) Program.

The WYO Program is a cooperative undertaking between the insurance industry and FEMA. The WYO Program allows participating property and casualty insurance companies to issue and service the NFIP Standard Flood Insurance policies (SFIPs) in their own names. FEMA also uses the services of contractors to process NFIP policy information from the WYO Companies and the agents and to service SFIPs sold directly by FEMA. Contractors are sometimes employed by the WYO Companies to handle and adjust claims.

Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act (FIRA) of 2004 (Pub. L. 108–264 (June 30, 2004), 42 U.S.C. 4011) requires FEMA to establish by regulation a formal process for the appeal of decisions of flood insurance claims issued through the NFIP. On May 26, 2006, FEMA issued an interim rule establishing a formal appeals process and soliciting comments from the public. *See* 71 FR 30294. The process implemented under the interim rule codifies FEMA's existing NFIP appeals practice and enables policyholders to formally appeal the decisions of any insurance agent or adjuster, or insurance company, or any FEMA employee or contractor with respect to their SFIP claims, proofs of loss, and loss estimates.

Under the formal appeals process, FEMA will acknowledge receipt of a policyholder's appeal in writing and advise the policyholder if additional information is required in order to fully consider the appeal. FEMA will review the documentation submitted by the policyholder and conduct any necessary additional investigations. FEMA will then advise the policyholder and the appropriate flood insurance carrier of FEMA's decision regarding the appeal.

Discussion

The Act and the SFIP authorize an insured (or policyholder) who is dissatisfied with an insurer's decision to deny a claim, in whole, or part, to file a lawsuit in Federal district court for the disallowed portion of the claim, or invoke the appraisal provision of the SFIP (a procedure to resolve disputes regarding the actual value of covered losses). This rule provides a formal appeals process for resolving flood insurance disputes prior to commencement of litigation.

The appeals process outlined in this rule does not abolish or replace the right to file a lawsuit against the insurer pursuant to the Act (42 U.S.C. 4072), nor does it expand or change the one-year statute of limitation to file suit against the insurer for the disallowed portion of the insured's claim. To avoid potentially conflicting results and duplicative efforts, an insured who files suit against an insurer is prohibited from filing an appeal under this appeals process.

Similarly, this appeals process is not meant to provide an insured with multiple contractual or administrative, pre-litigation remedies. Accordingly, an insured who seeks to resolve issues regarding the actual cash value or, if applicable, replacement cost of damaged property, must elect to resolve this dispute through either the appraisal provision in the SFIP or this appeals process. An insured cannot seek remedy under both processes.

Finally, this rule does not amend or change the conditions necessary to recover under the SFIP. In the case of a flood loss to insured property, the insured must comply with the requirements set out in the SFIP; including, but not limited to, providing the insurer with prompt notice of the loss, submitting a valid proof of loss within 60 days after the loss, cooperating with the adjuster, separating damaged and undamaged property so that the insurer may examine it, and preparing an inventory of damaged personal property. *See* SFIP, 44 CFR Part 61, App. A(1), Part 61, App. A(2), Part 61, App. A(3).

This appeals process is available after the issuance of the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim. Once the final claim determination is issued, an insured may appeal any action taken by the insurer, FEMA employee, FEMA contractor, insurance adjuster, or insurance agent. An insured must file an appeal within 60 days after receiving the insurer's final claim determination.

Response to Comments

The interim rule requested public comment. FEMA received two written and one oral comment. A summary of the comments received, together with FEMA's responses, is set forth below.

One commenter, U.S. Senator James Bunning, asked that FEMA provide additional information to the public during the appeals process, including stating the grounds for the initial denial of a claim and eventual resolution of any appeal; and identifying a point of contact for claimants so that they can speak with someone at FEMA directly. The Senator also recommended that FEMA provide a timeframe for issuance of a decision on an appeal, as well as what information and documentation should be included in any appeal filed.

FEMA agrees with these comments and has amended 44 CFR 62.20 accordingly. Specifically, FEMA agrees to provide the policyholder with a written acknowledgement of the receipt

of the appeal and include in the acknowledgement letter a point of contact at FEMA who can assist the policyholder with information on the status of his or her claim. FEMA provided more detail in this final rule, by listing examples of the type of information and documentation to be included in an appeal. FEMA also will issue a written appeal decision to the policyholder and insurer within 90 days from the date that the policyholder has submitted all required information to FEMA. The appeal decision will include information on the grounds for the initial denial of the claim and the basis for the resolution of the appeal. FEMA believes the addition of this information will facilitate the NFIP appeals process.

FEMA will issue a bulletin to insurers and take other appropriate steps as part of the implementation of this rule. That bulletin will require that the Companies provide the denial in writing and include specific information as to the grounds on which the claim was denied initially.

A second commenter, a representative of State Farm (a member of WYO), offered two comments on the interim final rule. First, that FEMA should consider adding language permitting appeals only after the policyholder has given ''management level personnel'' within the WYO Company an opportunity to review the policyholder's concerns in the case of disputes arising under a SFIP issued by a WYO Company. The commenter stated that such a change would encourage handling of serious disputes at the appropriate level within the WYO Company and should serve to reduce the number of appeals that must be processed by FEMA.

While the comments are notable, FEMA has not included the language in this rule. FEMA agrees that there should be a management level review within the WYO Company of denials (in whole or in part) of which the policyholder is appealing. However, since each WYO Company handles denials differently, FEMA does not believe that it should mandate the level at which a denial is reviewed within individual WYO Companies. While FEMA believes this suggestion has merit, FEMA reserves to each Company the ability to conduct individual claims review process, including management oversight.

State Farm also requested that FEMA require policyholders to commence and complete either the appraisal process provided for in the SFIP or the appeals process prior to seeking judicial review. The commenter stated that such a change should reduce total litigation costs under the NFIP and encourage policyholders to take advantage of these alternative dispute mechanisms.

FEMA agrees it would be preferable for a policyholder to commence and complete either the appraisal process or the appeals process prior to litigation. The Act, however, expressly permits policyholders to file suit against the insurer and does not require a policyholder to exhaust available contractual or administrative remedies. *See*, 42 U.S.C. 4072. Although FEMA can make contractual or administrative remedies, such as this appeals process, available to policyholders, FEMA therefore cannot require a policyholder to participate in the appraisal or appeal process before seeking remedy in a Federal district court. FEMA anticipates that having the formal appeals process in place will limit the number of claims brought to suit, even without making it a requirement prior to suit.

In response to State Farm's comment, however, FEMA has modified the language in 44 CFR 62.20(e) ''Procedures,'' to add a new paragraph (2). This paragraph requires policyholders who have filed an appeal to ''[p]rovide a copy of the insurer's written denial, in whole or in part, of the claim.'' The purpose of this modification is to further clarify that FEMA requires a denial of a claim in order to initiate an appeal. FEMA inserted the new language to ensure that a policyholder receives a denial from the WYO Company before the policyholder pursues an appeal.

FEMA also received a comment from a private citizen who takes issue with the NFIP overall. That comment did not relate specifically to the appeals process set forth in the May 2006 interim rule and is not within the scope of this rulemaking. FEMA, therefore, did not consider that comment in the development of this final rule.

Administrative Procedure Act

FEMA, through this final rule, is implementing changes to the appeals process that were not specified in the May 2006 interim rule. FEMA has determined that these changes are procedural in nature and do not alter the substantive rights of the affected parties. Therefore, the changes made under this final rule are exempt from the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553(b)(A).)

National Environmental Policy Act

This rule falls within the exclusion category 44 CFR 10.8(d)(2)(ii), which addresses the preparation, revision, and adoption of regulations, directives, and other guidance documents related to actions that qualify for categorical exclusions. Since this is an administrative action that qualifies for the exclusion category described in 44 CFR 10.8(d)(2)(ii) and because no other extraordinary circumstances have been identified, this rule will not require the preparation of either an environmental assessment or environmental impact statement as defined by the National Environmental Policy Act.

Executive Order 12866, Regulatory Planning and Review

FEMA has prepared and reviewed this rule under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order.

This final rule has been determined to not be a significant regulatory action under Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Paperwork Reduction Act

This rule contains information collection requirements subject to the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act, a person may not be penalized for failing to comply with an information collection that does not display a currently valid OMB control number.

FEMA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed extension of a currently approved collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning a

formal appeals process to allow policyholders to request an appeal for an unsatisfactory decision on their flood insurance claims.

Section 205 of FIRA of 2004 requires FEMA to establish by regulation a formal process for the appeal of decisions of flood insurance claims issued through the NFIP. The appeals process is available after the issuance of the insurer's final claim determination, which is the insurers' written denial, in whole or in part, of the insured claim. An insured must file an appeal within 60 days after receiving the insurer's final claim determination.

Title: National Flood Insurance Claims Appeal Process.

Type of Information Collection: Extension of a currently approved collection.

OMB Number: 1660–0095.

Forms: Forms are not used in the appeals process, but rather the policyholder will provide a letter requesting an appeal and any supporting documentation.

Abstract: This information collection implements the mandates of section 205 of FIRA of 2004 to establish an appeals process for NFIP policyholders in cases of unsatisfactory decisions on SFIP claims. The policy, proof of loss, loss estimates, photographs, and any other supporting documentation will be reviewed by the Director of Claims, and claims examiners, to determine if the policyholder/claimant is entitled to additional remedies for his or her loss.

Affected Public: Individuals or households and business or other for profit.

ANNUAL BURDEN HOURS

Information collection activity	Number of respondents (A)	Frequency of responses (B)	Burden hours per respondent (C)	Annual responses (D) = (A×B)	Total annual burden hours (E) = (C×D)
Appeal Letter	2,000	1	2	2,000	4,000
Total	2,000	1	2	2,000	4,000

It is estimated that, in a typical year, the number of claims received will be approximately 68,000. However, considering the impact of Hurricanes Katrina, Rita, and Wilma on the number of claims received, the program has estimated that approximately 2,000 respondents per year will file an appeal, each spending an average of two hours drafting the appeals letter and collecting the required information.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and(d) 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. Comments must be submitted on or before November 6, 2006.

Interested persons should submit written comments to Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

Executive Order 13175, Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distinction of power and responsibilities between the Federal Government and Indian tribes. It does not have a substantial direct effect because the rule does not make distinctions of where the property insured is located, the rule will apply uniformly to all policyholders regardless if they live on or off Tribal lands.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

FEMA has reviewed this rule under Executive Order 13132 and has concluded the rule does not have federalism implications as defined by the Executive Order. FEMA has determined the rule does not significantly affect the rights, roles, and responsibilities of States, and involves no preemption of State law nor does it limit State policymaking discretion.

Executive Order 12898 and 12948, Environmental Justice

Under Executive Orders 12898 and 12948, respectively, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' FEMA incorporates environmental justice into our policies and programs. Executive Order 12898 requires each Federal agency to conduct its programs, policies and activities that substantially affect human health or the environment in a manner that ensures those programs, policies and activities do not have the effect of excluding persons from participation in, denying persons the benefits of, or subjecting persons to discrimination because of their race, color, or national origin. Executive Order 12898 also requires that each Federal Agency shall identify and address as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

FEMA does not anticipate that actions under the rule would have a disproportionately high and adverse human health effect on any segment of the population. FEMA has determined that the requirements of these Executive Orders do not apply to this rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is ''required by section 553 * * *, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for interpretative rule involving the internal revenue laws of the United States * * *.'' 5 U.S.C. 603(a). RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). As discussed in the interim rule, because a notice of proposed rulemaking was not required under the Administrative Procedure Act (5 U.S.C. 553), FEMA was not required to conduct an RFA analysis for the interim rule or this final rule under 5 U.S.C. 603.

Executive Order 12988

This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 62

Flood insurance.

■ Accordingly, the interim final rule amending 44 CFR part 62 of FEMA's regulations, which was published at 71 FR 30294, May 26, 2006 is adopted as a final rule with certain changes as discussed above and set forth as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

■ 2. Revise paragraphs (e)(2) through (e)(4), (f)(1), and (f)(3) to § 62.20 to read as follows:

§ 62.20 Claims appeals.

* * * * *

(e) * * *

(2) Provide a copy of the insurer's written denial, in whole or in part, of the claim;

(3) Identify relevant policy and claim information and state the basis for the appeal; and

(4) Submit relevant documentation to support the appeal. The policyholder should submit only the documentation that pertains to his or her claim. The following are examples of the kinds of documentation which FEMA will require to adjudicate the appeal: A copy of the proof of loss submitted to the insurer as required in the policy; room by room itemized estimates from the adjuster (includes contractors' estimates), detailing unit cost and quantities for the items needing repair or replacement; replacement cost proofs of loss; Preliminary Report; Final Report; detailed damaged personal property inventories that include the approximate age of the items; completed Mobile Home Worksheet; Mobile Home Title, including Salvage Titles; real estate appraisals that exclude land values; advance payment information; clear photographs (exterior and interior) confirming damage resulted from direct physical loss by or from flood; proof of prior repair; evidence of insurance and policy information , *i.e.* declarations page; Elevation Certificate, if the risk is an elevated building; the community's determination made concerning substantial damage; information regarding substantial improvement; zone determinations; pre-loss and post-loss inventories; financial statements; tax records, lease agreements, sales contracts, settlement papers, deed, *etc.*; emergency (911) address change information; salvage information (proceeds and sales); condominium association by-laws; proof of other insurance, including homeowners or wind policies and any claim information submitted to the other companies; Waiver, Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) information; paid receipts and invoices including cancelled checks that support an insured's out-of-pocket expenses pertaining to the claim; underwriting decisions; architectural plans and drawings; death certificates; a copy of the will; divorce decree, power of attorney; current lienholder information; current loss payee information; paid receipts and invoices documenting damaged stock; detailed engineering reports specifically addressing flood-related damage and pre-existing damage; engineering surveys; market values; documentation of Flood Insurance Rate Maps (FIRM) dates; documentation reflecting date(s) of construction and substantial improvement; loan documents including closings; evidence of insurability as a Residential Condominium Association; Franchise Agreements; letters of representation, *i.e.* attorneys and public adjusters; any assignment of interest in a claim; and, any other pertinent information which FEMA may request in processing a claim.

(f) * * *

(1) FEMA will acknowledge, in writing, receipt of a policyholder's appeal and include in the acknowledgement contact information for a FEMA point of contact who can advise the policyholder as to the status of his or her claim.

* * * * *

(3) The *Administrator* will review the appeal documents, including any reinspection report, if appropriate. The Administrator will provide specific information on what grounds the claim was denied initially. The Administrator will provide an *appeal decision* in writing to the policyholder and insurer within 90 days from the date that all information has been submitted by the policyholder and include specific information for the resolution of the appeal. No further administrative review will be provided to the insured.

* * * * *

Dated: October 6, 2006.

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17028 Filed 10–12–06; 8:45 am]

BILLING CODE 9110–11–P

Proposed Rules

Federal Register
Vol. 71, No. 198
Friday, October 13, 2006

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AC01

Common Crop Insurance Regulations; Florida Citrus Fruit Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to replace the provisions currently found at 7 CFR 457.107 with a new Florida Citrus Fruit Crop Insurance Provisions. The intended effect of this action is to provide policy changes, and clarify existing policy provisions to better meet the needs of insureds and to restrict the effect of the current Florida Citrus Fruit Crop Insurance Provisions to the 2007 and prior crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business November 27, 2006 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit comments, titled ''Florida Citrus Fruit Crop Insurance Provisions'', by any of the following methods:

- *By Mail to:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133–4676.
- *E-mail: DirectorPDD@rma.usda.gov.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

A copy of each response will be available for public inspection from 7 a.m. to 4:30 p.m., c.s.t. Monday through Friday except holidays at the above address.

FOR FURTHER INFORMATION CONTACT: William Klein, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not significant for the purpose of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been previously approved by OMB under control number 0563–0053 through November 30, 2007.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees, and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure small entities are given the same opportunities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities and therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the

crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 or 7 CFR part 400, subpart J for the informal administrative review process of good farming practices as applicable, must be exhausted before any action against FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.107 (Florida Citrus Fruit Crop Insurance Provisions) to clarify existing policy provisions and to improve the program for producers by making the program dates consistent with the Nursery Crop Provisions; adding ''other diseases, if specified in the Special Provisions,'' as a cause of loss; and making other policy modifications to better meet the needs of insureds. The proposed changes are as follows:

1. *Section 1—Definitions*—FCIC is proposing to revise the definition ''*amount of insurance (per acre)*'' to clarify that the Reference Maximum Dollar Amount of Insurance shown on the actuarial documents is specified by fruit type and age of trees. Different citrus fruit types have different values and the age of the fruit tree has an impact on its ability to produce the fruit. The different amounts of insurance reflect the different values for insurable fruit. FCIC is proposing to revise the definition of ''*box*'' to allow FCIC to make the determination if the situation ever arises where the information is not contained in the State of Florida Citrus Fruit Laws. FCIC is also proposing to revise the definition ''*citrus fruit type*'' to ''*citrus fruit crop*,'' and redesignated the crops from ''*Type*'' to ''*Citrus.*'' A term ''*Citrus Fruit Crop Type (Fruit Type)*'' is also added. These changes are necessary because what was previously designated as a citrus fruit type is further broken down into the individual citrus fruits for the purposes of determining the amount of insurance. Since insurance is now provided by category of citrus, it makes more sense to refer to the categories as citrus crops and the individual citrus fruits as types, under a citrus crop. FCIC is also proposing to add a new category to allow additional citrus fruit crops to be designated in the Special Provisions to be consistent with section 3(a). FCIC is proposing to move Navel Oranges from Citrus IV to a new crop ''*Citrus VIII—Navel Oranges*,'' because producers have requested navel oranges be designated as a separate crop since navel oranges as a citrus fruit type do not fit well within a crop that includes tangelos and tangerines. Also, FCIC is proposing to revise the definition of ''*potential production*'' to move those provisions regarding undamaged potential production previously contained in section 10(b)(2)(i) through (iii) to the definition of potential production because potential production was intended to include all production from the unit, whether damaged or undamaged. This change will place all the provisions in one place and eliminate a potential conflict between potential production and undamaged potential production, because the production used to determine the percent of damage must include all production, including lost and damaged production, to avoid skewing the percent of damage. FCIC is also revising the definition to ensure the amount of potential production is converted to boxes so that the calculation of the percentage of damage uses the same basis for the damaged and potential production. FCIC is proposing to add definitions for the terms ''*scion*'' and ''*top worked*'' because the term ''*top worked*'' is now used in section 6 and the term ''*scion*'' is used in the definition of ''*top worked*'' to define the criteria for a tree to be considered ''*top worked.*'' FCIC is proposing to remove the terms ''*good farming practices*'' and ''*interplanted*'' because these terms are defined in the Common Crop Insurance Policy, Basic Provisions and no changes to these definitions are required for the purpose of insurance for Florida citrus fruit.

2. *Section 3*—FCIC is proposing to move the sales closing date from April 30 to May 1 in the Special Provisions to be consistent with the Florida Fruit Tree pilot crop insurance policy and the Nursery Crop Provisions. These crops are all grown in the same areas of Florida and are subject to the same perils so it would greatly ease the administration of these policies to have their terms and conditions be the same where practical. FCIC is also proposing to add provisions for carryover policies providing that for the 2008 and succeeding crop years, coverage changes must be requested on or before the May 1 sales closing date and that such charges will take effect on June 1 unless a loss occurs prior to May 31. FCIC has also added provisions to specify that if the request for increased coverage is rejected the previous year's coverage will remain in effect. This change prevents producers from increasing their coverage levels when they have information that a potential cause of loss is likely to occur. Premium rating depends on the fact causes of loss are random and the producer will not have any more information regarding the probability of a cause of loss than the person calculating the rates. This thirty day window before the changes take effect will effectively eliminate the possibility of producer's forecasting disasters and adversely affecting program integrity, while still providing insureds with a specific time frame, that unless notified otherwise, their requested changes will become effective. Again, this makes Florida Citrus Fruit crop insurance policy requirements consistent with Nursery Crop Provisions and the Florida Fruit Tree Pilot crop insurance policies for ease of administration.

3. *Section 4*—FCIC is proposing to move the contract change date to January 31, preceding the cancellation date. Previously the contract change date was March 15, but with an April 30 sales closing date, it was believed that this was too short of a period of time for approved insurance providers to fully disseminate information so producers could make informed buying decisions. RMA believes the proposed 3-month period between January 31 and May 1 is adequate time for approved insurance providers to timely familiarize themselves with program changes, modify automated systems if necessary, and train sales agents and loss adjustment personnel. Additionally, this makes the Florida Citrus Fruit crop insurance policy requirements consistent with the Nursery Crop Provisions and Florida Fruit Tree Pilot crop insurance policies for ease of administration.

4. *Section 5*—FCIC is proposing to move the cancellation and termination dates from April 30 to May 31. This makes the Florida Citrus Fruit crop insurance policy requirements consistent with the Nursery Crop Provisions and Florida Fruit Tree Pilot crop insurance policies for ease of administration.

5. *Section 6*—FCIC is proposing to add provisions to specify when the first year after set out can be considered a growing season. Previously there has been confusion whether the year of set out is considered the first growing season and the provision now clarifies that such year is only considered a growing season if the set out occurred before May 1. FCIC is also proposing to

specify that if any citrus fruit is damaged prior to the start of the insurance period, the amount of insurance will be reduced commensurate with the amount of damage. This will ensure that the policy only indemnifies losses that occur during the insurance period. As stated above, FCIC also proposes to add provisions regarding the insurability of citrus fruit produced on trees that have been top worked. Such trees are not insurable until the third crop year after top working.

6. *Section 7*—FCIC is proposing to add provisions to clarify acreage for interplanted crops will be prorated according to the insurable land acres occupied by the crops interplanted, and that insured land acreage cannot exceed the physical land acreage. These provisions were added in response to questions RMA has received regarding acreage determination when trees are interplanted

7. *Section 8*—FCIC is proposing to modify provisions to specify insurance attaches on June 1, including requests to increase coverage, beginning with the 2008 crop year, unless the approved insurance provider inspects the acreage and determines it does not meet the insurability requirements contained in the policy or a damage occurred prior to the start of the insurance period. This thirty day window before coverage attaches will ensure that producers do not obtain insurance just because they have information that an insurable cause of loss is likely to occur. This makes the Florida Citrus Fruit crop insurance policy requirements consistent with the Nursery and Florida Fruit Tree Pilot crop insurance policies for ease in administration. FCIC also proposes to modify the provisions to move the calendar date for the end of the insurance period for tangelos from April 30 to January 31 for Orlando Tangelos and February 28 for all other tangelos; to March 31 for Mid Season and Temple Oranges, and to April 30 for Murcott Honey Oranges. The revised dates more accurately reflect the maturity dates for these fruit types.

8. *Section 9*—FCIC is proposing to add diseases as a cause of loss if specified in the Special Provisions. This allows RMA to respond more rapidly to diseases affecting citrus fruit when it is determined feasible and appropriate to provide insurance coverage for an existing or new disease.

9. *Section 10*—FCIC is proposing to remove provisions addressing citrus fruit considered undamaged potential production and placed it more appropriately under the definition of ''*potential production*'' in section 1. As stated above, there was previously a potential conflict between the definition of potential production and undamaged potential production and placing all the provisions in the definition removes any potential conflict. FCIC has also replaced the designation of ''*Type*'' with ''*Citrus*'' to be consistent with previous revisions. FCIC is proposing to clarify damage to fresh fruit is determined on an individual fruit-by-fruit basis and then converted to boxes so that the number of boxes of damaged citrus fruit can be compared to the number of boxes of potential production to obtain the percent of damage. Calculating damage based on the individual citrus fruit prevents the confusion of considering damage on a ''*lot*'' basis, *i.e.* a load or other container of fresh fruit, especially when the lot is rejected, even though there may be a significant amount of undamaged fresh fruit in the lot. FCIC is also proposing to add provisions to specify fresh fruit types damaged by wind caused by a hurricane or tornado that do not meet the standard for packing as fresh fruit will be considered 100 percent damaged.

RMA considered adding Asiatic Citrus Canker (ACC) as a cause of loss, based on requests from growers and grower groups. However, due to the significant spread of ACC resulting from numerous hurricanes over the last several years, the citrus industry is transitioning away from an ACC eradication program to various measures and initiatives aimed at management of the disease. Before RMA can determine whether an insurance program can be developed to address fruit production losses due to ACC, the ACC situation needs to stabilize. This would include agreed upon rules and regulations, consistent inspection and verification processes, and agreed upon measures to be carried out when ACC is discovered. Once an effective ACC management plan is implemented, RMA is willing to consider insurance coverage for loss of fruit production due to ACC. RMA seeks input or comments regarding potential ACC coverage on fruit, key features to cover, and potential pitfalls or other aspects of ACC's affect on fruit that must be considered.

List of Subjects in 7 CFR Part 457

Crop insurance, Florida citrus fruit.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457, Common Crop Insurance Regulations effective for the 2008 and succeeding crop years, to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Section 457.107 is revised to read as follows:

§457.107 Florida citrus fruit crop insurance provisions.

The Florida citrus fruit crop insurance provisions for the 2008 and succeeding crop years are as follows:

1. Definitions

Amount of insurance (per acre). The dollar amount determined by multiplying the Reference Maximum Dollar Amount shown on the actuarial documents for each fruit type and age of trees, within a citrus fruit crop, times the coverage level percent that you elect, times your share.

Box. A standard field box as prescribed in the State of Florida Citrus Fruit Laws or contained in standards issued by FCIC.

Citrus fruit crop. Any of the following:

(1) Citrus I—Early and mid-season oranges;

(2) Citrus II—Late oranges juice;

(3) Citrus III—Grapefruit for which freeze damage will be adjusted on a juice basis;

(4) Citrus IV—Tangelos and Tangerines;

(5) Citrus V—Murcott Honey Oranges (also known as Honey Tangerines) and Temple Oranges;

(6) Citrus VI—Lemons and Limes;

(7) Citrus VII—Grapefruit for which freeze damage will be adjusted on a fresh fruit basis, and late oranges fresh;

(8) Citrus VIII—Navel Oranges; and

(9) Any other citrus fruit crop designated in the Special Provisions.

Citrus fruit crop type (fruit type). Any of the separate citrus fruit listed in the actuarial documents and contained within one of the citrus fruit crops shown as Roman Numerals I through VIII.

Freeze. The formation of ice in the cells of the fruit caused by low air temperatures.

Harvest. The severance of mature citrus fruit from the tree by pulling, picking, shaking, or any other means, or collecting the marketable citrus fruit from the ground.

Hurricane. A windstorm classified by the U.S. Weather Service as a hurricane.

Potential production. The amount, converted to boxes, of citrus fruit that would have been produced had damage not occurred, including citrus fruit that:

(1) Was harvested before damage occurred;

(2) Remained on the tree after damage occurred;

(3) Was lost or damaged from either an insured or uninsured cause;

(4) Was marketed or could be marketed as fresh citrus fruit;

(5) Was harvested prior to inspection by us; or

(6) Was harvested within 7 days after a freeze;

But not including citrus fruit that:

(1) Was lost before insurance attached for any crop year;

(2) Was lost by normal dropping; or

(3) Any tangerines that normally would not meet the 210 pack size (2 and 4/16 inch minimum diameter) under United States Standards by the end of the insurance period for tangerines.

Scion. A detached living portion of a plant joined to a stock in grafting.

Top worked. A buckhorned citrus tree with a new scion grafted onto the interstock.

2. Unit Division

(a) A basic unit, as defined in section 1 of the Basic Provisions, will be divided into additional basic units by each citrus fruit crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable.

(c) In addition to establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be established if each optional unit is located on non-contiguous land.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one coverage level for each citrus fruit crop shown in section 1 of these Crop Provisions, or designated in the Special Provisions, that you elect to insure. If different amounts of insurance are available for fruit types within a citrus fruit crop, you must select the same coverage level for each fruit type. For example, if you choose the 75 percent coverage level for one fruit type, you must also choose the 75 percent coverage level for all other fruit types within that citrus fruit crop.

(b) In lieu of the production reporting date contained in section 3 of the Basic Provisions, potential production for each unit will be determined during loss adjustment.

(c) For the first year of insurance for acreage interplanted with another citrus fruit crop, and anytime the planting pattern of such acreage is changed, you must report, by the sales closing date, the following:

(1) The age and fruit type of the interplanted citrus trees, as applicable;

(2) The planting pattern; and

(3) Any other information we request in order to establish your amount of insurance.

(d) We will reduce acreage or the amount of insurance or both, as necessary, based on our estimate of the effect of the interplanted citrus fruit trees on the insured citrus fruit crop. If you fail to notify us of any circumstance that may reduce the acreage or amount of insurance, we will reduce the acreage or amount of insurance or both as necessary any time we become aware of the circumstance.

(e) For carryover policies:

(1) For the 2008 and succeeding crop years, any changes to your coverage must be requested on or before the sales closing date;

(2) Requested changes will take effect on June 1, the first day of the crop year unless we reject the requested increase because a loss occurs on or before May 31 (Rejection can occur at any time we discover a loss has occurred on or before May 31); and

(3) If the increase is rejected, coverage will remain at the same level as the previous crop year.

(f) If your citrus fruit was damaged prior to the beginning of the insurance period, your amount of insurance (per acre) will be reduced by the amount of damage that occurred.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is January 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are May 31.

6. Insured Crop

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all acreage of each citrus fruit crop that you elect to insure, in which you have a share, that is grown in the county shown on the application, and for which a premium rate is quoted in the actuarial documents.

(b) In addition to the citrus fruit not insurable in section 8 of the Basic Provisions, we do not insure any citrus fruit:

(1) That cannot be expected to mature each crop year within the normal maturity period for the fruit type;

(2) Produced by citrus trees that have not reached the fifth growing season after being set out, unless otherwise provided in the Special Provisions or by a written agreement to insure such citrus fruit (In order for the year of set out to be considered as a growing season, citrus trees must be set out on or before May 1 of the calendar year);

(3) Of ''Meyer Lemons'' and oranges commonly known as ''Sour Oranges'' or ''Clementines'';

(4) Of the Robinson tangerine variety, for any crop year in which you have elected to exclude such tangerines from insurance (You must elect this exclusion prior to the crop year for which the exclusion is to be effective, except that for the first crop year you must elect this exclusion by the later of the sales closing date or the time you submit the application for insurance); or

(5) That is produced on citrus trees that have been topworked until the third crop year after topworking. The Special Provisions will specify the appropriate rate class for trees insurable following topworking, but that have not reached full production.

(c) Prior to the date insurance attaches, and upon our approval, you may elect to insure or exclude from insurance any insurable citrus acreage that has a potential production of less than 100 boxes per acre. If you elect to:

(1) Insure such acreage, we will consider the potential production to be 100 boxes per acre when determining the amount of loss; or

(2) Exclude such acreage, we will disregard the acreage for all purposes related to this policy.

(d) In addition to the provisions in Section 6 of the Basic Provisions, if you fail to notify us of your election to insure or exclude citrus acreage, and the potential production from such acreage is 100 or more boxes per acre, we will determine the percent of damage on all of the insurable acreage for the unit, but will not allow the percent of damage for the unit to be increased by including such acreage.

7. Insurable Acreage

In lieu of the provisions in section 9 of the Basic Provisions, that prohibit insurance attaching to a crop planted with another crop:

(a) Citrus fruit from trees interplanted with another crop is insurable unless we inspect the acreage and determine it does not meet the requirements contained in your policy.

(b) If the citrus fruit is from trees interplanted with another crop, acreage will be prorated according to the percentage of the acres occupied by each of the interplanted crops (For example, if grapefruit have been interplanted with oranges on 100 acres and the grapefruit trees are on 50 percent of the acreage, grapefruit will be

considered planted on 50 acres and oranges will be considered planted on 50 acres).

(c) The combination of the citrus fruit acreage and the interplanted crop acreage cannot exceed the physical amount of acreage.

8. Insurance Period

(a) In accordance with the provisions of section 11 of the Basic Provisions:

(1) Coverage begins on June 1 of each crop year, beginning with the 2008 crop year, unless:

(i) We inspect the acreage and determine it does not meet the requirements for insurability contained in your policy (You must provide any information we require for the crop, so we may determine the condition of the grove to be insured); or

(ii) You report additional citrus acreage, or a greater share, such that the amount of insurance will increase by more than 10 percent and we notify you all or a part of your citrus acreage is not insurable.

(2) The calendar date for the end of the insurance period for each crop year is:

(i) January 31 for early and navel oranges, Orlando tangelos and tangerines;

(ii) February 28 for all other tangelos;

(iii) March 31 for mid-season and temple oranges;

(iv) April 30 for lemons, limes, and murcott honey oranges; and

(v) June 30 for grapefruit and late season oranges.

(b) In addition to the provisions of section 11 of the Basic Provisions:

(1) If you acquire an insurable share in any insurable acreage of citrus fruit after coverage begins, but on or before acreage reporting date of any crop year, and if after inspection we consider the acreage acceptable, then insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of citrus fruit on or before the acreage reporting date of any crop year, insurance will not be considered to have attached, no premium will be due, and no indemnity payable, for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss to citrus fruit that occur within the insurance period:

(1) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the grove;

(2) Freeze;

(3) Hail;

(4) Hurricane;

(5) Tornado; or

(6) Diseases, only if specified in the Special Provisions.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:

(1) Damage to the blossoms or trees; or

(2) Inability to market the citrus fruit for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) If any citrus fruit within a unit is damaged by an insurable cause of loss, we will settle your claim by:

(1) Calculating the amount of insurance for the unit by multiplying the number of acres by the respective dollar amount of insurance per acre for the fruit type and multiplying that result by your share;

(2) Calculating the average percent of damage to the citrus fruit within each respective fruit type, rounded to the nearest tenth of a percent (0.1%) (The percent of damage will be the amount of damaged citrus fruit, converted to boxes, damaged from an insured cause, divided by the undamaged potential production);

(3) Subtracting the deductible from the result of section (10)(b)(2); and

(4) If the result of section (10)(b)(3) is positive, dividing this result by the coverage level percentage;

(5) Multiplying the result of section (10)(b)(4) by the amount of insurance for the unit for the respective fruit type, to determine the value of all damage.

(6) Totaling all such results of section (10)(b)(5) for all fruit types and subtracting any indemnities paid for the current crop year to determine the amount payable for the unit.

(For example, assume a unit sustains late season damage on the 55 acres. No previous damage has occurred on the 55 acres during the crop year and no fruit has been harvested. The producer elects the 75 percent coverage level and has a 100 percent share. The amount of insurance is $1,180 per acre, based on the 75 percent coverage level for the citrus type and age of trees. The amount of potential production is 24,530 boxes and the amount of damaged production is 17,171 boxes. The loss would be calculated as follows:

1. 55 acres × $1,180 = $64,900 amount of insurance for the unit;

2. 17,171 ÷ 24,530 = 70 percent average percent of damage;

3. 70 percent damage − 25 percent deductible (100 percent − 75 percent) = 45 percent;

4. 45 percent ÷ 75 percent = 60 percent adjusted damage; and

5. 60 percent × $64,900 = $38,940 indemnity.

(c) Citrus fruit crops IV, V, VII, and VIII, that are seriously damaged by freeze, as determined by a fresh-fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the State of Florida Citrus Fruit Laws, or contained in standards issued by FCIC, and that are not or could not be marketed as fresh fruit, will be considered damaged to the following extent:

(1) If less than 16 percent of the fruit in a sample shows serious freeze damage, the fruit will be considered undamaged; or

(2) If 16 percent or more of the fruit in a sample shows serious freeze damage, the fruit will be considered 50 percent damaged, except that:

(i) For tangerines of Citrus IV, damage in excess of 50 percent will be the actual percent of damaged fruit; and

(ii) Citrus IV (except tangerines), V, VII, and VIII, if it is determined that the juice loss in the fruit exceeds 50 percent, such percent will be considered the percent of damage.

(d) Notwithstanding the provisions of section 10(c) of these crop provisions as to citrus fruit of Citrus IV, V, VII, and VIII, in any unit that is mechanically separated using the specific-gravity (floatation) method into undamaged and freeze-damaged fruit, the amount of damage will be the actual percent of freeze-damaged fruit not to exceed 50 percent and will not be affected by

subsequent fresh-fruit marketing. However, the 50 percent limitation on mechanically separated, freeze-damaged fruit will not apply to tangerines of Citrus IV.

(e) Any citrus fruit of Citrus I, II, III, and VI damaged by freeze, but that can be processed into products for human consumption, will be considered as marketable for juice. The percent of damage will be determined by relating the juice content of the damaged fruit to:

(1) The average juice content of the fruit produced on the unit for the three previous crop years based on your records, if they are acceptable to us; or

(2) The following juice content, if acceptable records are not furnished:

(i) Citrus I—52 pounds of juice per box;

(ii) Citrus II—54 pounds of juice per box;

(iii) Citrus III—45 pounds of juice per box; and

(iv) Citrus VI—43 pounds of juice per box;

(f) Any individual citrus fruit on the ground that is not collected and marketed will be considered as 100 percent damaged if the damage was due to an insured cause.

(g) Any individual citrus fruit that is unmarketable either as fresh fruit or as juice because it is immature, unwholesome, decomposed, adulterated, or otherwise unfit for human consumption due to an insured cause will be considered as 100 percent damaged.

(h) Individual citrus fruit of Citrus IV, V, VII, and VIII, that are unmarketable as fresh fruit due to serious damage from hail as defined in the applicable United States Standards for Grades of Florida fruit, or wind damage from a hurricane or tornado that results in the fruit not meeting the standards for packing as fresh fruit, will be considered 100 percent damaged.

11. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

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

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E6–16635 Filed 10–12–06; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26051; Directorate Identifier 2006–NM–154–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by November 13, 2006.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *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 Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2006–26051; Directorate Identifier 2006–NM–154–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the airworthiness authority for the European Union, has issued Airworthiness Directive 2006–0153, dated May 30, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states that an operator reported black smoke at the rear of the fuselage during taxi after landing. The smoke was caused by a fire in the auxiliary power unit (APU) air intake. Analysis has demonstrated that following numerous unsuccessful APU start attempts in flight, there is a risk of reverse flow, leading to flame propagation to the APU air inlet and air intake duct. If this zone is

contaminated, a fire may be initiated. The flightcrew operating manual limits the number of APU start attempts as follows: After three starter motor duty cycles, wait 60 minutes before attempting three more cycles. The MCAI mandates repetitive inspections of the APU starter motor, APU inlet plenum, and APU air intake, as well as repetitive cleaning of the APU air intake; and applicable corrective actions. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A320–49–1068, Revision 01, dated February 2, 2006. The applicable corrective actions include replacement of the APU starter motor, if necessary. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the proposed AD. These requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 675 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $210,240, or $320 per product.

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Airbus: Docket No. FAA–2006–26051; Directorate Identifier 2006–NM–154–AD.

Comments Due Date

(a) We must receive comments by November 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A318, A319, A320 and A321 aircraft, all certified models, all serial numbers, certificated in any category.

Reason

(d) An operator reported black smoke at the rear of the fuselage during taxi after landing. The smoke was caused by a fire in the auxiliary power unit (APU) air intake. Analysis has demonstrated that following numerous unsuccessful APU start attempts in flight, there is a risk of reverse flow, leading to flame propagation to the APU air inlet and air intake duct. If this zone is contaminated, a fire may be initiated. The flightcrew operating manual limits the number of APU start attempts as follows: After three starter motor duty cycles, wait 60 minutes before attempting three more cycles. The MCAI mandates repetitive inspections of the APU starter motor, APU inlet plenum, and APU air intake, as well as repetitive cleaning of the APU air intake; and applicable corrective actions.

Actions and Compliance

(e) Unless already done, do the following actions except as stated in paragraph (f) below.

(1) Within the next 600 flight hours following the effective date of this AD: Inspect the APU starter motor, APU air inlet plenum, and APU air intake, and do the applicable corrective actions before further flight, in accordance with the instructions given in Airbus Service Bulletin A320–49–1068, Revision 01, dated February 2, 2006.

(2) Repeat the inspection per above paragraph (e)(1) of this AD, at intervals not exceeding 600 flight hours.

(3) Prior to the accumulation of 2,400 flight hours since the aircraft's first flight, or within the next 600 flight hours after the effective date of this AD, whichever occurs later, unless accomplished before the effective date of this AD in accordance with Airbus Service Bulletin A320–49–1068, dated June 2, 2005: Clean the APU air intake in accordance with the instructions given in Airbus Service Bulletin A320–49–1068, Revision 01, dated February 2, 2006.

(4) Repeat the cleaning task per above paragraph (e)(3) of this AD, at intervals not exceeding 2,400 flight hours.

FAA AD Differences

(f) None.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, ATTN: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149, if requested, using the procedures found in 14 CFR 39.19.

(2) *Notification of Principal Inspector:* Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(4) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2006–0153, dated May 30, 2006, which references Airbus Service Bulletin A320–49–1068, Revision 01, dated February 2, 2006, for related information.

Issued in Renton, Washington, on October 4, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–17006 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26048; Directorate Identifier 2006–NM–191–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model 717–200 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain McDonnell Douglas Model 717–200 airplanes. This proposed AD would require replacing certain attaching hardware of the bulkhead nipple assemblies of the left and right wing vent boxes with new electrical bonding attaching hardware, doing resistance testing of the new electrical bonds, and doing fuel leakage testing of the reworked nipple assemblies. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to provide a conductive path, from the bulkhead nipple assemblies of the left and right wing vent boxes to the airframe structure inside the wing fuel tanks, to dissipate high amperage lightning-induced currents which might otherwise create an ignition source for fuel vapors inside the wing vent boxes and lead to an explosion of the fuel tanks.

DATES: We must receive comments on this proposed AD by November 27, 2006.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–26048; Directorate Identifier 2006–NM–191–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and

new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

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

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

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

We have received a report indicating that a fuel system review of McDonnell Douglas Model 717–200 airplanes revealed that no electrical bonding exists between the nipple assemblies of the left and right wing vent boxes and the bulkhead. This condition, if not corrected, could result in high amperage lightning-induced currents at the bulkhead nipple assemblies of the left and right wing vent boxes, which might create an ignition source for fuel vapors inside the wing vent boxes and lead to an explosion of the fuel tanks.

Relevant Service Information

We have reviewed Boeing Service Bulletin 717–28–0011, Revision 2, dated July 19, 2006. The service bulletin describes procedures for replacing certain attaching hardware of the nipple assemblies of the left and right wing vent boxes with new electrical bonding attaching hardware; doing resistance testing of the new electrical bonds; and doing fuel leakage testing of the reworked nipple assemblies. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Service Bulletin.''

Difference Between the Proposed AD and Service Bulletin

Boeing Service Bulletin 717–28–0011, Revision 2, recommends a compliance time ''not to exceed 10 years from the release date of Revision 1 of this service bulletin.'' However, we have determined that, due to the nature of the unsafe condition, 78 months after the effective date of this proposed AD is the appropriate compliance time. We have coordinated this difference with Boeing.

Costs of Compliance

There are about 138 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 108 airplanes of U.S. registry. The proposed actions would take about 6 work hours per airplane, at an average labor rate of $80 per work hour. The manufacturer states that it will supply required parts to the operators at no cost. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $51,840, or $480 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket No. FAA–2006–26048; Directorate Identifier 2006–NM–191–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 27, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Model 717–200 airplanes, certificated in any category; as identified in Boeing Service Bulletin 717–28–0011, Revision 2, dated July 19, 2006.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to provide a conductive path, from the bulkhead nipple assemblies of the left and right wing vent boxes to the airframe structure inside the wing fuel tanks, to dissipate high amperage lightning-induced currents, which might otherwise create an ignition source for fuel vapors inside the wing vent boxes and lead to an explosion of the fuel tanks.

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.

Installing Electrical Bonding, and Resistance and Fuel Leakage Testing

(f) Within 78 months after the effective date of this AD, replace certain attaching hardware of the bulkhead nipple assemblies of the left and right wing vent boxes with new electrical bonding attaching hardware, do resistance testing of the new electrical bonds, and do fuel leakage testing of the reworked nipple assemblies; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 717–28–0011, Revision 2, dated July 19, 2006.

Actions Accomplished According to Previous Issue of Service Bulletin

(g) Actions accomplished before the effective date of this AD in accordance with Boeing Service Bulletin 717–28–0011, Revision 1, dated January 24, 2006, are acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on October 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–17004 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26049; Directorate Identifier 2006–NM–177–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, and DC–10–30F (KC–10A and KDC–10) Airplanes; Model DC–10–40 and DC–10–40F Airplanes Equipped With Pratt & Whitney JT9–20 or JT9–20J Engines; and Model MD–10–10F and MD–10–30F Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for the McDonnell Douglas airplanes previously described. This proposed AD would require replacing the control modules of the fire detection systems of the propulsion engines with new, improved control modules. This proposed AD results from a report of broken or severed wiring between engine fire detectors and the fire detection system control module, which caused the fire detection system to become non-functional without flightcrew awareness. We are proposing this AD to prevent unannunciated fire in a propulsion engine, which could cause injury to flightcrew and passengers or loss of the airplane.

DATES: We must receive comments on this proposed AD by November 27, 2006.

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

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

Contact Meggitt Safety Systems Inc., 1915 Voyager Avenue, Simi Valley, California 93063, for the service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–26049; Directorate Identifier 2006–NM–177–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received a report indicating that an unsafe condition may exist on

all McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, and DC–10–30F (KC–10A and KDC–10) airplanes; Model DC–10–40 and DC–10–40F airplanes equipped with Pratt & Whitney JT9–20 or JT9–20J engines; and all Model MD–10–10F and MD–10–30F airplanes. The report stated that a Model DC–10–10F airplane experienced an undetected, uncontained engine failure upon takeoff, which severed the wiring between the engine fire detectors and the fire detection system control module. As the fire detection system control module was not designed to register wiring or component failures when not in test mode, the fire detection system became non-functional without flightcrew awareness. Upon landing, the flightcrew employed the thrust reversers for all engines, which caused an unannunciated fire in the failed engine that required ground support to extinguish. A fire detection system not known to be malfunctioning could, if not repaired, result in unannunciated fire in a propulsion engine, which could cause injury to flightcrew and passengers or loss of the airplane.

Relevant Service Information

We have reviewed Meggitt Safety Systems Service Bulletin 26–34, Revision 2, dated August 15, 2006. The service bulletin describes procedures for replacing the fire detection system control modules of the main propulsion engines and auxiliary power unit (APU) with new, improved control modules. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between Proposed AD and Service Bulletin.''

Differences Between Proposed AD and Service Bulletin

The service bulletin describes procedures for replacing the control modules of the fire detection systems of the propulsion engines and of the APU. However, we have determined that mandating replacement of the control module of the fire detection system of the APU is not critical to fleet safety. Therefore, this proposed AD would not require this action.

The service bulletin does not specify a compliance time for accomplishing the described actions. However, we have determined that a compliance time of 60 months after the effective date of this proposed AD would provide an appropriate amount of time to accomplish the actions while maintaining an adequate level of fleet safety.

We have coordinated these differences with Boeing.

Costs of Compliance

There are about 305 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 233 airplanes of U.S. registry. The proposed actions would take about 6 work hours per airplane, at an average labor rate of $80 per work hour. Required parts would cost about $9,900 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $2,418,540, or $10,380 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket No. FAA–2006–26049; Directorate Identifier 2006–NM–177–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 27, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas airplanes, certificated in any category; as specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) All Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, and DC–10–30F (KC–10A and KDC–10) airplanes;

(2) Model DC–10–40 and DC–10–40F airplanes equipped with Pratt & Whitney JT9–20 or JT9–20J engines; and

(3) All Model MD–10–10F and MD–10–30F airplanes.

Unsafe Condition

(d) This AD results from a report of broken or severed wiring between engine fire detectors and the fire detection system control module, which caused the fire detection system to become non-functional without flightcrew awareness. We are issuing this AD to prevent unannunciated fire in a propulsion engine, which could cause injury to flightcrew and passengers or loss of the airplane.

Compliance

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

Control Module Replacement

(f) Within 60 months after the effective date of this AD, replace the control modules of the fire detection systems of the propulsion engines with new, improved control modules, in accordance with paragraph 2., ''Main Engine Control Module Replacement Instructions,'' of Meggitt Safety Systems Service Bulletin 26–34, Revision 2, dated August 15, 2006.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on October 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–17003 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26050; Directorate Identifier 2006–NM–078–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Bombardier Model DHC–8–400 series airplanes. The existing AD currently requires revising the airplane flight manual (AFM) to advise the flightcrew of appropriate procedures to follow in the event that a main landing gear (MLG) fails to extend following a gear-down selection. The existing AD also currently requires repetitive replacement of the left and right MLG uplock assemblies with new assemblies; and an inspection of the left and right MLG uplock rollers for the presence of an inner low friction liner, and corrective actions if necessary. This proposed AD would revise the requirement for replacing the left and right MLG uplock assemblies by allowing replacement with alternative parts. For a certain MLG uplock assembly, this proposed AD would require repetitive inspections of the uplock hatch lower jaw for the presence of a wear groove and replacement with an improved part if necessary. For a certain MLG uplock assembly, this proposed AD also would require repetitive inspections of the uplock roller to ensure that it rotates freely and replacement with a new part if necessary. This proposed AD would allow optional replacement of the left and right MLG uplock assemblies with improved parts, which ends the requirements of the AFM revision and repetitive replacement and inspections. This proposed AD would remove airplanes from the applicability. This proposed AD results from development of a terminating action. We are proposing this AD to ensure that the flightcrew has the procedures necessary to address failure of an MLG to extend following a gear-down selection; and to detect and correct such failure, which could result in a gear-up landing and possible injury to passengers and crew.

DATES: We must receive comments on this proposed AD by November 13, 2006.

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

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

Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7320; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2006–26050; Directorate Identifier 2006–NM–078–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On April 11, 2002, we issued AD 2002–08–05, amendment 39–12713 (67 FR 19101, April 18, 2002), for certain Bombardier Model DHC–8–400 series airplanes. That AD requires revising the airplane flight manual (AFM) to advise the flightcrew of appropriate procedures to follow in the event that a main landing gear (MLG) fails to extend following a gear-down selection. That AD also requires repetitive replacement

of the left and right MLG uplock assemblies (part number (P/N) 46500–3) with new assemblies; and an inspection of the left and right MLG uplock rollers for the presence of an inner low friction liner, and corrective actions if necessary. That AD resulted from an in-flight incident where the flightcrew had difficulties in extending the right MLG following a gear-down selection. We issued that AD to ensure that the flightcrew has the procedures necessary to address failure of an MLG to extend following a gear-down selection; and to detect and correct such failure, which could result in a gear-up landing and possible injury to passengers and crew.

Actions Since Existing AD Was Issued

In the preamble to AD 2002–08–05, we specified that the actions required by that AD were considered ''interim action'' and that the manufacturer was developing a modification to address the unsafe condition. We indicated that we may consider further rulemaking action once the modification was developed, approved, and available. The manufacturer now has developed such a modification, and we have determined that further rulemaking action is indeed necessary; this proposed AD follows from that determination.

Since we issued AD 2002–08–05, Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, has issued Canadian airworthiness directives CF–2002–13R1, dated November 20, 2002, and CF–2002–13R2, dated May 19, 2005. (Canadian airworthiness directive CF–2002–13, dated February 4, 2002, parallels AD 2002–08–05.) Canadian airworthiness directive CF–2002–13R1 introduced a new, modified uplock assembly, P/N 46500–5, as a replacement alternative to P/N 46500–3, which is no longer in production. Canadian airworthiness directive CF–2002–13R1 also mandated repetitive replacement of P/N 46500–5, since it is similar in design to P/N 46500–3 and, therefore, subject to the same failure.

Canadian airworthiness directive CF–2002–13R2 supersedes Canadian airworthiness directive CF–2002–13R1. Canadian airworthiness directive CF–2002–13R2 revises the requirement for P/N 46500–5 by mandating repetitive inspections of P/N 46500–5 and its corresponding uplock roller, instead of repetitive replacement. Canadian airworthiness directive CF–2002–13R2 also introduces a new, improved uplock assembly, P/N 46500–7. The repetitive replacement of P/N 46500–3 and the repetitive inspections of P/N 46500–5 and corresponding uplock roller are terminated by replacement with P/N 46500–7. Also, Canadian airworthiness directive CF–2002–13R2 removes airplanes that have been modified in production from the applicability.

Relevant Service Information

We have reviewed Bombardier Temporary Revision (TR) 32–191 and TR 32–192, both dated May 29, 2006, to the Bombardier Q400 Dash 8 Aircraft Maintenance Manual (AMM), PSM 1–84–2. TR 32–191 describes procedures for removing an uplock roller from the MLG uplock assembly. TR 32–192 describes procedures for installing an uplock roller in the MLG uplock assembly.

TCCA issued Canadian airworthiness directive CF–2002–13R2, dated May 19, 2005, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 2002–08–05 and would retain the requirements of the existing AD; except that this proposed AD would revise the requirement for replacing the left and right MLG uplock assemblies by allowing replacement with modified or improved uplock assemblies, P/N 46500–5 or –7, respectively. This proposed AD would also require the following actions:

- *For MLG uplock assembly, P/N 46500–5:* Repetitive detailed dimensional inspections of the surface of the uplock hatch lower jaw of the MLG uplock assembly for the presence of a wear groove and replacement of the uplock assembly with an improved uplock assembly, P/N 46500–7, if necessary.
- *For MLG uplock assembly, P/N 46500–5:* Repetitive general visual inspections of the uplock roller of the MLG uplock assembly to ensure that it rotates freely and replacement of the uplock roller with a new uplock roller if necessary.

Also, this proposed AD would allow optional replacement of the left and right MLG uplock assemblies with improved uplock assemblies, P/N 46500–7, which ends the requirements of the AFM revision and repetitive replacement and inspections. This proposed AD also would remove airplanes from the applicability.

Difference Between the Proposed AD and Canadian Airworthiness Directive

Canadian airworthiness directive CF–2002–13R2 specifies replacing the uplock roller of a certain MLG uplock assembly in accordance with Chapter 32–31–21 of the Bombardier Q400 Dash 8 AMM, PSM 1–84–2, if the uplock roller does not rotate freely. However, Chapter 32–31–21, Revision 20, dated May 5, 2005, of the Bombardier Q400 Dash 8 AMM does not include a procedure for accomplishing the replacement. Therefore, this proposed AD would require accomplishing the replacement in accordance with Bombardier TR 32–191 and TR 32–192. We have coordinated this difference with TCCA and Bombardier.

Clarification of Compliance Time

Canadian airworthiness directive CF–2002–13R2 specifies replacing the MLG uplock assembly if the wear groove depth of the uplock latch lower jaw exceeds 0.007 inch (in paragraph C.1.). Canadian airworthiness directive CF–2002–13R2 also specifies replacing the uplock roller if it does not rotate freely (in paragraph C.2.). However, in both cases, Canadian airworthiness directive CF–2002–13R2 does not explicitly specify the compliance time for accomplishing these actions. This proposed AD would require accomplishing these actions before further flight.

Clarification of Inspection Terminology

The ''inspection'' of the uplock roller specified in Canadian airworthiness directive CF–2002–13R2 is referred to as a ''general visual inspection'' in this proposed AD. We have included the definition for a general visual inspection as a note in the proposed AD.

Change to Existing AD

This proposed AD would retain all requirements of AD 2002–08–05. Since AD 2002–08–05 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2002–08–05	Corresponding requirement in this proposed AD
paragraph (a)	paragraph (f).
paragraph (b)	paragraph (g).
paragraph (c)	paragraph (h).

Note 2 of AD 2002–08–05 was inadvertently misplaced in paragraph (b)(2) instead of paragraph (c)(2) of the existing AD. Accordingly, we have moved Note 2 to paragraph (h)(2) in this proposed AD.

Paragraph (c)(2) of AD 2002–08–05 (corresponding to paragraph (h)(2) of this proposed AD) requires replacing an uplock roller if a low friction liner is not present, in accordance with the Accomplishment Instructions of Bombardier DHC–8 Alert Service Bulletin A84–32–15, dated February 4, 2002. After the effective date of this AD, if the low friction liner is not present, operators must accomplish the replacement in accordance with paragraph (i)(2) of this proposed AD. We have revised paragraph (h)(2) of this proposed AD accordingly.

Explanation of Change to Applicability

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

Costs of Compliance

The following table provides the estimated costs, at an average labor rate of $80 per work hour, for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AFM revision (required by AD 2002–08–05)	1	None	$80	21	$1,680.
Replacement of uplock assemblies (required by AD 2002–08–05).	4	No charge ...	$320, per replacement cycle.	21	$6,720 per replacement cycle.
Inspection of uplock rollers (required by AD 2002–08–05).	1	None	$80	21	$1,680.
Inspections of uplock assemblies and uplock rollers (new proposed action).	5	None	$400	21	$8,400.
Terminating action (new proposed action)	4	No charge ...	$320	21	$6,720.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–12713 (67 FR 19101, April 18, 2002) and adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA–2006–26050; Directorate Identifier 2006–NM–078–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 13, 2006.

Affected ADs

(b) This AD supersedes AD 2002–08–05.

Applicability

(c) This AD applies to Bombardier Model DHC–8–400 series airplanes, certificated in any category; serial numbers 4001 and 4003 through 4087 inclusive; equipped with main landing gear (MLG) uplock assembly part numbers (P/Ns) 46500–3 and –5.

Unsafe Condition

(d) This AD results from development of a terminating action. We are issuing this AD to ensure that the flightcrew has the procedures necessary to address failure of an MLG to extend following a gear-down selection; and to detect and correct such failure, which could result in a gear-up landing and possible injury to passengers and crew.

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.

Requirements of AD 2002–08–05

Revision of FAA-Approved Airplane Flight Manual (AFM)

(f) Within 3 days after April 23, 2002 (the effective date of AD 2002–08–05), amend all

copies of the FAA-approved Bombardier Series 400 AFM, PSM 1–84–1A (for Models 400, 401, and 402), by adding the following procedure to the Limitations section of the AFM and opposite page 4–21–1 of the AFM; and advise all flightcrew members of these changes. (The revision may be accomplished by inserting a copy of this AD into the Limitations section of the AFM and affected paragraphs of the AFM.):

''If ONE main landing gear fails to extend after performing landing gear extension per normal procedures given in paragraph 4.3.7 and alternate extension procedures per paragraph 4.21.1 of the AFM:

1. Visually confirm that the affected gear has not extended and that the associated doors have opened.

2. Ensure No. 2 hydraulic system pressure and quantity are normal and the following landing gear advisory lights are illuminated: selector lever amber, gear green locked down (nose and non-affected main gear), red gear unlocked (affected main gear) and all amber doors open.

3. NOSE L/G RELEASE handle—Return to the stowed position.

4. LANDING GEAR ALTERNATE EXTENSION door—Close fully.

5. MAIN L/G RELEASE handle—Return to the stowed position.

6. LANDING GEAR ALTERNATE RELEASE door—Close fully.

7. LANDING GEAR lever—DN.

8. L/G DOWN SELECT INHIBIT SW—Normal and guarded. Check amber doors open advisory lights out (nose and non-affected main gear) and LDG GEAR INOP caution light out.

9. LANDING GEAR lever—UP Check all gear, door and LANDING GEAR lever advisory lights out.

10. With minimum delay, LANDING GEAR lever—DN. Check 3 green gear locked down advisory lights illuminate, all amber doors open, red gear unlocked and selector lever amber advisory lights out.

11. Items 9 and 10 may be repeated in an effort to achieve 3 gear down and locked.

CAUTION

Should the LDG GEAR INOP caution light illuminate, or loss of no. 2 hydraulic system pressure or quantity, or any abnormality in landing gear system indication other than those associated with the affected main landing gear be experienced, see paragraph 4.21.1 ALTERNATE LANDING GEAR EXTENSION.''

Accomplishing the actions specified in paragraph (k) of this AD terminates the requirements of this paragraph, and after the replacement has been done, the AFM limitation may be removed from the AFM.

Replacement of Uplock Assembly with New Replacement Parts and Requirements

(g) At the later of the times specified in paragraph (g)(1) or (g)(2) of this AD: Replace the left and right MLG uplock assemblies, P/N 46500–3, with new or overhauled uplock assemblies having P/N 46500–3, –5, or –7, according to a method approved by either the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent). Using Tasks 32–31–21–000–801 and 32–31–21–400–801 of Chapter 32–31–21 of Bombardier Q400 Dash 8 Aircraft Maintenance Manual (AMM), PSM 1–84–2, is one approved method. For any uplock assembly having P/N 46500–3, repeat the replacement thereafter at intervals not to exceed 2,500 flight hours or 3,000 flight cycles, whichever occurs earlier. For any uplock assembly having P/N 46500–5, do the actions required by paragraph (i) of this AD. Replacing an uplock assembly with a new or overhauled uplock assembly having P/N 46500–7 terminates the requirements of this paragraph, for that uplock assembly only.

(1) Before the accumulation of 2,500 total flight hours or 3,000 total flight cycles on an uplock assembly, whichever occurs earlier; or

(2) Within 14 days after April 23, 2002.

One-Time Inspection of MLG Uplock Rollers With Added Inspection Definition

(h) Within 30 days after April 23, 2002, do a general visual inspection of the left and right MLG uplock rollers for the presence of an inner low friction (black-colored) liner, in accordance with the Accomplishment Instructions of Bombardier DHC–8 Alert Service Bulletin A84–32–15, dated February 4, 2002; and, before further flight, do the actions required by paragraph (h)(1) or (h)(2) of this AD.

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

Corrective Actions

(1) If a low friction liner is present, reinstall the existing uplock roller; or install a new uplock roller, P/N 46575–1, having a low friction liner; on the shock strut of the MLG in accordance with the service bulletin.

(2) If a low friction liner is not present, replace the existing uplock roller with a new uplock roller, P/N 46575–1, having a low friction liner, on the shock strut of the MLG in accordance with the service bulletin. After the effective date of this AD, if the low friction liner is not present, replace the uplock roller in accordance with paragraph (i)(2) of this AD.

Note 2: Bombardier DHC–8 Alert Service Bulletin A84–32–15, dated February 4, 2002, references Chapter 32–11–01 of Bombardier Q400 Dash 8 AMM, PSM 1–84–2, as an additional source of service information for procedures to replace an MLG uplock roller.

New Requirements of This AD

Repetitive Inspections and Replacement if Necessary of a Certain Uplock Assembly

(i) For any MLG uplock assembly having P/N 46500–5, do the inspections specified in paragraphs (i)(1) and (i)(2) of this AD at the later of the following compliance times: Before the accumulation of 2,500 total flight hours or 3,000 total flight cycles on the uplock assembly, whichever occurs first; or within 90 days after the effective date of this AD. Repeat the inspections thereafter at intervals not to exceed 400 total flight hours or 480 total flight cycles, whichever occurs first. Replacement of an uplock assembly in accordance with paragraph (i)(1) of this AD terminates the repetitive inspections of paragraphs (i)(1) and (i)(2) of this AD, for that uplock assembly only.

(1) Do a detailed dimensional inspection of the surface of the uplock hatch lower jaw for the presence of a wear groove and measure the wear groove depth to an accuracy of 0.001 inch, according to a method approved by either the Manager, New York ACO; or TCCA (or its delegated agent). Using Task 32–31–21–220–801 of the Bombardier Q400 Dash 8 AMM, PSM 1–84–2, is one approved method. If the groove depth exceeds 0.007 inch, before further flight, replace the uplock assembly with a new or serviceable uplock assembly, P/N 46500–7, according to a method approved by either the Manager, New York ACO; or TCCA (or its delegated agent). Using Tasks 32–31–21–000–801 and 32–31–21–400–801 of Chapter 32–31–21 of the Bombardier Q400 Dash 8 AMM, PSM 1–84–2, is one approved method.

(2) Do a general visual inspection of the uplock roller, P/N 46575–1, of the MLG uplock assembly to ensure that it rotates freely. If the uplock roller does not rotate freely, before further flight, replace the uplock roller with a new uplock roller, P/N 46575–1, in accordance with Bombardier Temporary Revision (TR) 32–191 and Bombardier TR 32–192, both dated May 29, 2006.

(j) When the information in Bombardier TR 32–191 and Bombardier TR 32–192, both dated May 29, 2006, is included in the AMM, the AMM is approved as an acceptable method of compliance for the replacement specified paragraph (i)(2) of this AD.

Optional Terminating Action for AFM Revision, Repetitive Replacements, and Repetitive Inspections

(k) Replacing the left and right MLG uplock assemblies having P/N 46500–3 or –5 with new or overhauled uplock assemblies having P/N 46500–7 terminates the requirements of paragraphs (f), (g), (h), and (i) of this AD, as applicable. After the replacements have been done, the AFM limitation required by paragraph (f) of this AD may be removed from the AFM.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, New York ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the

appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) AMOCs approved previously in accordance with AD 2002–08–05, are approved as AMOCs for the corresponding provisions of this AD.

Related Information

(m) Canadian airworthiness directive CF–2002–13R2, dated May 19, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on October 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–17005 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038–AC33

Electronic Filing of Notices of Exemption and Exclusion Under Part 4 of the Commission's Regulations

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing to amend Commission regulations to require that notices of exemption or exclusion under Part 4 of the Commission's regulations submitted to National Futures Association (''NFA'') be filed electronically.

The Commission previously has authorized NFA to receive and to process notices of exemption or exclusion from certain of the Commission's Part 4 regulations. Currently, these notices are filed in paper form with NFA. The Commission is proposing to amend the regulations that require filing of a notice to require that such notice be filed electronically with NFA. The Commission is further proposing that the submission of a notice through NFA's electronic exemption filing system by a person duly authorized to bind the submitter be permitted in lieu of the manual signature currently required by each of these regulations.

In addition, the Commission also is proposing technical amendments that would remove the procedure for making filings with the Commission required by Part 4, and revise other sections of Part 4 to refer to filings made with NFA rather than the Commission. Amendments to Commission regulations adopted in 2002 no longer require that any filings under Part 4 be submitted to the Commission; therefore, the regulation specifying the procedure for filing with the Commission is no longer necessary. Further, two sections of Part 4 that refer to filings made with the Commission inadvertently were not amended in 2002 to include corresponding changes indicating that such filings would henceforth be made with NFA.

DATES: Comments must be received on or before November 13, 2006.

ADDRESSES: You may submit comments, identified by RIN 3038–AC33, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *secretary@cftc.gov.* Include ''Electronic Filing of Part 4 Exemptions'' in the subject line of the message.
- Fax: (202) 418–5521.
- Mail: Send to Eileen Donovan, Acting Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington DC 20581.
- Courier: Same as Mail above.

All comments received will be posted without change to *http://www.cftc.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Eileen R. Chotiner, Futures Trading Specialist, at (202) 418–5467, or Kevin P. Walek, Assistant Director, at (202) 418–5463, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: *echotiner@cftc.gov* or *kwalek@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Part 4 of the Commission's regulations applies to the operation of commodity pool operators (''CPOs'') and commodity trading advisors (''CTAs''). Generally, a person who operates a commodity pool must register as a CPO,[1] and a person who manages clients' trading must register as a CTA.[2] Under Commission Regulation 4.5, certain ''otherwise regulated persons'' are excluded from the CPO definition. These persons include registered investment companies, banks and trust companies, insurance companies, and fiduciaries of ERISA pension plans. A person who qualifies for the exclusion must file a notice of eligibility with NFA.[3]

Commission regulations also make certain exemptions from CPO and CTA registration available to persons who meet specified criteria. Regulation 4.13 permits exemption from registration for CPOs that limit their activities to small or family pools; or whose participants are highly sophisticated; or whose pools limit participants to SEC ''accredited investors'' [4] as that term is defined in the regulations promulgated by the Securities and Exchange Commission (''SEC'') and limit trading of commodity interests to a minimum amount specified in the regulation. A notice claiming exemption from registration as a CPO must be filed with NFA.

A CTA is exempt from registration if it meets criteria specified in Regulation 4.14, including: it furnishes trading advice solely to commodity pools for which it is the registered CPO or for which it is exempt from CPO registration; it provides advice solely incidental to the conduct of one of certain businesses or professions listed in the Act or the Commission's regulations; it is registered with the Commission in another capacity and its advice is solely in connection with acting in that other capacity; it does not manage client accounts or provide commodity trading advice based on, or tailored to, the financial positions of particular clients; or it is an SEC-registered investment adviser whose futures advice is incidental to providing securities trading advice to the ''otherwise regulated'' trading vehicles specified in Regulation 4.5, or to CPOs of pools operated pursuant to the exemptions in Regulations 4.13(a)(3) and (4). A notice must be filed to claim the exemption available to registered investment advisers who meet the criteria set forth in Regulation 4.14(a)(8); the other exemptions from CTA registration are self-executing.[5]

Registered CPOs are required to provide a disclosure document to prospective participants that includes disclosure of risks and information such as the business backgrounds of persons

[1] Regulation 4.10(d)(1) defines a pool as ''any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests.'' Commission regulations cited to herein are found at 17 CFR Ch. I (2006).

[2] The Commodity Exchange Act (''Act'') defines a CTA as any person who ''for compensation or profit, engages in the business of advising others * * * as to the value of or the advisability of trading in'' commodity interests. 7 U.S.C. 1a(6) (2000).

[3] NFA is a registered futures association under the Act. 7 U.S.C. 21 (2000).

[4] 17 CFR 230.501(a) (2006).

[5] A statutory exemption from CTA registration exists in Section 4m(1) of the Act for a person who has not had more than 15 clients during a 12-month period and is not otherwise holding itself out as a CTA. 7 U.S.C. 6m (2000). A person who qualifies for this exemption is not required to file a notice claiming the exemption.

involved with the pool, investment objectives, fees, conflicts, material litigation, and past performance. The CPO must provide unaudited periodic reports and certified annual reports on the pool's financial operations to the pool's participants. Disclosure documents and annual reports also must be filed with NFA. Further, the CPO is required to make and keep specified books and records for a period of five years, and make them available for inspection by the CFTC, NFA, and the United States Department of Justice. Registered CTAs must provide to prospective participants, and file with NFA, disclosure documents containing information about their trading programs, and must also comply with specified recordkeeping requirements.

The Commission has established a simplified regulatory framework for registered CPOs and CTAs who operate or advise pools and accounts whose participants meet the criteria specified in Regulation 4.7. Relief from full compliance with the disclosure, reporting, and recordkeeping requirements is available where, for example, pool participants are CFTC or SEC registrants, ''inside employees'' of the CPO or CTA, or persons who earn $200,000 annually and who have assets worth at least $2 million. A CPO offering a pool whose futures trading is incidental to its securities trading and is limited to 10 percent of the pool's net assets may claim exemption from some disclosure, reporting and recordkeeping requirements pursuant to Regulation 4.12(b). A person claiming exemption under Regulations 4.7 or 4.12(b) must file a notice with NFA.

In a Notice and Order issued in 1997 [6] (the ''1997 Order''), the Commission authorized NFA to process: (1) Notices of eligibility for exclusion from the definition of CPO for certain otherwise regulated persons, pursuant to Commission Regulation 4.5; (2) notices of claim for exemption from certain Part 4 requirements with respect to commodity pools and CTAs whose participants or clients are qualified eligible persons, pursuant to Commission Regulation 4.7; (3) claims of exemption from certain Part 4 requirements for CPOs with respect to pools that principally trade securities, pursuant to Commission Regulation 4.12(b); (4) statements of exemption from registration as a CPO, pursuant to Commission Regulation 4.13; and (5) notices of exemption from registration as a CTA for certain persons registered as an investment adviser, pursuant to Regulation 4.14(a)(8). The Commission also made NFA the custodian of those records.[7]

Currently, these notices are filed with NFA in paper form. NFA's processing includes manual entry of data concerning the notice into NFA's database system, optical scanning of the hard copy filing, review of the notice to ensure that it contains all required information, and follow-up on any notices that are not prepared in accordance with the Part 4 requirements. Between November 1, 1997, when NFA was authorized to process these notices, and July 31, 2006, NFA has received approximately 30,000 notices:

Notice type	Number of filings [8]
4.5	5,302
4.7	7,494
4.12(b)	401
4.13	15,629
4.14(a)(8)	952

II. Proposed Amendments

By letter dated November 28, 2005, NFA has petitioned the Commission to amend its regulations to require that the notices required under Regulations 4.5, 4.7, 4.12(b), 4.13, and 4.14(a)(8) be filed electronically with NFA, and that submission of a notice by a representative duly authorized to bind the person be permitted in lieu of the manual signature currently specified under each regulation that requires a notice filing. NFA indicated in its petition that although the existing procedures have worked fairly well, mandatory electronic filing will result in a more efficient process for persons claiming an exemption and ensure that NFA's database of such exemption information, which is available to Commission staff, remains accurate and updated and requires less manual resources of NFA staff.

Firms that are registered with the Commission in any capacity and non-registrants will both access the electronic filing system through the use of a designated user ID and password. Registered firms will establish access for appropriate staff using the security manager process in place for their existing Online Registration System (''ORS'') accounts, the process that is currently used for registration and other electronic filings with NFA. In order to enable non-registrants, who are not required to have ORS accounts, to file exemption notices, NFA has established a new process that contains similar safeguards regarding the identity of the filers and provides the non-registrant with the ability to establish one or more system users. For both registrants and non-registrants, the person who submits a notice must be a representative duly authorized to bind the submitter.

The electronic filing system will allow filers to select the applicable exemption type and complete a form that will provide the information required for the exemption filing. Each form contains a statement by the representative submitting the form that the information contained therein is accurate and complete, to the best of his or her knowledge, and that the submitter is duly authorized to bind the person making the claim. Submission of the electronic form will record the data regarding the filing in NFA's database system. The system also will allow the filer to create a printer-friendly version of exemption notices for the filer's records. Although internet access is necessary for using NFA's electronic filing system, the Commission anticipates that any exemption filer without private internet access could reasonably be expected to use a public internet site, such as those available in public libraries.[9]

The proposed amendments, if adopted, would no longer require persons filing the notices with NFA to do so in paper form. Therefore, the Commission also has considered the form in which persons claiming exclusion or exemption may satisfy various requirements in these regulations to notify participants ''in writing'' regarding the claim. The Commission has concluded that electronic transmission of a written notification to participants, such as by electronic mail or facsimile, is consistent with the requirement to provide the information in writing and is proposing to amend each of the regulations with a participant notification requirement, with the

[6] 62 FR 52088 (October 6, 1997).

[7] At the time NFA was authorized to process these notices, Commission regulations required that copies of the notices also be filed with the Commission. In December 2002, the Commission revised its regulations to require that such notices be filed solely with NFA. 67 FR 77409 (December 18, 2002).

[8] These figures represent the number of notices filed with NFA and recorded in its database system. Some of these notices are duplicate filings or were made for entities that may be no longer operating; therefore, these totals are not representative of the number of entities actually operating according to the various exemptions.

[9] The Commission previously has adopted amendments to its regulations to enable NFA to utilize an online system for registration functions (67 FR 38,869 (June 6, 2002)), and to require electronic filing of financial statements of commodity pools (71 FR 8939 (February 22, 2006)). The Commission is also proposing amendments to its regulations to require electronic filing of financial statements of introducing brokers (71 FR ____).

exception of Regulation 4.5, to make explicit that notice may be delivered through electronic transmission. In proposing such amendment, the Commission has reasoned that the provision of written notice necessarily requires that the exemption filer establish with the participant a method to deliver the written communication. Should a participant have provided an e-mail address or facsimile number to the exemption filer for the purpose of receiving communications from that person, the participant can reasonably be expected to receive such written communications from the party, including the written notification required under Commission regulations, through such method of electronic transmission.

The Commission is not proposing to revise Regulation 4.5 with respect to disclosure to participants. Regulation 4.5 requires that the qualifying entity disclose in writing to participants that it is operating pursuant to the terms of Regulation 4.5. When it adopted Regulation 4.5, the Commission noted that the qualifying entity may satisfy this requirement by including the information in any document that its other federal or state regulator requires to be furnished routinely to participants. If no such document is furnished routinely, the information may be disclosed in any instrument establishing the entity's investment policies and objectives that the other regulator requires to be made available to the entity's participants.[10] The other regulators to which a 4.5-qualfiying entity is subject may or may not permit electronic provision of the information; therefore, the Commission is not proposing to revise Regulation 4.5 in the same manner as the other Part 4 provisions with respect to electronic delivery of notice to participants. Rather, the Commission is proposing to amend Regulation 4.5 to contain the clarification regarding the provision of disclosure according to the requirements of other regulators.

In addition to the electronic filing of exemption notices, NFA also has petitioned the Commission to amend Advisory 18–96, which was issued by the Commission's former Division of Trading and Markets, now the Division of Clearing and Intermediary Oversight.[11] Advisory 18–96 makes available exemptions from disclosure and reporting requirements under Regulations 4.21 and 4.22, and specified recordkeeping requirements under Regulation 4.23, to registered CPOs of commodity pools organized and operated outside the United States and offered solely to non-United States persons.[12] In considering NFA's petition, the Commission has reexamined Advisory 18–96 and concluded that additional exemptions from CPO registration adopted in 2003 have essentially superseded the provisions of Advisory 18–96.

Specifically, Regulation 4.13(a)(4) permits a CPO to claim exemption from CPO registration where the pool is offered pursuant to an exemption from registration under the Securities Act of 1933 and its participants are limited to natural persons who are qualified eligible persons (''QEPs'') under Regulation 4.7(a)(2), and non-natural persons that are either QEPs under Regulation 4.7 or accredited investors under 17 CFR 230.501(a)(1)–(3), (a)(7) and (a)(8). Since non-United States persons are included in the definition of QEP in Regulation 4.7(a)(2), CPOs meeting the criteria of Advisory 18–96 may instead claim the exemption available under Regulation 4.13(a)(4), which offers more extensive relief than that available under Advisory 18–96. Therefore, the Commission is considering whether Advisory 18–96 should be superseded prospectively. The Commission is interested in obtaining comments on this approach, particularly whether there are any conflicts between the criteria and relief in Advisory 18–96 and Regulation 4.13(a)(4), and whether the unavailability of Advisory 18–96 on a prospective basis would result in any adverse consequences for CPOs. CPOs that have previously claimed relief under Advisory 18–96 would be permitted to continue to rely on the terms of Advisory 18–96, or could choose to claim exemption pursuant to Regulation 4.13(a)(4).

In addition, the Commission is proposing to remove and reserve Regulation 4.2, which specifies technical requirements, such as address, for material filed with the Commission under Part 4 of its regulations. Amendments to Commission regulations adopted in 2002 [13] no longer require that any filings required under Part 4 be submitted to the Commission and thus the continued existence of Regulation 4.2 is no longer necessary. The sole remaining provision in Part 4 that could possibly result in a filing with the Commission is Regulation 4.12(a), which permits the Commission to exempt any person or class of persons from any provision of Part 4 if the Commission finds that granting the exemption is not contrary to the public interest or to the purposes of the provisions from which exemption is sought. However, technical requirements as to the filing of such requests for exemption are contained in Regulation 140.99, not Regulation 4.2. Therefore, the Commission proposes that the removal of Regulation 4.2 is advisable.

The 2002 amendments to Part 4 specify that all filings be made with NFA. However, two provisions within Part 4 inadvertently were not amended at that time and continue to include references to filing with the Commission. Accordingly, the Commission is proposing technical amendments to Regulations 4.8 and 4.12(b) to conform these sections to the current filing requirements in the other regulations to which they refer.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission previously has established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[14] With respect to CPOs, the Commission has previously determined that a CPO is a small entity if it meets the criteria for exemption from registration under current Rule 4.13(a)(2); however, other registered and exempt CPOs are not small entities for the purpose of the RFA.[15] With respect to CTAs, the Commission has previously stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of the proposal.[16] The Commission believes that the instant proposed rules will not place any burdens, whether new or additional, on CPOs and CTAs who would be affected hereunder, as the proposed amendments simply alter the mechanism for filing notices of exemption and do not affect the substance of those filings or the nature of the qualifying criteria.

[10] 50 FR 15879 (April 23, 1985).

[11] In 1997, the Commission also authorized NFA to process notices of exemption pursuant to Advisory 18–96. See note 1. Since 1997, NFA has received approximately 500 notices of exemption pursuant to Advisory 18–96.

[12] ''Non-United States person'' is defined in Regulation 4.7(a)(1)(iv).

[13] See note 2.

[14] 47 FR 18618 (April 30, 1982).

[15] *Id.* at 18619.

[16] *Id.* at 18620.

The Commission's definitions of small entities do not address the persons and qualifying entities set forth in Rule 4.5 because, by the very nature of the rule, the operations and activities of such persons and entities generally are regulated by federal and state authorities other than the Commission.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'') [17] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The amendment being proposed would, if approved, alter the method of collection of information required under Commission regulations, but would not alter the substance of the filings. Pursuant to the PRA, the Commission has submitted a copy of this section to the Office of Management and Budget (''OMB'') for its review.

Collection of Information. (Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants, OMB Control Number 3038–0005.) The proposed amendments to Commission regulations would change only the manner in which notices are filed with NFA, but would not affect the substance of the filings. Accordingly, for purposes of the PRA, the Commission certifies that the proposed rule amendments, if promulgated in final form, would not impact the total annual reporting or recordkeeping burden associated with the above-referenced collection of information, which has been approved previously by OMB. Pursuant to the PRA, the Commission has submitted a copy of this section to the Office of Management and Budget (''OMB'') for its review.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581 (202) 418–5160. The Commission considers comments by the public on this proposed collection of information in—

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhancing the quality, utility, and clarity of the information to be collected; and

Minimizing 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.

Organizations and individuals desiring to submit comments on the information collection should contact the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer of the Commodity Futures Commission. OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

C. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by Section 119 of the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) as amended does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) of the Act further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed amendments to Regulations 4.5, 4.7, 4.12, 4.13 and 4.14 would require CPOs to file electronically notices of exemption, which would no longer be required to include a manual signature.

The Commission is considering the costs and benefits of this proposed rule in light of the specific provisions of Section 15(a) of the Act, as follows:

1. *Protection of market participants and the public.* The proposed amendment should not affect the protection of market participants and the public as it provides an alternate method of filing notices of exemption or exclusion from Part 4 of the Commission's regulations, but does not substantively alter the character of such information or the requirement that such information be submitted by a person duly authorized to bind the submitter.

2. *Efficiency and competition.* The Commission anticipates that the proposed amendment will benefit efficiency by permitting NFA to streamline its process for receiving exemption filings. The proposed amendment is considered by the Commission as benefiting efficiency and not impacting competition.

3. *Financial integrity of futures markets and price discovery.* The proposed amendment should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity of futures markets or the price discovery function of such markets.

4. *Sound risk management practices.* The proposed amendment should have no effect, from the standpoint of imposing costs or creating benefits, on sound risk management practices.

5. *Other public interest considerations.* The Commission believes that the proposed rule requiring electronic filing for the submission of notices of exemption or exclusion from Part 4 of the Commission's regulations is beneficial in that it should streamline the timeliness of delivery and electronic accessibility of such notices, and permit NFA to retain such notices in a more streamlined and accessible manner.

After considering these factors, the Commission has determined to propose the amendments discussed above. The Commission invites public comment on its application of the cost-benefit provision. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposal with their comment letters.

[17] 44 U.S.C. 3507(d).

List of Subjects in 17 CFR Part 4

Advertising, Brokers, Commodity futures, Commodity pool operators, Commodity trading advisors, Consumer Protection, Reporting and recordkeeping requirements.

Accordingly, 17 CFR Chapter I is proposed to be amended as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

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

Authority: 7 U.S.C. 1a, 2, 4, 6(c), 6b, 6c, 6*l*, 6m, 6n, 6o, 12a, and 23.

2. Remove and reserve § 4.2.

3. Revise paragraphs (c) introductory text, (c)(2)(i), (d)(1) and (2), and (f) of § 4.5 to read as follows:

§ 4.5 Exclusion for certain otherwise regulated persons from the definition of the term ''commodity pool operator.''

* * * * *

(c) Any person who desires to claim the exclusion provided by this section shall file electronically a notice of eligibility with the National Futures Association through its electronic exemption filing system; *Provided, however,* That a plan fiduciary who is not a named fiduciary as described in paragraph (a)(4) of this section may claim the exclusion through the notice filed by the named fiduciary.

* * * * *

(2) * * *

(i) Will disclose in writing to each participant, whether existing or prospective, that the qualifying entity is operated by a person who has claimed an exclusion from the definition of the term ''commodity pool operator'' under the Act and, therefore, who is not subject to registration or regulation as a pool operator under the Act; *Provided,* that such disclosure is made in accordance with the requirements of any other federal or state regulatory authority to which the qualifying entity is subject. The qualifying entity may make such disclosure by including the information in any document that its other federal or state regulator requires to be furnished routinely to participants or, if no such document is furnished routinely, the information may be disclosed in any instrument establishing the entity's investment policies and objectives that the other regulator requires to be made available to the entity's participants; and

* * * * *

(d)(1) Each person who has claimed an exclusion hereunder must, in the event that any of the information contained or representations made in the notice of eligibility becomes inaccurate or incomplete, amend the notice electronically through National Futures Association's electronic exemption filing system as may be necessary to render the notice of eligibility accurate and complete.

(2) This amendment required by paragraph (d)(1) of this section shall be filed within fifteen business days after the occurrence of such event.

* * * * *

(f) Any notice required to be filed hereunder must be filed by a representative duly authorized to bind the person specified in paragraph (a) of this section.

* * * * *

4. In § 4.7, revise paragraph (d)(1) to read as follows:

§ 4.7 Exemption from certain part 4 requirements for commodity pool operators with respect to offerings to qualified eligible persons and for commodity trading advisors with respect to advising qualified eligible persons.

* * * * *

(d) *Notice of claim for exemption.*

(1) A notice of a claim for exemption under this section must:

(i) Provide the name, main business address, main business telephone number and the National Futures Association commodity pool operator or commodity trading advisor identification number of the person claiming the exemption;

(ii)(A) Where the claimant is a commodity pool operator, provide the name(s) of the pool(s) for which the request is made; *Provided,* That a single notice representing that the pool operator anticipates operating single-investor pools may be filed to claim exemption for single-investor pools and such notice need not name each such pool;

(B) Where the claimant is a commodity trading advisor, contain a representation that the trading advisor anticipates providing commodity interest trading advice to qualified eligible persons;

(iii) Contain representations that:

(A) Neither the commodity pool operator or commodity trading advisor nor any of its principals is subject to any statutory disqualification under section 8a(2) or 8a(3) of the Act unless such disqualification arises from a matter which was previously disclosed in connection with a previous application for registration if such registration was granted or which was disclosed more than thirty days prior to the filing of the notice under this paragraph (d);

(B) The commodity pool operator or commodity trading advisor will comply with the applicable requirements of § 4.7; and

(C) Where the claimant is a commodity pool operator, that the exempt pool will be offered and operated in compliance with the applicable requirements of § 4.7;

(iv) Specify the relief claimed under § 4.7;

(v) Where the claimant is a commodity pool operator, state the closing date of the offering or that the offering will be continuous;

(vi) Be filed by a representative duly authorized to bind the commodity pool operator or commodity trading advisor;

(vii) Be filed electronically with the National Futures Association through its electronic exemption filing system; and

(viii) (A)(*1*) Where the claimant is a commodity pool operator, except as provided in paragraph (d)(1)(ii)(A) of this section with respect to single-investor pools and in paragraph (d)(1)(viii)(A)(*2*) of this section, be received by the National Futures Association:

(*i*) Before the date the pool first enters into a commodity interest transaction, if the relief claimed is limited to that provided under paragraphs (b)(2), (3) and (4) of this section; or

(*ii*) Prior to any offer or sale of any participation in the exempt pool if the claimed relief includes that provided under paragraph (b)(1) of this section.

(2) Where participations in a pool have been offered or sold in full compliance with Part 4, the notice of a claim for exemption may be filed with the National Futures Association at any time; *Provided,* That the claim for exemption is otherwise consistent with the duties of the commodity pool operator and the rights of pool participants and that the commodity pool operator notifies the pool participants of his intention, absent objection by the holders of a majority of the units of participation in the pool who are unaffiliated with the commodity pool operator within twenty-one days after the date of the notification, to file a notice of claim for exemption under § 4.7 and such holders have not objected within such period. A commodity pool operator filing a notice under this paragraph (d)(1)(viii)(A)*(2)* shall either provide disclosure and reporting in accordance with the requirements of Part 4 to those participants objecting to the filing of such notice or allow such participants to redeem their units of participation in the pool within three months of the filing of such notice.

(B) Where the claimant is a commodity trading advisor, be received by the Commission before the date the trading advisor first enters into an agreement to direct or guide the commodity interest account of a qualified eligible person pursuant to § 4.7.

* * * * *

5. In § 4.8, revise (a) and (b) to read as follows:

(a) Notwithstanding paragraph (d) of § 4.26 and subject to the conditions specified herein, the registered commodity pool operator of a pool offered or sold solely to ''accredited investors'' as defined in 17 CFR 230.501 in an offering exempt from the registration requirements of the Securities Act of 1933 pursuant to Rule 505 or 506 of Regulation D, 17 CFR 230.505 or 230.506, may solicit, accept and receive funds, securities and other property from prospective participants in that pool upon filing with the National Futures Association and providing to such participants the Disclosure Document for the pool.

(b) Notwithstanding paragraph (d) of § 4.26 and subject to the conditions specified herein, the registered commodity pool operator of a pool offered or sold in an offering exempt from the registration requirements of the Securities Act of 1933 pursuant to Rule 505 or 506 of Regulation D, 17 CFR 230.505 or 230.506, that is operated in compliance with, and has filed the notice required by, § 4.12(b) may solicit, accept and receive funds, securities and other property from prospective participants in that pool upon filing with the National Futures Association and providing to such participants the Disclosure Document for the pool.

* * * * *

6. In § 4.12, revise (b)(1)(ii) and (b)(3)) and add (b)(5)(i) to read as follows:

§ 4.12 Exemption from provisions of part 4.

* * * * *

(b) * * *

(1) * * *

(ii) Each existing participant and prospective participant in the pool for which it makes such request is informed in writing of the restrictions set forth in paragraph (b)(1)(i) (C) and (D) of this section prior to the date the pool commences trading commodity interests. The pool operator may furnish this information by way of the pool's Disclosure Document, Account Statement, a separate notice or other similar means, including written communication delivered through electronic transmission.

* * * * *

(3) Any registered commodity pool operator who desires to claim the relief available under this § 4.12(b) must file electronically a claim of exemption with National Futures Association through its electronic exemption filing system. Such claim must:

(i) Provide the name, main business address and main business telephone number of the registered commodity pool operator, or applicant for such registration, making the request;

(ii) Provide the name of the commodity pool for which the request is being made;

(iii) Contain representations that the pool will be operated in compliance with § 4.12(b)(1)(i) and the pool operator will comply with the requirements of § 4.12(b)(1)(ii);

(iv) Specify the relief sought under § 4.12(b)(2); and

(v) Be filed by a representative duly authorized to bind the pool operator.

* * * * *

(5) * * *

(i) If a claim of exemption has been made under § 4.12(b)(2)(i), the commodity pool operator must make a statement to that effect on the cover page of each offering memorandum, or amendment thereto, that it is required to file with the National Futures Association pursuant to § 4.26.

* * * * *

7. In § 4.13, revise paragraphs (a)(5), (b)(1) introductory text, (b)(1)(iii), (b)(2) and (b)(4), and revise paragraph (e)(2), to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

* * * * *

(a)(5)(i) Eligibility for exemption under this section is subject to the person furnishing in written communication physically delivered or delivered through electronic transmission to each prospective participant in the pool:

(A) A statement that the person is exempt from registration with the Commission as a commodity pool operator and that therefore, unlike a registered commodity pool operator, it is not required to deliver a Disclosure Document and a certified annual report to participants in the pool; and

(B) A description of the criteria pursuant to which it qualifies for such exemption from registration.

(ii) The person must make these disclosures by no later than the time it delivers a subscription agreement for the pool to a prospective participant in the pool.

* * * * *

(b)(1) Any person who desires to claim the relief from registration provided by this section, must file electronically a notice of exemption from commodity pool operator registration with the National Futures Association through its electronic exemption filing system. The notice must:

* * * * *

(iii) Be filed by a representative duly authorized to bind the person.

(2) The person must file the notice by no later than the time it delivers a subscription agreement for the pool to a prospective participant in the pool; *Provided,* That where a person registered with the Commission as a commodity pool operator intends to withdraw from registration in order to claim exemption hereunder, the person must notify its pool's participants in written communication physically delivered or delivered through electronic transmission that it intends to withdraw from registration and claim the exemption, and it must provide each such participant with a right to redeem its interest in the pool prior to the person filing a notice of exemption from registration.

* * * * *

(4) Each person who has filed a notice of exemption from registration under this section must, in the event that any of the information contained or representations made in the notice becomes inaccurate or incomplete, amend the notice through National Futures Association's electronic exemption filing system as may be necessary to render the notice accurate and complete. This amendment must be filed electronically within 15 business days after the pool operator becomes aware of the occurrence of such event.

* * * * *

(e)(2) If a person operates one or more commodity pools described in paragraph (a)(3) or (a)(4) of this section, and one or more commodity pools for which it must be, and is, registered as a commodity pool operator, the person is exempt from the requirements applicable to a registered commodity pool operator with respect to the pool or pools described in paragraph (a)(3) or (a)(4) of this section;

Provided, That the person:

(i) Furnishes in written communication physically delivered or delivered through electronic transmission to each prospective participant in a pool described in paragraph (a)(3) or (a)(4) of this section that it operates:

(A) A statement that it will operate the pool as if the person was exempt from registration as a commodity pool operator;

(B) A description of the criteria pursuant to which it will so operate the pool;

(ii) Complies with paragraph (c) of this section; and

(iii) Provides to each existing participant in a pool that the person elects to operate as described in paragraph (a)(3) or (a)(4) of this section a right to redeem the participant's interest in the pool, and informs each such participant of that right no later than the time the person commences to operate the pool as described in paragraph (a)(3) or (a)(4) of this section.

* * * * *

8. In § 4.14, introductory text of paragraph (a) and introductory text of paragraph (a)(8) is republished and paragraph (a)(8)(iii)(A) introductory text and paragraphs (a)(8)(iii)(A)*(3)*, (B) and (D) are revised to read as follows:

§ 4.14 Exemption from registration as a commodity trading advisor.

* * * * *

(a) A person is not required to register under the Act as a commodity trading advisor if:

* * * * *

(8) It is a registered as an investment adviser under the Investment Advisers Act of 1940 or with the applicable securities regulatory agency of any State, or it is exempt from such registration, or it is excluded from the definition of the term ''investment adviser'' pursuant to the provisions of section 202(a)(2) and 202(a)(11) of the Investment Advisers Act of 1940, *Provided*, That:

* * * * *

(iii)(A) A person who desires to claim the relief from registration provided by this § 4.14(a)(8) must file electronically a notice of exemption from commodity trading advisor registration with the National Futures Association through its electronic exemption filing system. The notice must:

* * * * *

(3) Be filed by a representative duly authorized to bind the person.

(B) The person must file the notice by no later than the time it delivers an advisory agreement for the trading program pursuant to which it will offer commodity interest advice to a client; *Provided*, That where the advisor is registered with the Commission as a commodity trading advisor, it must notify its clients in written communication physically delivered or delivered through electronic transmission that it intends to withdraw from registration and claim the exemption and must provide each such client with a right to terminate its advisory agreement prior to the person filing a notice of exemption from registration.

* * * * *

(D) Each person who has filed a notice of exemption from registration under this section must, in the event that any of the information contained or representations made in the notice becomes inaccurate or incomplete, amend the notice electronically through National Futures Association's electronic exemption filing system as may be necessary to render the notice accurate and complete. This amendment must be filed within 15 business days after the trading advisor becomes aware of the occurrence of such event.

* * * * *

Issued in Washington, DC, on October 6, 2006 by the Commission.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. E6–16947 Filed 10–12–06; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 604

[Docket No. FTA–2005–22657]

RIN 2132–AA85

Charter Service Negotiated Rulemaking Advisory Committee

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of meeting location and time of the meeting.

SUMMARY: This notice lists the location and time of the next Charter Bus Negotiated Rulemaking Advisory Committee (CBNRAC) meeting.

DATES: *Effective Date:* October 13, 2006.

FOR FURTHER INFORMATION CONTACT: Elizabeth Martineau, Attorney-Advisor, Office of the Chief Counsel, Federal Transit Administration, 202–366–1936 (*elizabeth.martineau@dot.gov*). Her mailing address at the Federal Transit Administration is 400 Seventh Street, SW., Room 9316, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Meeting Location

Department of Transportation, 400 Seventh Street, SW., Room 6244, Washington, DC 20590.

Meeting Time

October 25th, 9 a.m.–4:30 p.m.
October 26th, 8:30 a.m.–4 p.m.

Issued this 6th day of October, 2006, in Washington, DC.

James S. Simpson,

Administrator.

[FR Doc. E6–16939 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P

Notices

Federal Register
Vol. 71, No. 198
Friday, October 13, 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

October 6, 2006.

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

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

Food and Nutrition Service

Title: Generic Clearance to Conduct Formative Research/CNPP.

OMB Control Number: 0584–0523.

Summary of Collection: The Center for Nutrition Policy and Promotion (CNPP) of the U.S. Department of Agriculture conducts consumer research to identify key issues of concern related to understanding and use of the *Dietary Guidelines for Americans* and *MyPyramid.* The *Dietary Guidelines,* a primary source of dietary health information, are issued jointly by the USDA and Health and Human Services and serve as the cornerstone of Federal nutrition policy to form the basis for nutrition education efforts of these agencies. *MyPyramid* is a tool, which helps consumers understand and use the *Dietary Guidelines.* CNPP works to improve the health and well-being of Americans by developing and promoting dietary guidelines that links scientific research to the nutrition needs of consumers.

Need and Use of the Information: CNPP will collect information to develop practical and meaningful nutrition and physical activity guidance for Americans to help improve their health. The collected information will also be used to expand the knowledge base concerning how the Dietary Guidelines for Americans and MyPyramid recommendations and messages are understood as well as how they can be used by consumers to improve balance of their food intake with physical energy expenditure for good health.

Description of Respondents: Individuals or households; Federal Government; State, local, or tribal government.

Number of Respondents: 9,450.

Frequency of Responses: Reporting: Other (as desired).

Total Burden Hours: 3,613.

Ruth Brown,

Departmental Information Collection Clearance Officer

[FR Doc. E6–16942 Filed 10–12–06; 8:45 am]

BILLING CODE 3410–DS–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0109]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of international standard-setting activities of the World Organization for Animal Health, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0109 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0109, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0109.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday

through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Mr. John Greifer, Director, SPS Management Team, International Services, APHIS, room 1132, South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250; (202) 720–7677.

For specific information regarding standard-setting activities of the World Organization for Animal Health, contact Dr. Michael David, Director, Sanitary International Standards Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737–1231; (301) 734–5324.

For specific information regarding the standard-setting activities of the International Plant Protection Convention or the North American Plant Protection Organization, contact Ms. Julie E. Aliaga, Program Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road, Riverdale, MD 20737–1236; (301) 734–0763.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law by the President on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

''International Standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the World Organization for Animal Health (OIE, formerly known as the Office International des Epizooties) regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. The United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) informs the public of Codex standard-setting activities, and USDA's Animal and Plant Health Inspection Service (APHIS) informs the public of OIE, IPPC, and NAPPO standard-setting activities.

FSIS publishes an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing an annual notice of OIE, IPPC, and NAPPO activities related to international standards for plant and animal health and representing the United States with respect to these standards. Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these organizations. We have described the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

OIE Standard-Setting Activities

The OIE was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 167 member nations, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal disease events, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that science-based standards govern international trade in animals and animal products. The OIE aims to achieve these through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes the free status of member countries for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to member countries. Various OIE commissions and working groups undertake the development and preparation of draft standards, which are then circulated to member countries for consultation (review and comment). Draft standards are revised accordingly and are then presented to the OIE International Committee (all the Member countries) during the General Session, which meets annually every May, for review and adoption. Adoption, as a general rule, is based on consensus of the OIE membership.

The next OIE General Session is scheduled for May 20–27, 2007, in Paris, France. Currently, the Administrator of APHIS is the official U.S. Delegate to the OIE. The Administrator of APHIS intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption. Information about OIE draft Terrestrial Animal Health Code and Aquatic Animal Health Code chapters may be found on the Internet at *http://www.aphis.usda.gov/vs/ncie/oie/* or by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

OIE Terrestrial Animal Health Code Chapters and Appendices Adopted

1. Chapter 2.7.12, Avian Influenza, and Appendix 3.9.8, Avian Influenza Surveillance

Although few changes were made to the Terrestrial Animal Code Chapter on avian influenza in May 2006, those changes were nevertheless important. The significant changes include a clarification of the definition of ''poultry'' to ensure that it includes all ''domesticated'' birds and making it very clear that any detection of highly pathogenic avian influenza needs to be immediately reported to OIE.

2. Appendix 3.6.5, Avian Influenza Virus Inactivation Guidelines

These are new guidelines that provide time and temperature parameters for the inactivation of highly pathogenic avian influenza.

3. Chapter 2.2.10, Foot and Mouth Disease (FMD)

Language on compartmentalization was removed from this chapter because the Code Commission indicated that in the case of the FMD virus—a highly contagious agent that affects many species—applying the concept of compartmentalization would be difficult.

4. Chapter 2.5.4, Equine Infections Anemia; Chapter 2.5.6, Equine Piroplasmosis; Chapter 2.5.7, Equine Rhinopneumonitis

These chapters were updated slightly to clarify existing language.

5. Chapter 1.3.5, Zoning and Compartmentalization

This chapter was adopted in 2005 and no significant changes were made in 2006. However, to help explain the concept of compartmentalization, for 2007 the OIE will develop a practical guide on compartmentalization, using avian influenza as an example.

6. Chapter 2.3.13, Bovine Spongiform Encephalopathy (BSE)

This chapter and the associated surveillance appendix continue to be modified as new information becomes available. For 2006, updates include the following: Removal of references to transmissible spongiform encephalopathies other than BSE; using the date of birth of an infected animal, rather than the date of report, as one of the criteria for determining risk classification; removing the requirement to follow up with the progeny of female cases; and allowing for acid demineralization for the manufacture of gelatin.

7. Chapter 1.3.4, Guidelines for the Evaluation of Veterinary Services

These guidelines now refer to the ''Performance, Visions and Strategy (PVS)'' instrument. The PVS instrument is a tool that can help a country's veterinary services assess its weaknesses and strengths in various key areas, and brings in the participation of the private sector to help with these assessments.

OIE Terrestrial Animal Health Code Chapters Up for Adoption

Existing Terrestrial Animal Health Code chapters that may be revised and new chapters that may be drafted in preparation for the next General Session in 2007 include the following:

1. Chapter 2.5.10, Equine Viral Arteritis

This activity represents an ongoing complete redrafting of a current OIE Code chapter that has been determined to be outdated.

2. Chapter 2.5.14, African Horse Sickness

This activity represents an ongoing complete redrafting of a current OIE Code chapter that has been determined to be outdated.

3. Chapter 2.5.8, Glanders

This activity represents an ongoing complete redrafting of a current OIE Code chapter that has been determined to be outdated.

4. Chapter 2.3.1, Bovine Brucellosis

This activity would represent a complete redrafting of a current OIE Code chapter that has been determined to be outdated.

5. Appendix 3.8.5, Factors to Consider in Conducting a BSE Risk Assessment

These guidelines for consideration are proposed to ensure that Member countries consider all the known factors associated with the risk of BSE, and are consistent with existing language contained in the BSE Code Chapter.

6. Chapter 2.5.5, Equine Influenza

This activity would represent a complete redrafting of a current OIE Code chapter that has been determined to be outdated.

7. Guidelines for Animal Identification and Traceability

This activity would represent a new appendix that provides some general principles on animal identification and traceability.

8. Chapter 1.4.5, International Transfer of Animal Pathogens

This activity would represent a complete redrafting of a current OIE Code chapter that has been determined to be outdated.

Code Commission Future Work Program

During the next few years, the OIE Code Commission is expected to address the following issues or establish ad hoc groups of experts to update and/or develop standards for the following issues:

1. Companion Animal Welfare

This would be a new chapter intended to provide guidelines for the control of stray dogs in urban settings.

2. Wildlife and Zoo Animal Welfare

This would be a new chapter intended to provide guidelines on the harvesting or culling of zoological and wildlife animals.

3. Laboratory Animal Welfare

This would be a new chapter intended to provide guidelines for the housing of laboratory animals, the use of animals in regulatory testing, and alternatives to animal use.

4. Terrestrial Animal Welfare

This would be a new chapter that would provide general guidelines for the housing and production of livestock and poultry. The intent is to develop first a generic chapter on housing and husbandry principles for livestock and poultry.

OIE Aquatic Animal Health Code Chapters and Appendices up for Adoption

Existing Aquatic Animal Health Code chapters that may be revised and new chapters that have been drafted in preparation for the 2007 General Session include the following:

1. Chapter 4.1.1, Taura Syndrome

A revision of this chapter has been drafted and will be voted on at the 2007 General Session. The revisions were made to be consistent with the new fish and mollusk disease chapters that were adopted in 2005, which in turn were modeled after the Terrestrial Animal Health Code. Significant changes include a section on safe commodities and updated standards on declaration of freedom.

2. Chapter 4.1.2, White Spot Disease

A revision of this chapter has been drafted and will be voted on at the 2007 General Session. The draft revisions were made to be consistent with the new fish and mollusk disease chapters that were adopted in 2005, which in turn were modeled after the Terrestrial Animal Health Code. Significant changes include a section on safe commodities and updated standards on declaration of freedom.

3. Chapter 4.1.3, Yellowhead Disease

A revision of this chapter has been drafted and will be voted on at the 2007 General Session. The draft revisions were made to be consistent with the new fish and mollusk disease chapters that were adopted in 2005, which in turn were modeled after the Terrestrial Animal Health Code. Significant changes include a section on safe commodities and updated standards on declaration of freedom.

4. Chapter 4.1.4, Tetrahedral Baculovirosis

This chapter has been completely rewritten and is essentially new, and will be voted on at the 2007 General Session. It would provide guidelines related to this disease for the importation and surveillance of live susceptible animals and products.

5. Chapter 4.1.7, Crayfish Plaque

This chapter has been completely rewritten and is essentially new, and will be voted on at the 2007 General Session. It would provide guidelines related to this disease for the importation and surveillance of live susceptible animals and products.

6. Chapter 4.1.10, Necrotizing Hepatopancreatitis

This chapter has been completely rewritten and is essentially new, and will be voted on at the 2007 General Session. It would provide guidelines related to this disease for the importation and surveillance of live susceptible animals and products.

7. Guidelines for the Transport of Fish by Boat and Land

These chapters will be voted on at the 2007 General Session. They would establish new standards for moving farmed fish to slaughter by either water or land transport systems. The chapters propose guidelines that would be implemented for the personnel and equipment involved in moving fish under these conditions, based on considerations for fish welfare as developed under other chapters.

8. Guidelines for the Humane Killing of Fish for Disease Control and Slaughter of Farmed Fish for Human Consumption

These chapters will be voted on at the 2007 General Session. They would establish new standards for farmed fish that are slaughtered for various purposes, such as disease control or consumption. The chapters propose guidelines that would be implemented for the personnel, equipment and processing plants involved in moving fish under different circumstances, based on considerations for fish welfare as developed under other chapters.

9. Introduction to the OIE guidelines for the Welfare of Aquatic Animals

This section will be voted on at the 2007 General Session. It would establish definitions for terms associated with farmed fish welfare based on a number of criteria, including sentience, pain perception, consciousness, and other parameters. The chapter also attempts to set standards for the personnel who deal with farmed fish.

Aquatic Animal Commission Future Work Program

During the next few years, the OIE Aquatic Animal Commission is expected to address the following issues or establish ad hoc groups of experts to update and/or develop standards for the following issues:

1. Diseases of Amphibians

This would be a new chapter intended to provide guidelines with regard to diseases of amphibians.

2. Aquatic Animal Feed

An ad hoc group will be established to determine the risk of transmission of aquatic animal diseases through animal feed.

The Process

The OIE Code chapters are drafted (or revised) by either the Code Commission or by ad hoc groups composed of technical experts nominated by the Director General of the OIE by virtue of their subject-area expertise. Once a new chapter is drafted or an existing one is revised, the chapter is distributed to member countries for review and comment. The OIE attempts to provide proposed chapters by late October to allow member countries sufficient time for comment. Comments are due by early February of the following year. The draft standard is revised by the OIE Code Commission on the basis of relevant scientific comments received from member countries.

The United States (*i.e.*, USDA/APHIS) intends to review and, where appropriate, comment on all draft chapters and revisions once it receives them from the OIE. USDA/APHIS intends to distribute these drafts to the U.S. livestock and aquaculture industries, veterinary experts in various U.S. academic institutions, and other interested persons for review and comment. Additional information regarding these draft standards may be obtained by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

Generally, if a country has concerns with a particular draft standard, and supports those concerns with sound technical information, the pertinent OIE Code Commission will revise that standard accordingly and present the revised draft for adoption at the General Session in May. In the event that a country's concerns regarding a draft standard are not taken into account, that country may refuse to support the standard when it comes up for adoption at the General Session. However, each member country is obligated to review and comment on proposed standards, and make decisions regarding the adoption of those standards, strictly on their scientific merits.

Other OIE Topics

Every year at the General Session, two technical items are presented.

For the May 2007 General Session, the following technical items will be presented:

1. The use of epidemiological models for the management of animal diseases.

2. The role of reference laboratories and collaborating centers in providing permanent support for the objectives and mandates of the OIE.

The information in this notice includes all the information available to us on OIE standards currently under development or consideration. Information on OIE standards is available on the Internet at *http://www.oie.int.* Further, a formal agenda for the next General Session should be available to member countries by March 2007, and copies will be available to the public once the agenda is published. For the most current information on meeting times, working groups, and/or meeting agendas, including information on official U.S. participation in OIE activities and U.S. positions on standards being considered, contact Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any areas of work under the OIE may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Dr. Michael David.

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 for the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. Under the IPPC, the understanding of plant protection has been, and continues to be, broad, encompassing the protection of both cultivated and noncultivated plants from direct or indirect injury by plant pests. Activities addressed by the IPPC include the development and establishment of international plant health standards, the harmonization of phytosanitary activities through emerging standards, the facilitation of the exchange of official and scientific information among countries, and the furnishing of technical assistance to developing countries that are signatories to the IPPC.

The IPPC is under the authority of the FAO, and the members of the Secretariat of the IPPC are appointed by the FAO. The IPPC is implemented by national plant protection organizations in cooperation with regional plant protection organizations, the Commission on Phytosanitary Measures ((CPM); formerly referred to as the International Commission on Phytosanitary Measures (ICPM)), and the Secretariat of the IPPC. The United States plays a major role in all standard-setting activities under the IPPC and has representation on FAO's highest governing body, the FAO Conference.

The United States became a contracting party to the IPPC in 1972 and has been actively involved in furthering the work of the IPPC ever since. The IPPC was amended in 1979, and the amended version entered into force in 1991 after two-thirds of the contracting countries accepted the amendment. More recently, in 1997, contracting parties completed negotiations on further amendments that were approved by the FAO Conference and submitted to the parties for acceptance. This 1997 amendment updated phytosanitary concepts and formalized the standard-setting structure within the IPPC. The 1997 amended version of the IPPC entered into force after two-thirds of the contracting parties notified the Director General of FAO of their acceptance of the amendment. The U.S. Senate gave its advice and consent to acceptance of the newly revised IPPC on October 18, 2000. The President submitted the official letter of acceptance to the FAO Director General on October 4, 2001.

The IPPC has been, and continues to be, administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests. In the United States, the national plant protection organization is APHIS' Plant Protection and Quarantine (PPQ) program. The steps for developing a standard under the revised IPPC are described below.

Step 1: Proposals for a new international standard for phytosanitary measures (ISPM) or for the review or revision of an existing ISPM are submitted to the Secretariat of the IPPC in a standardized format on a 2-year cycle. Alternatively, the Secretariat can propose a new standard or amendments to existing standards.

Step 2: After review by the Standards Committee and the Strategic Planning and Technical Assistance Working Group, a summary of proposals is submitted by the Secretariat to the CPM. The CPM identifies the topics and priorities for standard setting from among the proposals submitted to the Secretariat and others that may be raised by the CPM.

Step 3: Specifications for the standards identified as priorities by the CPM are drafted by the Secretariat. The draft specifications are submitted to the Standards Committee for approval/amendment and are subsequently made available to members and regional plant protection organizations (RPPOs) for comment (60 days). Comments are submitted in writing to the Secretariat. Taking into account the comments, the Standards Committee finalizes the specifications.

Step 4: The standard is drafted or revised in accordance with the specifications by a working group designated by the Standards Committee. The resulting draft standard is submitted to the Standards Committee for review.

Step 5: Draft standards approved by the Standards Committee are distributed to members by the Secretariat and RPPOs for consultation (100 days). Comments are submitted in writing to the Secretariat. Where appropriate, the Standards Committee may establish open-ended discussion groups as forums for further comment. The Secretariat summarizes the comments and submits them to the Standards Committee.

Step 6: Taking into account the comments, the Secretariat, in cooperation with the Standards Committee, revises the draft standard. The Standards Committee submits the final version to the CPM for adoption.

Step 7: The ISPM is established through formal adoption by the CPM according to Rule X of the Rules of Procedure of the CPM.

Step 8: Review of the ISPM is completed by the specified date or such other date as may be agreed upon by the CPM.

Each member country is represented on the CPM by a single delegate. Although experts and advisers may accompany the delegate to meetings of the CPM, only the delegate (or an authorized alternate) may represent each member country in considering a standard up for approval. Parties involved in a vote by the CPM are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Technical experts from the United States have participated directly in working groups and indirectly as reviewers of all IPPC draft standards. The United States also has a representative on the Standards Committee. In addition, documents and positions developed by APHIS and NAPPO have been sources of significant input for many of the standards adopted to date. This notice describes each of the

IPPC standards currently under consideration or up for adoption. The full text of each standard will be available on the Internet at *http://www.aphis.gov/ppq/pim/standards/*. Interested individuals may review the standards posted on this Web site and submit comments via the Web site.

The next CPM meeting is scheduled for March 26–30, 2007, at FAO Headquarters in Rome, Italy. The Deputy Administrator for APHIS' PPQ program is the U.S. delegate to the CPM. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standards up for adoption. The provisional agenda for the Second Session of the Interim Commission on Phytosanitary Measures is as follows:

1. Opening of the session.
2. Adoption of the agenda.
3. Report by the chairperson.
4. Report by the Secretariat.
5. Standards up for adoption in 2007.
6. Items arising from the First Session of the CPM (see section below entitled ''New Standard-Setting Initiatives, Including Those in Development'' for details).
7. Work program for harmonization.
8. Other business.
9. Date and venue of the next meeting.
10. Adoption of the report.

IPPC Standards Up for Adoption in 2007

It is expected that the following standards will be sufficiently developed to be considered by the CPM for adoption at its 2007 meeting. The United States, represented by APHIS' Deputy Administrator for PPQ, will participate in the consideration of these standards. The U.S. position on each of these issues will be developed prior to the CPM session and will be based on APHIS' analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders. The standards that are most likely to be considered for adoption include:

1. Revision of ISPM No. 2, Pest Risk Analysis (PRA)

This standard describes the basic concept of pest risk analysis within the framework of the IPPC. It introduces the three stages of pest risk analysis—initiation, pest risk assessment and pest risk management. The initiation stage is described in detail and a summary for the other stages is provided. Referral to other ISPMs is made regarding the pest risk assessment and pest risk management stages. Generic issues of information gathering, documentation, risk communication, uncertainty and consistency are introduced.

The PRA process is initiated in Stage 1 with the identification of an organism, pest or pathway that may require phytosanitary measures, or as part of the review of existing phytosanitary measures. The first step is to determine or confirm whether the organism considered is a pest. The PRA area is defined. If no pests are identified, the analysis need not continue. The analysis of pests identified in Stage 1 continues to Stages 2 and 3 using guidance provided in other standards.

2. Recognition of Pest-Free Areas and Areas of Low Pest Prevalence

This standard provides guidance for the recognition process for pest-free areas (PFA) and areas of low pest prevalence (ALPP). It describes a procedure for the bilateral recognition of such areas. This standard does not include specified time lines for the recognition procedure.

The importing contracting party remains responsible for determining what type of and how much information will be required in order to recognize a PFA or ALPP, depending on the type of area and its geography, the way the pest-free or low pest status of the area has been established, the contracting party's appropriate level of protection, and other factors for which technical justification exists.

3. Phytosanitary Treatments for Regulated Pests

This standard would provide a list of treatments that are internationally recognized and intended for use by National Plant Protection Organizations (NPPOs) to meet their phytosanitary requirements. The treatments provide the minimum requirements to achieve treatment of a regulated pest at a stated efficacy. The scope of this standard does not include issues related to pesticide registration or other internal requirements for approval of treatment measures (e.g., irradiation).

NPPOs and Regional Plant Protection Organizations (RPPOs) submit a treatment for inclusion in the ISPM on Phytosanitary Treatments by providing information on the treatment, pest(s) and commodity(ies) or regulated articles concerned. The submission should include efficacy data on the treatment under laboratory or controlled experimental conditions, and also under operations conditions.

4. Debarked and Bark-Free Wood

This standard provides practical guidance to NPPOs on differentiating wood with bark, debarked wood, and bark-free wood, and how the removal of bark may reduce the risk of introduction and/or spread of quarantine pests associated with wood.

It applies to wood and all products made from wood other than the following: Plywood, particle board, oriented strand board, veneer and other products made from wood that have been created using glue, heat, and pressure, or a combination thereof; sawdust; wood wool; wood shavings; and thin wood 6 mm in thickness or less.

5. Establishment of Area of Low Pest Prevalence for Fruit Flies (Tephritidae)

This standard provides guidelines for the establishment and maintenance of areas of low pest prevalence for fruit flies of economic importance (including places and sites of production of low pest prevalence) for use as a risk mitigation measure to facilitate trade of fruits and vegetables.

The decision to create a fruit fly area of low pest prevalence (FF-ALPP) for export of a particular host of fruit fly is closely linked to trade opportunities and to economic and operational feasibility. Before establishing an FF-ALPP, the target fruit fly species shall be identified. FF-ALPPs are generally delimited by readily recognizable boundaries. Parameters used to determine the level of fruit fly prevalence in the FF-ALPP should be defined. The most widely used parameter is the number of flies per trap per day (FTD). If export from the FF-ALPP is intended, the specified level should be established in conjunction with the importing country.

Before establishment of an FF-ALPP, surveillance aimed at assessing the presence and abundance of the target fruit fly species should be undertaken for a period determined by climatic characteristics of the area and as technically appropriate, but at least for 12 consecutive months. In order to be able to verify the fruit fly low pest prevalence, FF-ALPP status should be continuously checked after the FF-ALPP status has been achieved, or, in the case of faulty procedures, only when those have been rectified.

6. Amendments to ISPM No.5 (Glossary of Phytosanitary Terms)

The following amendments will be proposed to the glossary of phytosanitary terms in ISPM No. 5:

1. The following terms and definitions will be proposed to be added:

• *Phytosanitary security:* Maintenance of the integrity of a consignment without loss or substitution, and prevention of its infestation, by the appropriate phytosanitary measures.

• *Integrity (of a consignment):* Composition of a consignment as described by its Phytosanitary Certificate or other document.

2. The following terms and definitions will be proposed to be changed to read as follows:

• *Buffer zone:* An area surrounding or adjacent to an area officially delimited for phytosanitary purposes, subjected to control measures to minimize the risk of spread of a target pest in or out of the delimited area.

• *Compliance procedure (for a consignment):* Official procedure used to verify that a consignment complies with phytosanitary import requirements.

• *Biological control:* Pest control strategy making use of living natural enemies, antagonists, competitors, sterile insects or other biological control agents.

• *Reference specimen(s) (of a biological control agent):* Individual specimen(s) from a specific population conserved in a reference culture collection and, where possible, in a publicly available collection(s).

New Standard-Setting Initiatives, Including Those in Development

A number of expert working group meetings or other technical consultations will take place during 2006 and 2007 on the topics listed below. These standard-setting initiatives were not completed before April 2006 and, therefore, will not be ready for adoption at the 2007 CPM session. Nonetheless, APHIS intends to participate actively and fully in each of these working groups. The U.S. position on each of the topics to be addressed by these various working groups will be developed prior to these working group meetings and will be based on APHIS' technical analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders.

1. Development of Annex 1 (Specific Approved Treatments) of ISPM No. 18

ISPM No. 18 (Guidelines for the Use of Irradiation as a Phytosanitary Measure) provides technical guidance on the specific procedures for the application of ionizing radiation as a phytosanitary treatment for regulated pests and articles. The standard was adopted in 2003 during the Fifth Session of the ICPM. The scope and purpose of ISPM No. 18 will remain unchanged. However, work done under this specification will initiate the development of irradiation phytosanitary treatments for specific applications that will be used in conjunction with this ISPM.

2. Revisions of ISPMs No. 7 and 12

Currently there are two ISPMs dealing with export: ISPM No. 7 (Export Certification System) and ISPM No. 12 (Guidelines for Phytosanitary Certificates). These also briefly describe the procedure to follow in case of re-export and transit. As international trade has expanded and means of conveyance have diversified, the need has arisen to provide clearer guidance on re-export and transit. In addition, concepts in these standards will be made consistent with other existing standards, such as ISPM No. 25 (Consignments in Transit). Existing ISPMs No. 7 and No. 12 will be reviewed for amendment to provide specific guidance on the procedures, which cover technical, legal, administrative and operational aspects, including export issues related to re-export and consignment in transit.

For more detailed information on the above topics, which will be addressed by various working groups established by the CPM, contact Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above).

APHIS posts draft standards on the Internet (*http://www.aphis.usda.gov/ppq/pim/standards/*) as they become available and provides information on the due dates for comments. Additional information on IPPC standards is available on the FAO's Web site at *http://www.ippc.int/IPP/En/default.htm*. For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Ms. Aliaga.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among Canada, the United States, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade. NAPPO conducts its business through panels and annual meetings held among the three member countries. The NAPPO Executive Committee charges individual panels with the responsibility for drawing up proposals for NAPPO positions, policies, and standards. These panels are made up of representatives from each member country who have scientific expertise related to the policy or standard being considered. Proposals drawn up by the individual panels are circulated for review to Government and industry officials in Canada, Mexico, and the United States, who may suggest revisions. In the United States, draft standards are circulated to industry, States, and various Government agencies for consideration and comment. The draft standards are posted on the Internet at *http://www.aphis.usda.gov/ppq/pim/standards/*; interested persons may submit comments via that Web site. Once revisions are made, the proposal is sent to the NAPPO working group and the NAPPO standards panel for technical reviews, and then to the Executive Committee for final approval, which is granted by consensus.

The annual NAPPO meeting is scheduled for October 16–20, 2006, in Fort McDowell, Arizona. The NAPPO Executive Committee meeting will take place on October 15, 2006, and a special session will be held on October 16, 2006, to solicit comment from industry groups so that suggestions can be incorporated into the NAPPO work plan for the 2006 NAPPO year. The Deputy Administrator for PPQ is a member of the NAPPO Executive Committee. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption or any proposals to develop new standards.

The work plan for 2006 was established after the October 2005 Annual Meeting in Puerto Vallarta, Mexico. The Deputy Administrator for PPQ participated in establishing this NAPPO work plan (see panel assignments below). Below is a summary of current panel assignments as they relate to the ongoing development of NAPPO standards. The United States (*i.e.*, USDA/APHIS) intends to participate actively and fully in the work of each of these panels. The U.S. position on each topic will be guided and informed by the best scientific information available on each of these topics. For each of the following panels, the United States will consider its position on any draft standard after it reviews a prepared draft. Information regarding the following NAPPO panel topics, assignments, activities, and updates on meeting times and locations may be obtained from the NAPPO homepage at *http://www.nappo.org* or by contacting Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above).

1. Accreditation Panel

The panel will develop an audit protocol for reviewing compliance with the NAPPO laboratory accreditation standard (RSPM No. 9). It will then use this protocol to audit the programs in the three NAPPO countries starting with the United States. It will review and update the current NAPPO laboratory accreditation standard (RSPM No. 9).

2. Biological Control Panel

This panel will complete the Taxonomic Resources Position Paper, develop guidelines for the movement of commercial shipments of arthropod biological control agents among NAPPO member countries, and exchange information on biological control programs in the NAPPO countries.

3. Biotechnology Panel

This panel will continue to develop a NAPPO standard for the importation of transgenic plants into NAPPO member countries. The standard review of products of biotechnology focuses on the assessment of the potential for the new trait to increase the risk the plant could pose to other plants in agriculture or the broader environment. The final fourth module, importation for uses other than propagation, will be developed.

4. Citrus Panel

The panel will update the pest lists in the Citrus Standard, based on new pest information.

5. Electronic Phytosanitary Certification Panel

This panel will develop guidelines for the electronic transmission of phytosanitary certificates.

6. Forestry Panel

This panel will coordinate the implementation of ISPM 15 (Guidelines for Regulating Wood Packaging Material in International Trade) by NAPPO member countries.

7. Fruit Panel

The panel will coordinate with other appropriate panels to start the development of a standard for the use of genetically modified fruit flies in North America.

8. Grapevine Panel

The panel will provide direction and support to the Technical Advisory Group to include insects and nematodes in the NAPPO standard for grapevines (RSPM No. 15). It will participate in the development of the NAPPO standard on plants for planting.

9. Potato Panel

The panel will develop an appendix to RSPM No. 3 on nematode identification and update appendix 5 based on the latest molecular information for potato virus YN (PVYn).

10. Propagative Material Panel

The panel will complete the standard on plants for planting.

11. Standards Panel

The panel will continue to provide updates on standards for the NAPPO newsletter, coordinate the review of new and amended NAPPO standards and ensure that comments received during the country consultation phase are incorporated as appropriate, organize conference calls and prepare NAPPO discussion documents for possible use at the IPPC, and promote implementation of recently adopted standards.

The PPQ Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of these regional plant health standards, including the work described above, once they are completed and ready for such consideration.

The information in this notice includes all the information available to us on NAPPO standards currently under development or consideration. For updates on meeting times and for information on the working panels that may become available following publication of this notice, check the NAPPO Web site on the Internet at *http://www.nappo.org* or contact Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above). Information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, may also be obtained from Ms. Aliaga. Those wishing to provide comments on any of the topics being addressed by any of the NAPPO panels may do so at any time by responding to this notice (see **ADDRESSES** above) or by transmitting comments through Ms. Aliaga.

Done in Washington, DC, this 10th day of October 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–17025 Filed 10–12–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2006–0031]

National Advisory Committee on Microbiological Criteria for Foods; Renewal

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of Re-chartering of Committee.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice is announcing the re-chartering of the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). The Committee is being renewed in cooperation with the Department of Health and Human Services (HHS). The establishment of the Committee was recommended by a 1985 report of the National Academy of Sciences Committee on Food Protection, Subcommittee on Microbiological Criteria, ''An Evaluation of the Role of Microbiological Criteria for Foods.'' The current charter for the NACMCF is available for viewing on the NACMCF homepage at *http://www.fsis.usda.gov/OPHS/NACMCF/index.htm.*

FOR FURTHER INFORMATION CONTACT: Karen Thomas, Advisory Committee Specialist, U.S. Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), Room 333 Aerospace Center, 1400 Independence Avenue, SW., Washington, DC 20250–3700. Telephone number: (202) 690–6620.

SUPPLEMENTARY INFORMATION:

Background

USDA is charged with administration and the enforcement of the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), and the Egg Products Inspection Act (EPIA). The Secretary of HHS is charged with the administration and enforcement of the Federal Food, Drug, and Cosmetic Act (FFDCA). These Acts help protect consumers by assuring that food products are wholesome, not adulterated, and properly marked, labeled, and packaged.

In order to assist the Secretaries in carrying out their responsibilities under the FMIA, PPIA, EPIA, and FFDCA, the NACMCF is being re-chartered. The Committee will be charged with advising and providing recommendations to the Secretaries on the development of microbiological criteria by which the safety and wholesomeness of food can be assessed,

including criteria for microorganisms that indicate whether foods have been adequately and appropriately processed.

Re-chartering of this Committee is necessary and in the public interest because of the need for external expert advice on the range of scientific and technical issues that must be addressed by the Federal sponsors in meeting their statutory responsibilities. The complexity of the issues to be addressed requires that the Committee meet at least twice per year.

Members will be appointed by the Secretary of USDA after consultation with the Secretary of HHS. Because of their interest in the matters to be addressed by this Committee, advice on membership appointments will be requested from the Department of Commerce's National Marine Fisheries Service, the Department of Defense's Veterinary Service Activity, and the Centers for Disease Control and Prevention. Background materials are available on the web at the address noted above or by contacting the person listed above.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it on-line through the FSIS Web Page located at *http://www.fsis.usda.gov/regulations/2006_Notices_Index/.* FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls and other types of information that could affect or would be of interest to constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service for industry, trade and farm groups, consumer interest groups, allied health professionals, and other individuals who have asked to be included. The update is available on the FSIS web page. Through the Listserv and web page, FSIS is able to provide information to a much broader and more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices.

Customers can add or delete subscriptions themselves and have the option to password protect their account.

Done at Washington, DC, on October 10, 2006.

Barbara J. Masters,

Administrator.

[FR Doc. E6–17036 Filed 10–12–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Province Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Southwest Washington Province Advisory Committee will meet on Thursday, November 9, 2006, at the Gifford Pinchot National Forest Headquarters, 10600 NE. 51st Circle, Vancouver, WA 98682. The meeting will begin at 9:30 a.m. and continue until 4 p.m.

The purpose of the meeting is to share information and receive feedback on: Gifford Pinchot National Forest's Recreation Site Facilities Master Plan effort; Invasive Plant environmental impact statement; Special Forest Products; and to share information among Committee members.

All Southwest Washington Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides an opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled for 1:30 p.m. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on Committee business at any time.

FOR FURTHER INFORMATION CONTACT: Chris Strebig, Public Affairs Officer, at (360) 891–5005, or write Forest Headquarters Office: Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: October 5, 2006.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 06–8659 Filed 10–12–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the program for the National Sheep Industry Improvement Center (NSIIC) authorized in 7 U.S.C. 2008j.

DATES: Comments on this notice must be received by December 12, 2006 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Jay B. Wilson, Executive Director, National Sheep Industry Improvement Center, P.O. Box 23483, Washington, DC 20026–3483, Telephone (202) 690–0632 or by e-mail to: *info@nsiic.org.*

SUPPLEMENTARY INFORMATION:

Title: National Sheep Industry Improvement Center.

OMB Number: 0570–0048.

Expiration Date of Approval: March 31, 2007.

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

Abstract: The National Sheep Industry Improvement Center (NSIIC) is authorized by 7 U.S.C. 2008j as a flexible and innovative approach for the sheep and goat industries for infrastructure development, business development, production, resource development, and market and environmental research. The management of NSIIC is vested in a Board of Directors (Board), appointed by, and reports to the Secretary of Agriculture. The Board is authorized in 7 U.S.C. 2008j(e)(3)(A) to make grants, and the grant process is further addressed in the National Sheep Center 2006 Strategic Plan which has been approved by the Secretary of Agriculture. The Board proposes to make competitive grant funds available in fiscal year 2007 to address the needs and priorities of the sheep and goat industries.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8 hours or less per response.

Respondents: Grant Applicants.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 45

Estimated Total Annual Burden on Respondents: 387 hours.

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

Comments

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

Dated: October 5, 2006.

Jackie J. Gleason,

Administrator, Rural Business-Cooperative Service.

[FR Doc. E6–16940 Filed 10–12–06; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the program for the Annual Survey of Farmer Cooperatives, as authorized in the Cooperative Marketing Act of 1926.

DATES: Comments on this notice must be received by December 12, 2006 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: E. Eldon Eversull, Statistics Staff, RBS, U.S. Department of Agriculture, STOP 3256, 1400 Independence Avenue, SW., Washington, DC 20250–3256, Telephone (202) 690–1415 or send an e-mail message to: *eldon.eversull@usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Annual Survey of Farmer Cooperatives.

OMB Number: 0570–0007.

Expiration Date of Approval: April 30, 2007.

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

Abstract: The primary objective of Rural Business-Cooperative Service (RBS) is to promote understanding, use, and development of the cooperative form of business as a viable option for enhancing the income of the agricultural producers and other rural residents. RBS' direct role is providing knowledge to improve the effectiveness and performance of farmer cooperative businesses through technical assistance, research, information, and education. The annual survey of farmer cooperatives collects basic statistics on cooperative business volume, net income, members, financial status, employees, and other selected information to support RBS' objective and role. Cooperative statistics are published in various reports and used by the U.S. Department of Agriculture, cooperative management, educators, and others in planning and promoting the cooperative form of business.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour or less per response.

Respondents: Farmer cooperatives.

Estimated Number of Respondents: 1,588.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 1,588.

Estimated Total Annual Burden on Respondents: 1,534 hours.

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

Comments

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

Dated: October 5, 2006.

Jackie J. Gleason,

Administrator, Rural Business-Cooperative Service.

[FR Doc. E6–16941 Filed 10–12–06; 8:45 am]

BILLING CODE 3410–XY–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to and Deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List product to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must be Received on or Before: November 12, 2006.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each product will be required to procure the product listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product to the Government.
2. If approved, the action will result in authorizing small entities to furnish the product to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following product is proposed for addition to Procurement List for production by the nonprofit agency listed:

Product

Pharmaceutical Container/Bottle

6530–00–NIB–0130—Pharmaceutical plastic container/bottle, made of high-density polyethylene, round wide mouth, white with 38–400 CRC (Child Resistant Closure), screw cap 100cc.
6530–00–NIB–0131—Pharmaceutical plastic container/bottle, made of high-density polyethylene, round wide mouth, white with 38–400 CRC (Child Resistant Closure), screw cap 150cc.
6530–00–NIB–0132—Pharmaceutical plastic container/bottle, made of high-density polyethylene, round wide mouth, white with 45–400 CRC (Child Resistant Closure), screw cap 300cc.
6530–00–NIB–0133—Pharmaceutical plastic container/bottle, made of high-density polyethylene, round wide mouth, white with 45–400 CRC (Child Resistant Closure), screw cap 500cc.

NPA: Alphapointe Association for the Blind, Kansas City, Missouri.
Contracting Activity: Health & Human Services, Program Support Center, Perry Point, Maryland.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action may result in authorizing small entities to furnish the products to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Computer Accessories

7045–01–483–7836—Quick Keyboard Drawer
7045–01–483–7839—Ergo Gel Keyboard Drawer
7045–01–483–7843—Vision Guard Plus Anti-Glare Screen
7045–01–483–7449—Disk File 100 for 3½″ Disks
NPA: Wiscraft Inc.—Wisconsin Enterprises for the Blind, Milwaukee, Wisconsin.
Contracting Activity: Office Supplies & Paper Products Acquisition Ctr, New York, New York.

Drape, Surgical

6530–00–299–9604
6530–00–299–9605
6530–00–299–9607
6530–00–299–9608
NPAs: Mississippi Industries for the Blind, Jackson, Mississippi, Alabama Industries for the Blind, Talladega, Alabama, In-Sight, Warwick, Rhode Island.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.

Suture Removal Kit

6515–01–443–0976
NPA: Washington-Greene County Branch, PAB, Washington, Pennsylvania.
Contracting Activity: Veterans Affairs National Acquisition Center, Hines, Illinois.

Mask, Surgical

6515–00–982–7493
NPAs: Washington-Greene County Branch, PAB, Washington, Pennsylvania, Susquehanna Association for the Blind and Visually Impaired, Lancaster, Pennsylvania, Industries of the Blind, Inc., Greensboro, North Carolina.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.
Contracting Activity: Veterans Affairs National Acquisition Center, Hines, Illinois.

Mat, Floor

7220–00–205–3182—For Chairs 49″ × 55″
7220–00–205–3192—For Chairs 36″ × 48″
NPA: Northeastern Michigan Rehabilitation and Opportunity Center (NEMROC), Alpena, Michigan.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Tape, Electronic Data Processing

7045–01–293–4809
NPA: North Central Sight Services, Inc., Williamsport, Pennsylvania.
Contracting Activity: Defense Supply Center Columbus, Columbus, Ohio.

Maptacks

7510–00–272–3099—Maptacks, White
7510–00–285–5844—Maptacks, Assorted Colors
NPA: Delaware County Chapter, NYSARC, Inc., Walton, New York
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, New York

Tracheotomy Care Kit

6515–01–447–1720
NPA: Washington-Greene County Branch, PAB, Washington, Pennsylvania.
Contracting Activity: Veterans Affairs National Acquisition Center, Hines, Illinois.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E6–17024 Filed 10–12–06; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products and service previously furnished by such agencies.

DATES: *Effective Date:* November 12, 2006.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800,

1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On August 18, 2006, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (71 FR 47773) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Full Food Service, Fort Drum, 45 West Street, Fort Drum, NY.
NPA: Jefferson County Chapter, NYSARC, Watertown, NY.
Contracting Activity Officer: Department of Army Contracting Agency, Fort Drum, NY.
Service Type/Location: Custodial Services, Port Isabel Detention Center, 27991 Buena Vista Road, Los Fresnos, Texas.
NPA: Mavagi Enterprises, Inc., San Antonio, Texas.
Contracting Activity: DHS Immigration and Customs Enforcement, Dallas, Texas.

Deletions

On August 18, 2006, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 47773) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and service deleted from the Procurement List.

End of Certification

Accordingly, the following products and service are deleted from the Procurement List:

Products

Pad, Floor Polishing Machine

7910–00–985–6800
7910–00–985–6851
7910–00–985–6853
7910–00–985–6855
7910–00–985–6856
7910–00–985–6857
7910–00–985–6858
7910–00–985–6859
7910–00–985–6860
7910–00–985–6861
7910–00–985–6862
7910–00–985–6863
7910–00–985–6864
7910–00–985–6866
7910–00–985–6868
7910–00–985–6869
7910–00–985–6870
7910–00–985–6871
7910–00–985–6872
7910–00–985–6873
7910–00–985–6874
7910–00–985–6875
7910–00–985–6876

NPA: Beacon Lighthouse, Inc., Wichita Falls, Texas Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas

Floor Scrubbing Machine Pad

7910–00–NIB–0021—Lime, 19in. diam., High Speed
7910–00–NIB–0022—Lime, 21in. diam., High Speed
7910–00–NIB–0023—Dark Green, 22in. diam., High Speed

NPA: Beacon Lighthouse, Inc., Wichita Falls, Texas.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Service

Service Type/Location: Janitorial/Custodial, Military Traffic Management Command, 1312th Medium Port Command, Compton, California.
NPA: None currently authorized.
Contracting Activity: Department of the Army.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E6–17029 Filed 10–12–06; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

AGENCY: National Institute of Standards and Technology (NIST).

Title: Advanced Technology Program (ATP) Business Reporting System (BRS).

Form Number(s): None.

OMB Approval Number: 0693–0009.

Type of Review: Regular submission.

Burden Hours: 600.

Number of Respondents: 150.

Average Hours Per Response: 4.

Needs and Uses: The Advanced Technology Program (ATP) is a competitive cost-sharing program designed to assist United States businesses pursue high-risk, enabling technologies with significant commercial/economic potential. The ATP provides multi-year funding through the use of cooperative agreements to single companies and to industry-led joint ventures. Once a cooperative agreement is issued, recipients are required to complete project surveys to meet statutory requirements for ATP, as well as compliance with 15 CFR Part 14 and the Government Performance and Results Act.

Affected Public: Business or other for-profit organizations, and not-for profit institutions.

Frequency: Quarterly, Annually, and On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Jasmeet Seehra, (202) 395–3123.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, FAX number (202) 395–5167, or *Jasmeet_K._Seehra@omb.eop.gov).*

Dated: October 6, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–16991 Filed 10–12–06; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No.: 061005258–6258–01]

Membership of the Economic Development Administration Performance Review Board

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice of Membership on the Economic Development Administration Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the Economic Development Administration (EDA), Department of Commerce (DOC), announces the appointment of those individuals who have been selected to serve as members of the EDA Performance Review Board. The EDA Performance Review Board is responsible for (1) Reviewing performance appraisals and ratings of Senior Executive Service (SES) members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES members. The appointment of these members to the EDA Performance Review Board will be for a period of twelve (12) months.

DATES: The period of appointment for those individuals selected for the EDA Performance Review Board begins on October 13, 2006.

FOR FURTHER INFORMATION CONTACT: Sandra R. Walters, Economic Development Administration, Office of Management Services, Department of Commerce, Room 7217, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–5892.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the Economic Development Administration (EDA), Department of Commerce (DOC), announces the appointment of those individuals who have been selected to serve as members of the EDA Performance Review Board. The EDA Performance Review Board is responsible for (1) Reviewing performance appraisals and ratings of Senior Executive Service (SES) members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES members. The appointment of these members to the EDA Performance Review Board will be for a period of twelve (12) months beginning on October 13, 2006. The name, position title, and type of appointment of each member of the EDA Performance Review Board are set forth below by organization:

Office of the Secretary

William J. Fleming, Deputy Director, Office of Human Resources (Chairperson)

Aimee Strudwick, Chief of Staff to the Deputy Secretary

Barbara Retzlaff, Director, Office of Budget

Lisa Casias, Deputy CFO and Director for Financial Management

National Telecommunications and Information Administration

John Kneuer, Deputy Assistant Secretary of Commerce for Communications and Information

Dated: October 6, 2006.

Sandra R. Walters,

Deputy Chief Financial Officer and Director, Administrative and Support, Services Division.

[FR Doc. E6–17050 Filed 10–12–06; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–428–815)

Preliminary Results of Antidumping Duty Changed Circumstances Reviews And Notice of Intent to Revoke Order in Part: Certain Corrosion–Resistant Carbon Steel Flat Products from Germany

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

SUMMARY: On September 5, 2006, the U.S. Department of Commerce (''the Department'') published a notice of initiation of antidumping duty changed circumstances review on certain corrosion–resistant carbon steel flat products from Germany, as described below. *See Initiation of Antidumping Duty Changed Circumstances Reviews: Certain Corrosion–Resistant Carbon Steel Flat Products from Germany*, 71 FR 53653, (September 5, 2006) (''*Initiation Notice*''). In our *Initiation Notice*, the Department invited interested parties to comment on the request to exclude certain corrosion–resistant carbon steel flat products from Germany (''product in question'') as described below from the scope of this order. The Department received no comments.

Absent any comments, the Department preliminarily concludes that producers accounting for substantially all of the production of the domestic like product to which this order pertains lack interest in the relief provided by this order with respect to the product in question. Therefore, the Department preliminarily concludes that it is appropriate to revoke this order, in part, with respect to unliquidated entries of the product in question not covered by the final results of an administrative review, based on the fact that domestic parties have made an affirmative statement of no interest in the continuation of the order with respect to that product. This revocation would not apply to unliquidated entries that are covered by the final results of an administrative review, even if those entries are subject to litigation.

EFFECTIVE DATE: October 13, 2006.

FOR FURTHER INFORMATION CONTACT: Judy Lao or Abdelali Elouaradia, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–7924 and (202) 482–1374, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty orders on corrosion–resistant carbon steel from Germany on August 19, 1993. *See Notice of Antidumping Duty Order: Corrosion–Resistant Carbon Steel Flat Products from Germany*, 58 FR 44170. *See also Final Results of Changed Circumstances Antidumping Duty and Countervailing Duty Reviews and Revocation of Orders in Part: Certain Corrosion–Resistant Carbon Steel Flat Products from Germany*, 64 FR 51292 (September 22, 1999), and *Final Results of Changed Circumstances Antidumping and Countervailing Duty Reviews and Revocation of Orders in Part: Certain Corrosion–Resistant Carbon Steel Flat Products from Canada and Germany*, 71 FR 14498 (March 22, 2006).

On August 17, 2006, ThyssenKrupp Steel North America, Inc. (''ThyssenKrupp''), a U.S. importer of the subject merchandise, requested a changed circumstances review with respect to a specific corrosion–resistant carbon steel flat products from Germany. Specifically, ThyssenKrupp requested to exclude from the antidumping duty order on corrosion–resistant carbon steel flat products from Germany, imports meeting the following description: electrolytically zinc coated flat steel products, with a coating mass between 35 and 72 grams per meter squared on each side; with a thickness range of 0.67 mm or more but not more than 2.95 mm and width 817 mm or more but not over 1830 mm; having the following chemical composition (percent by weight): carbon not over 0.08, silicon not over 0.25, manganese not over 0.9, phosphorous not over 0.025, sulfur not over 0.012, chromium not over 0.1, titanium not over 0.005 and niobium not over 0.05; with a minimum yield strength of 310 Mpa and a minimum tensile strength of 390 Mpa; additionally coated on one or both sides with an organic coating containing not less than 30% and not more than 60% zinc and free of hexavalent chrome. *See* ThyssenKrupp letter to the Department dated August 17, 2006.[1] In addition, Mittal Steel USA (''Mittal Steel''), a domestic corrosion–resistant producer, submitted a letter to the Department expressing a lack of interest in continuing to have the product in question subject to the antidumping duty order.[2] Mittal Steel also stated that it is a major domestic producer of the subject merchandise. See Mittal Steel letter to the Department dated August 18, 2006. In response to the request made by the ''interested party'' within the meaning of Section 771(9) of the Act, ThyssenKrupp, and the lack of interest from Mittal Steel, the Department published a notice of initiation of changed circumstances reviews of the antidumping duty order on corrosion–resistant carbon steel flat products from Germany on September 5, 2006. *See Initiation Notice*. On September 27, 2006, ThyssenKrupp stated that it advocated that the effective date for the exclusion be August 1, 2005. In the *Initiation Notice*, the Department indicated that interested parties could submit comments for consideration in the Department's preliminary results no later than 15 days after publication of the initiation of this review. The Department received no comments from interested parties.

Scope of the Order

The products covered by this order are corrosion–resistant carbon steel flat products from Germany. This scope includes flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this order are flat–rolled products of non–rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') – for example, products which have been beveled or rounded at the edges. Excluded from this order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin–free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this order are certain clad stainless flat–rolled products, which are three–layered corrosion–resistant carbon steel flat–rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio. Also excluded from this order are deep–drawing carbon steel strip, roll–clad on both sides with aluminum (AlSi) foils in accordance with St3 LG as to EN 10139/10140. The merchandise's chemical composition encompasses a corrosion–resistant material of U St 23 (continuous casting) in which carbon is less than 0.08; manganese is less than 0.30; phosphorous is less than 0.20; sulfur is less than 0.015; aluminum is less than 0.01; and the cladding material is a minimum of 99% aluminum with silicon/copper/iron of less than 1%. The products are in strips with thicknesses of 0.07mm to 4.0mm (inclusive) and widths of 5mm to 800mm (inclusive). The thickness ratio of aluminum on either side of steel may range from 3%/94%/3% to 10%/80%/10%. Also excluded from this order are corrosion–resistant carbon steel flat products meeting the following description: certain flat–rolled wear plate ranging from 30 inches to 50 inches in width, from 45 inches to 110 inches in length

[1] DaimlerChrysler Corporation (''DaimlerChrysler''), a domestic customer of corrosion-resistant, also submitted letters to the Department pre-dating ThyssenKrupp's request, indicating that it had contacted United States Steel Corporation, Mittal Steel, AK Steel, and Nucor Corporation and determined they are not interested in maintaining the antidumping duty order with respect to the product in question. *See* Letters to the Department from DaimlerChrysler dated June 22, 2006 and July 18, 2006.

[2] On September 26, 2006, Mittal Steel submitted a letter to the Department clarifying minor discrepancies in its August 18, 2006 submission regarding the product specifications it is no longer interested in continuing to be covered by the antidumping duty order on corrosion-resistant carbon steel flat products from Germany.

and from 0.187 inch to 0.875 inch in total thickness, having a layer on one side composed principally of a combination of boron carbides, chromium carbides, nickel carbides, silicon carbides, manganese carbides, niobium carbides, iron carbides, tungsten carbides, vanadium carbides, titanium carbides and/or molybdenum carbides fused to a non–alloy flat–rolled steel substrate. The carbides are in the form of M_xC_x where ''M'' stands for the metal and ''x'' for the atomic ratio. An example of a common carbide would be (Cr_7C_3). The carbide layer is a visually distinct layer ranging in thickness from 0.062 inch to 0.312 inch with hardness at the surface of the carbide layer in excess of 55 HRC.

The HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Scope of Changed Circumstances Review

The products subject to this changed circumstances review are corrosion–resistant carbon steel flat products, from Germany meeting the following description: electrolytically zinc coated flat steel products, with a coating mass between 35 and 72 grams per meter squared on each side; with a thickness range of 0.67 mm or more but not more than 2.95 mm and width 817 mm or more but not over 1830 mm; having the following chemical composition (percent by weight): carbon not over 0.08, silicon not over 0.25, manganese not over 0.9, phosphorous not over 0.025, sulfur not over 0.012, chromium not over 0.1, titanium not over 0.005 and niobium not over 0.05; with a minimum yield strength of 310 Mpa and a minimum tensile strength of 390 Mpa; additionally coated on one or both sides with an organic coating containing not less than 30% and not more than 60% zinc and free of hexavalent chrome. *See* ThyssenKrupp letter to the Department dated August 17, 2006.

Preliminary Results of Reviews and Intent to Revoke in Part the Antidumping Duty Order

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the Act), the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives the Department the authority to revoke if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the continuation of relief.

As stated in the *Initiation Notice*, ThyssenKrupp, an importer of the subject merchandise, and Mittal Steel, a major domestic producer of corrosion–resistant carbon steel flat products, attested to their lack of interest in continued relief from imports of the product in question. Since the Department received no comments during the comment period opposing the partial revocation of the order as to the product in question from this antidumping duty order, the Department preliminarily concludes that producers accounting for substantially all of the production of the domestic like product to which these orders pertain lack interest in the relief provided by this order with respect to the product in question. If these results become final, the Department will revoke the order, in part, for all unliquidated entries of the product in question not covered by the final results of an administrative review. The most recent period for which the Department has completed an administrative review, or ordered automatic liquidation, is August 1, 2004, through July 31, 2005. Any prior entries are subject either to final results of review or automatic liquidation. Therefore, we will instruct U.S. Customs and Border Protection (CBP) to liquidate, without regard to antidumping duties, shipments of certain wear plate products entered, or withdrawn from warehouse, for consumption on or after August 1, 2005. The Department will also instruct CBP to end suspension of liquidation for the product in question, and to release any cash deposits or bonds pursuant to 19 CFR 351.222(g)(4). Moreover, the Department will instruct CBP to pay interest on such refunds in accordance with section 778 of the Act.

Interested parties wishing to comment on these preliminary results may submit briefs to the Department no later than 15 days after the publication of this notice in the **Federal Register**. Parties will have 7 days subsequent to this due date to submit rebuttal comments, limited to the issues raised in those briefs. Parties who submit briefs or rebuttal comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes). Any requests for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**.

All written comments must be submitted in accordance with 19 CFR 351.303, with the exception that only three (3) copies for each case need be served on the Department. Any comments must also be served on all interested parties on the Department's service list, which is available on our website (http://ia.ita.doc.gov/apo/index.html). The Department will issue its final results in this changed circumstances review as soon as practicable following the above comment period, but not later than 270 days after the date on which the changed circumstances review was initiated, in accordance with 19 CFR 351.216(e), and will publish the results in the **Federal Register**. While the changed circumstances review is underway, the current requirement for a cash deposit of estimated antidumping duties on all subject merchandise, including the merchandise that is the subject of this changed circumstances review, will continue unless and until this order is revoked, in part, pursuant to the final results of this changed circumstances review or an administrative review.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: October 4, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–16945 Filed 10–12–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–807]

Ferrovanadium and Nitrided Vanadium From Russia: Notice of Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would be likely to lead to continuation or recurrence of dumping and of material injury to an industry in the United States within a reasonably foreseeable time, the Department is publishing notice of the continuation of this antidumping duty order.

EFFECTIVE DATE: October 13, 2006.

FOR FURTHER INFORMATION CONTACT: David Goldberger, Katherine Johnson, or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136, (202) 482–4929, and (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2006, the Department initiated and the ITC instituted a sunset review of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year (''Sunset'') Reviews,* 71 FR 25568 (May 1, 2006).

The Department conducted an expedited sunset review of this order. As a result of its review, the Department found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked. *See Final Results of Expedited Sunset Review: Ferrovanadium and Nitrided Vanadium from Russia,* 71 FR 44998 (August 8, 2006). On October 4, 2006, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia 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 Ferrovanadium and Nitrided Vanadium From Russia,* 71 FR 58630 (October 4, 2006).

Scope of the Order

The products covered by the order are ferrovanadium and nitrided vanadium, regardless of grade, chemistry, form or size, unless expressly excluded from the scope of this order. Ferrovanadium includes alloys containing ferrovanadium as the predominant element by weight (*i.e.*, more weight than any other element, except iron in some instances) and at least 4 percent by weight of iron. Nitrided vanadium includes compounds containing vanadium as the predominant element, by weight, and at least 5 percent, by weight, of nitrogen.

Excluded from the scope of the order are vanadium additives other than ferrovanadium and nitrided vanadium, such as vanadium-aluminum master alloys, vanadium chemicals, vanadium waste and scrap, vanadium-bearing raw materials, such as slag, boiler residues, fly ash, and vanadium oxides.

The products subject to this order are currently classifiable under subheadings 2850.00.20, 7202.92.00, 7202.99.8040, 8112.40.3000, and 8112.40.6000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Determination

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia.

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

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

This five-year (sunset) review and this notice are in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: October 5, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–16943 Filed 10–12–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–583–833

Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On June 6, 2006, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain polyester staple fiber from Taiwan. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. The final weighted–average dumping margin for Far Eastern Textile Limited is listed below in the ''Final Results of the Review'' section of this notice.

EFFECTIVE DATE: October 13, 2006.

FOR FURTHER INFORMATION CONTACT: Devta Ohri or Andrew McAllister, Office 1, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–3853 or (202) 482–1174, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2006, the Department of Commerce (''the Department'') published *Certain Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 32514 (June 6, 2006) (''*Preliminary Results*'') in the **Federal Register**.

We invited parties to comment on the preliminary results of the review. On July 13, 2006, Wellman, Inc. and Invista, S.a.r.l. (collectively, ''the petitioners''), and Far Eastern Textile Limited (''FET'' or ''respondent''), filed case briefs. On July 24, 2006, the petitioners and FET filed rebuttal briefs.

Scope of the Order

For the purposes of this order, the product covered is certain polyester staple fiber (''PSF''). PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to this order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable under the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at subheading 5503.20.00.25[1] is

[1] The most current edition of the Harmonized Tariff Schedule of the United States (2006) - Supplement 1 (Rev 1) (August 1, 2006) incorporates the revision of HTSUS number 5503.20.00.20 to 5503.20.00.25.

specifically excluded from this order. Also specifically excluded from this order are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low–melt PSF is excluded from this order. Low–melt PSF is defined as a bi–component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to this order is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under order is dispositive.

Period of Review

The period of review (''POR'') is May 1, 2004, through April 30, 2005.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the October 4, 2006 ''Issues and Decision Memorandum for the Fifth Antidumping Duty Administrative Review of Certain Polyester Staple Fiber from Taiwan'' (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit, Room B–099 of the main Department building (''CRU''). In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *www.ia.ita.doc.gov/frn*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Fair Value Comparisons

To determine whether FET's sales of PSF to the United States were made at less than normal value (''NV''), we compared export price (''EP'') to the NV. We calculated EP, NV, constructed value (''CV''), and the cost of production (''COP''), based on the same methodologies used in the *Preliminary Results*, with the following exceptions:

- We revised the major input adjustment calculations between the market price and the transfer price of affiliate purchases based on FET's January 20, 2006 supplemental questionnaire response for terephthalic acid and mono ethylene glycol (''MEG''). As a result of these revisions, under section 773(f)(3) of the Tariff Act of 1930, as amended (''the Act''), the Department finds that no adjustment is necessary for MEG because the transfer price is higher than the market price and the affiliated supplier's COP. *See* Memorandum from Team, through Brandon Farlander, to the File, ''Final Results Calculation Memorandum for Far Eastern Textile Limited,'' dated October 4, 2006 (''*FET Final Calculation Memorandum*''). *See also Decision Memorandum* at Comment 3.
- We corrected a ministerial error by including FET's fixed overhead costs in the total cost of manufacture. *See FET Final Calculation Memorandum*. *See also Decision Memorandum* at Comment 4.

Results of the COP Test

We found that, for certain products, more than 20 percent of the respondent's home market sales were at prices less than the COP and, thus, the below–cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not permit the recovery of costs within a reasonable period of time. Therefore, we excluded these sales and used the remaining sales of the same product, as the basis for determining NV, in accordance with section 773(b)(1).

Final Results of the Review

We find that the following dumping margin exists for the period May 1, 2004, through April 30, 2005:

Exporter/manufacturer	Weighted–average margin percentage
Far Eastern Textile Limited	4.05

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries.

FET has indicated that it was not the importer of record for any of its sales to the United States during the POR. FET reported the name of its U.S. customer as the importer of record for all U.S. sales. As such, FET did not report the entered value for any of its U.S. sales. Accordingly, we have calculated importer–specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer–specific ad valorem ratios based on the estimated entered value.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue appraisement instructions directly to CBP within 15 days of publication of these final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the period of review produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following deposit requirements are effective for all shipments of PSF from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above (except no cash deposit will be required if its weighted–average margin is *de minimis*, *i.e.*, less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less–than-fair–value investigation, the cash deposit rate will continue to be the most recent rate published in the final determination for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash

deposit rate will be 7.31 percent, the ''all others'' rate established in *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000). These cash deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

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

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

Dated: October 4, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

APPENDIX I

List of Comments in the Decision Memorandum

Comment 1: Coding of Regular/ Specialty Fiber Products
Comment 2: FET's ''Rebates''
Comment 3: Major Input Adjustment
Comment 4: Fixed Overhead Costs
Comment 5: Using the Revised Total Cost of Manufacture for G&A Expenses and Financial Expenses
Comment 6: Allocation of FET's G&A Expenses
Comment 7: Idled Equipment Expenses in the G&A Expenses Ratio
Comment 8: Investment Expenses in the Financial Expenses Ratio
Comment 9: Reconciliation of Total Consolidated Interest Expenses

[FR Doc. E6–16946 Filed 10–12–06; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Fire Protection Association (NFPA): Request for Comments on NFPA's Codes and Standards

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request comments on the technical reports that will be published in the NFPA's 2007 Fall Revision Cycle. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

Since 1896, the National Fire Protection Association (NFPA) has accomplished its mission by advocating scientifically based consensus codes and standards, research, and education for safety related issues. NFPA's *National Fire Codes*®, which holds over 270 documents, are administered by more than 225 Technical Committees comprised of approximately 7,000 volunteers and are adopted and used throughout the world. NFPA is a nonprofit membership organization with approximately 80,000 members from over 70 nations, all working together to fulfill the Association's mission.

The NFPA process provides ample opportunity for public participation in the development of its codes and standards. All NFPA codes and standards are revised and updated every three to five years in Revision Cycles that begin twice each year and that takes approximately two years to complete. Each Revision Cycle proceeds according to a published schedule that includes final dates for all major events in the process. The process contains five basic steps that are followed both for developing new documents as well as revising existing documents. These steps are: Calling for Proposals; Publishing the Proposals in the Report on Proposals; Calling for Comments on the Committee's disposition of the Proposals and these Comments are published in the Report on Comments; having a Technical Report Session at the NFPA Annual Meeting; and finally, the Standards Council Consideration and Issuance of documents.

Note: Under new rules effective Fall 2005, anyone wishing to make Amending Motions on the Technical Committee Reports (ROP and ROC) must signal their intention by submitting a Notice of Intent to Make a Motion by the Deadline of October 19, 2007. Certified motions will be posted by November 16, 2007. Documents that receive notice of proper Amending Motions (Certified Amending Motions) will be presented for action at the annual June 2008 Association Technical Meeting. Documents that receive no motions will be forwarded directly to the Standards Council for action on issuance.

For more information on these new rules and for up-to-date information on schedules and deadlines for processing NFPA Documents, check the NFPA Web site at *http://www.nfpa.org* or contact NFPA Codes and Standards Administration.

The purpose of this notice is to request comments on the technical reports that will be published in the NFPA's 2007 Fall Revision Cycle. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Thirty reports are published in the 2007 Fall Revision Cycle Report on Proposals and will be available on December 22, 2006. Comments received on or before March 2, 2007, will be considered by the respective NFPA Committees before final action is taken on the proposals.

ADDRESSES: The 2007 Fall Revision Cycle Report on Proposals is available and downloadable from NFPA's Web site—*http://www/nfpa.org* or by requesting a copy from the NFPA, Fulfillment Center, 11 Tracy Drive, Avon, Massachusetts 02322. Comments on the report should be submitted to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–7471.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–7471, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops building, fire, and electrical safety codes and

standards. Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–7471. Commenters may use the forms provided for comments in the Reports on Proposals. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before March 2, 2007 for the 2007 Fall Revision Cycle Report on Proposals will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the 2007 Fall Revision Cycle Report on Comments by August 24, 2007. A copy of the Report on Comments will be sent automatically to each commenter.

2007 FALL REVISION CYCLE—REPORT ON PROPOSALS

[P=Partial revision; W=Withdrawal; R=Reconfirmation; N=New; C=Complete Revision]

NFPA 17	Standard for Dry Chemical Extinguishing Systems	P
NFPA 17A	Standard for Wet Chemical Extinguishing Systems	P
NFPA 22	Standard for Water Tanks for Private Fire Protection	P
NFPA 36	Standard for Solvent Extraction Plants	P
NFPA 59	Utility LP-Gas Plant Code	P
NFPA 75	Standard for the Protection of Information Technology Equipment	P
NFPA 76	Standard for the Fire Protection of Telecommunications Facilities	P
NFPA 115	Standard for Laser Fire Protection	P
NFPA 140	Standard on Motion Picture and Television Production Studio Soundstages and Approved Production Facilities	P
NFPA 496	Standard for Purged and Pressurized Enclosures for Electrical Equipment	P
NFPA 497	Recommended Practice for the Classification of Flammable Liquids, Gases, or Vapors and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas.	P
NFPA 499	Recommended Practice for the Classification of Combustible Dusts and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas.	P
NFPA 720	Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units	P
NFPA 730	Guide for Premises Security	P
NFPA 731	Standard for the Installation of Electronic Premises Security Systems	P
NFPA 801	Standard for Fire Protection for Facilities Handling Radioactive Materials	P
NFPA 806	Performance Based Standard for Fire Protection for Advanced Nuclear Reactor Electric Generating Plants	N
NFPA 909	Code for the Protection of Cultural Resources Properties—Museums, Libraries, and Places of Worship	P
NFPA 921	Guide for Fire and Explosion Investigations	P
NFPA 1006 ..	Standard for Rescue Technician Professional Qualifications	C
NFPA 1192 ..	Standard on Recreational Vehicles	P
NFPA 1194 ..	Standard for Recreational Vehicle Parks and Campgrounds	P
NFPA 1561 ..	Standard on Emergency Services Incident Management System	C
NFPA 1584 ..	Recommended Practice on the Rehabilitation of Members Operating at Incident Scene Operations and Training Exercises	C
NFPA 1852 ..	Standard on Selection, Care, and Maintenance of Open-Circuit Self-Contained Breathing Apparatus (SCBA)	C
NFPA 1925 ..	Standard on Marine Fire-Fighting Vessels	C
NFPA 1962 ..	Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose	P
NFPA 1964 ..	Standard for Spray Nozzles	P
NFPA 1989 ..	Standard on Breathing Air Quality for Fire and Emergency Services Respiratory Protection	C
NFPA 1999 ..	Standard on Protective Clothing for Emergency Medical Operations	P

Dated: October 5, 2006.

James E. Hill,

Acting Deputy Director.

[FR Doc. E6–17023 Filed 10–12–06; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100606B]

Pacific Fishery Management Council; Public Meeting/Workshop

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

ACTION: Notice of a public meeting.

SUMMARY: NMFS and the Pacific Fishery Management Council (Council) will hold a workshop to discuss the incorporation of data from the Northwest Fisheries Science Center (NWFSC) West Coast groundfish bottom trawl survey (conducted on the shelf and slope) into groundfish stock assessments, particularly those that will be conducted in 2007.

DATES: The NWFSC Bottom Trawl Survey workshop will be held Tuesday, October 31, 2006 through Thursday, November 2, 2006. The workshop will start at 9 a.m. and end at 5 p.m. on Tuesday and Wednesday, or as necessary to complete business. The workshop will adjourn at noon on Thursday, November 2, 2006.

ADDRESSES: The NWFSC Bottom Trawl Survey workshop will be held at the NOAA Western Regional Center (WRC), 7600 Sand Point Way NE, Building 9, Conference Room, Seattle, WA 98115.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Stacey Miller, NWFSC; telephone: (206) 860–3480; or Mr. John DeVore, Pacific Fishery Management Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: Primary objectives of the workshop include: (1) Review survey protocols and data collected by the NWFSC West Coast groundfish bottom trawl surveys; (2) evaluate methods for including bottom trawl survey time series in stock

assessments; (3) evaluate whether recent data from the NWFSC West Coast groundfish bottom trawl survey conducted on the shelf and slope should be included in update assessments only if they can be treated as a new time series, or whether the new data can be used to extend time series included in previous assessment models; and (4) compare biomass and variance estimates generated using a design-based swept area approach and model-based (Generalized Linear Mixed Models) approach.

All participants are encouraged to pre-register for the workshop by contacting Ms. Stacey Miller, NWFSC by phone at (206) 860–3480 or by email at *Stacey.Miller@noaa.gov*.

Although non-emergency issues not contained in the meeting agenda may come before the workshop participants for discussion, those issues may not be the subject of formal workshop action during this meeting. Workshop action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305c of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the workshop participants' intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Pre-registration for the workshop will expedite entry to the NOAA WRC. All WRC visitors will be required to show a valid picture ID and register with security every morning. A visitor's badge, which must be worn while at the NOAA Facility, will be issued to non-Federal employees participating in the meeting.

Dated: October 10, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–16988 Filed 10–12–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric and Administration

[Docket No: 061005254–6254–01]

Request for Information (RFI) From Commercial Sources on Positioning, Navigation, and Timing

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is issuing this RFI on behalf of the National Security Space Office (NSSO) to solicit information on Positioning, Navigation, and Timing (PNT) to assist NSSO in developing an evolutionary path for a robust National PNT architecture for the 2025 time period in cooperation with the Department of Transportation and other relevant government organizations. The NSSO is developing the architecture in response to tasking from the National Space-Based PNT Executive Committee, chaired by the Deputy Secretary of Defense and the Deputy Secretary of Transportation. The goal is to develop a long-term PNT investment strategy and framework to enable robust PNT capabilities needed by the U.S. Government, its allies, and commercial users.

DATES: Please contact Shawn Brennan at (571) 432–1486, as soon as you receive this notice or by November 1, 2006 if you are interested in presenting at either of the three meetings that are being set aside for presentations by interested organizations. The first meeting will be on October 10–12, 2006. The second meeting will be on October 17–18, 2006, and the third meeting will be on November 7–8, 2006. Each meeting will consist of a thirty-minute presentation to be followed by a thirty-minute question and answer period; classified meetings will be held on the final day of each period, if required. If follow-up trips or visits to an organization's location are warranted (e.g., demonstrations), they can be arranged during or after the presentations.

ADDRESSES: The meeting locations are:

1. The first meeting will be at National Security Space Office in Fairfax, Virginia.

2. The second meeting will be in El Segundo, California, at Aerospace Corporation.

3. The third meeting will be at National Security Space Office in Fairfax, Virginia.

NSSO welcomes the attendance from members of the public, but for security reasons, the location of the meetings will not be disclosed until the interested individual has passed the security clearance protocol.

FOR FURTHER INFORMATION CONTACT: Shawn Brennan, 571 432–1486.

SUPPLEMENTARY INFORMATION: NOAA is issuing this RFI on behalf of the NSSO to solicit information regarding PNT to assist NSSO in developing an evolutionary path for a robust National PNT architecture for the 2025 time period in cooperation with the Department of Transportation and other relevant government organizations. The NSSO is developing the architecture in response to tasking from the National Space-Based PNT Executive Committee, chaired by the Deputy Secretary of Defense and the Deputy Secretary of Transportation. The goal is to develop a long-term PNT investment strategy and framework to enable robust PNT capabilities needed by the U.S. Government, its allies, and commercial users. The scope of the architecture includes all PNT-related needs and capabilities, including orientation, and is not limited to space-based capabilities. This RFI seeks information which will help the NSSO team assess PNT capabilities employed, planned, or proposed by national security, civil, and commercial organizations. Of particular interest are innovative practices, concepts, standards, technologies, non-material applications, and associated commercial architectures. Note ''the Government'' as referred to in these questions includes all executive branch elements, besides the Department of Defense and the Department of Transportation. Specific questions are:

a. Characterize and evaluate customers of PNT needs.

b. What improvements to PNT capabilities are planned in these areas?

1. Space-based capabilities.

2. Terrestrial capabilities.

3. Enabling capabilities.

4. Non-material aspects including policies, procedures, and operations concepts.

c. What standards are being considered for development, establishment, or implementation of PNT capabilities?

d. What technologies can be used to achieve, maintain, or improve PNT capabilities? What is the practical limit of such technologies?

e. What technologies offer high payoff for future PNT capabilities, including those without current funding support or government sponsorship?

f. To what extent should autonomy or automation be implemented in ground and space systems to support PNT?

g. What PNT capabilities should the Government provide? Which commercial capabilities could enhance government-provided PNT capabilities?

h. What international cooperation should be pursued through the 2025 time frame to achieve needed PNT capabilities?

i. What interrelationships are desired with the Government through the 2025 time frame from a PNT perspective?

1. What PNT capabilities should the Government provide?

2. Describe any interest in providing selected PNT capabilities?

3. Describe any interest in providing a full range of PNT services to the Government?

j. What analytical tools or simulations are recommended for assessing the performance, cost, and utility associated with PNT capabilities?

k. Regarding current operations and activities,

1. List generally, any primary sources of PNT information. What alternative capabilities are available (if any)?

2. What if services providing PNT capabilities are interrupted. Characterize the response of organizations that provide PNT services to reported interruptions of service.

3. For what applications are PNT capabilities used? How critical are PNT capabilities to the success of your organization?

4. In general, do industry members manufacture PNT end-user equipment or do they purchase it? If purchased it, how do industry members make their needs known to the provider?

5. How is PNT information integrated with other capabilities or activities, e.g., terrestrial or space weather prediction and reporting, reference frame information, and imagery?

6. How can PNT service availability and quality be monitored (e.g., Notice to Mariners (NOTAMs), Notice to NAVSTAR Users (NANUs), and online Web sites)?

7. How are new PNT capabilities and technology applications disclosed?

8. In general, what are the most important attributes of PNT services (or combinations of services) to consumers (e.g., accuracy, availability, precision, and time)?

Responses should describe current PNT capabilities, anticipated changes in future levels of PNT and PNT-related needs and capabilities, and suggestions for architectural options to achieve needed PNT capabilities in the 2025 time frame. This RFI requests a 1–2 page abstract describing standard proposed discussions with the NSSO; NSSO will in turn provide a copy of the study Terms of Reference and a copy of an introductory briefing to the respondent's designated Point of Contact. This synopsis is for an RFI only and does not constitute a commitment on the part of the Government to purchase or acquire systems or services related to Positioning, Navigation, and Timing.

Dated: October 5, 2006.

Charles S. Baker,

Acting Deputy Assistant Administrator.

[FR Doc. E6–17021 Filed 10–12–06; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Transformation Draft Environmental Impact Statement (DEIS), Draft Clean Air Act General Conformity Determination, and Evaluation of Continued Land Withdrawal Under Public Law 104–201 at Fort Carson, CO

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The U.S. Army announces the availability of a DEIS that evaluates implementing transformational activities at Fort Carson, a military installation located south of Colorado Springs, Colorado. Actions associated with these transformational activities include restationing of troops; construction, demolition, and renovation of facilities at the Cantonment and range areas; and increased use of training lands.

DATES: The public comment period for the DEIS will end 45 days after publication of an NOA in the **Federal Register** by the U.S. Environmental Protection Agency (EPA).

ADDRESSES: Written comments or materials should be forwarded to the Fort Carson NEPA Coordinator (proponent), Directorate of Environmental Compliance and Management, 1638 Elwell Street, Building 6236, Fort Carson, Colorado 80913–4000.

FOR FURTHER INFORMATION CONTACT: Fort Carson NEPA Coordinator via phone at (719) 526–4666; fax: (719) 526–1705; or e-mail: *nepa@carson.army.mil*.

SUPPLEMENTARY INFORMATION: The Proposed Action and subject of the DEIS is the implementation of the following three major Army transformation programs at Fort Carson: Base Realignment and Closure; Integrated Global Presence and Basing Strategy (also known as Global Defense Posture Realignment); and the Army Modular Force initiative. Implementing these programs would require restationing of troops; construction, demolition, and renovation of facilities at Fort Carson's cantonment and range areas; and increased use of Fort Carson's training lands.

The transformation of Fort Carson would occur between 2006 and 2011. Upon completion of transformation activities, military personnel at Fort Carson would increase approximately 60 percent (from approximately 14,500 to approximately 23,000) and the Fort Carson installation population (including civilians, contractors, and military dependents) would increase from approximately 38,300 to approximately 59,700 by 2011. To support the new Soldiers and their dependents, the Army proposes to construct support facilities in the cantonment and range areas at Fort Carson. Fort Carson's training lands would also be subject to increased training rotations to support the maneuver and live-fire training requirements of the additional Soldiers.

The alternatives considered in the DEIS include the Proposed Action (Preferred Alternative) and No Action. Other action alternatives were considered and discussed in the DEIS but were not analyzed further because they did not meet the purpose and need for the Proposed Action. The substantive issues analyzed in this DEIS include land use, air quality, noise, geology and soils, water resources, biological resources, cultural resources, socioeconomics (including environmental justice), transportation, utilities, hazardous and toxic substances, and cumulative environmental effects.

To document that the Proposed Action complies with the General Conformity Rule requirements of the Clean Air Act Amendments of 1990 and demonstrate that the action conforms with the Colorado State Implementation Plan for air quality, the Army also prepared a Draft General Conformity Determination pursuant to the requirements of 40 CFR part 93, subpart B. The Colorado Springs area is currently in attainment with air quality standards for all criteria pollutants and is a maintenance area for carbon monoxide.

After conducting appropriate air quality analyses, the Army has concluded that the Proposed Action will not cause or contribute to new violations of the carbon monoxide national ambient air quality standards in the Colorado Springs maintenance

area. The EPA and Colorado Department of Public Health and Environment will review the Army's findings and provide comments or concurrence.

Additionally, the Army has made a determination of a need for the continued withdrawal of 3,133.02 acres of public land and 11,416.16 acres of publicly owned mineral rights from the public domain. The withdrawal of these lands and mineral rights was extended until 2011 by Public Law 104–201, the National Defense Authorization Act for Fiscal Year 1997. The law requires the Army reevaluate the need for these withdrawals to continue after 2011 and hold a public hearing concerning the evaluation. The DEIS documents the Army's continued military need for these lands and evaluates the environmental effects of the continued military use of withdrawn lands.

The Army will hold a public meeting to receive comments on the DEIS, conformity determination, and land withdrawal on Wednesday, November 1, 2006 from 5:30 p.m. to 7:30 p.m. at Mesa Right High School, 6070 Mesa Ridge Parkway, Colorado Springs, Colorado 80911.

An electronic version of the DEIS can be viewed or downloaded from the following URL: *http://www.hqda.army.mil/acsim/brac/nepa_eis_docs.htm.*

Dated: October 6, 2006.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health).

[FR Doc. 06–8640 Filed 10–12–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Pinon Canyon Maneuver Site (PCMS), Colorado, Transformation Draft Environmental Impact Statement (DEIS) and Evaluation of Continued Land Withdrawal under Public Law 104–201

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The U.S. Army announces the availability of a DEIS that evaluates the implementation of transformational activities at the PCMS, Colorado. The PCMS is a training center area administered and used by military units stationed at, or otherwise under the responsibility of, Fort Carson, Colorado. Implementation actions associated with these transformational activities include training of additional Soldiers at the PCMS, and as funds become available, constructing a limited number of facilities in the cantonment and training areas, and increasing the use of the PCMS maneuver training lands.

DATES: The public comment period for the DEIS will end 45 days after publication of an NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Written comments or materials should be forwarded to the PCMS NEPA Coordinator (proponent), Directorate of Environmental Compliance and Management, 1638 Elwell Street, Building 6236, Fort Carson, Colorado 80913–4000.

FOR FURTHER INFORMATION CONTACT: PCMS NEPA Coordinator via phone at (719) 526–0912; fax: (719) 526–1705; or e-mail: *pcmsnepa@carson.army.mil.*

SUPPLEMENTARY INFORMATION: The Proposed Action and subject of the DEIS is the implementation of three major Army transformation programs at the PCMS: Base Realignment and Closure; Integrated Global Presence and Basing Strategy (also known as Global Defense Posture Realignment); and the Army Modular Force initiative. Implementing these transformation programs would require training of additional troops at the PCMS, construction of a limited number of storage facilities in the cantonment (to include a Brigade Support Complex, medical facilities, storage facilities, Soldier support functions, a vehicle maintenance facility, motor pools, and upgraded roads and utilities) and in the training areas (a live hand-grenade range, an ammunition holding area, a protective equipment training facility, upgrades to an existing small-arms range, and communication facilities), and increasing the use of the PCMS maneuver training lands.

The transformation of the PCMS would occur between 2006 and 2011, although planned construction projects would be built as funding becomes available and some may occur in out years. Upon completion of transformation activities, the PCMS would be responsible for supporting the large-scale ground maneuver and small arms live-fire training needs of the approximately 23,000 active duty Soldiers stationed at Fort Carson as well as potentially thousands of Reserve Component Soldiers in the western United States. Supporting increased training would involve an increased use of the PCMS maneuver training lands and small arms ranges, including a greater number of and longer-duration training rotations.

The alternatives considered in the DEIS include the Proposed Action (Preferred Alternative) and No Action. Other action alternatives were considered and discussed in the DEIS but were not analyzed further because they did not meet the purpose and need for the Proposed Action or, in accordance with President's Council on Environmental Quality regulations, were not ''ripe for decision.'' The substantive issues analyzed in this DEIS include land use, air quality, noise, geology and soils, water resources, biological resources, cultural resources, socioeconomics (including environmental justice), transportation, utilities, hazardous and toxic substances, and cumulative environmental effects.

Additionally, the Army has made a determination of a need for the continued withdrawal of approximately 2,500 acres of public land and approximately 130,000 acres of publicly owned land with mineral rights from the public domain. The withdrawal of these lands and minerals was extended until 2011 by Public Law 104–201, the National Defense Authorization Act for Fiscal Year 1997. The law requires the Army to reevaluate the need for these withdrawals to continue after 2011 and hold a public hearing concerning the evaluation. The DEIS documents the Army's continued military need for these lands and evaluates the environmental effects of the continued military use of withdrawn lands.

The Army will hold public meetings in Trinidad, Colorado, and La Junta, Colorado, to receive comments on the DEIS and land withdrawal. The Trinidad meeting will be held on November 2, 2006 from 5:30 p.m. to 7:30 p.m. at the Trinidad State Junior College, Sullivan Center, 600 Prospect Street, Trinidad, Colorado. The La Junta meeting will be held on November 3, 2006 from 5:30 p.m. to 7:30 p.m. at the Otero Junior College, Student Center Banquet Room, 2001 San Juan Avenue, La Junta, Colorado.

An electronic version of the DEIS can be viewed or downloaded from the following URL: *http://www.hqda.army.mil/acsim/brac/nepa__eis__docs.htm.*

Dated: October 6, 2006.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health).

[FR Doc. 06–8641 Filed 10–12–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Membership of the Defense Logistics Agency (DLA) Senior Executive Service (SES) Performance Review Board (PRB)

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of membership—2006 DLA PRB.

SUMMARY: This notice announces the appointment of members to the Defense Logistics Agency Senior Executive Service (SES) Performance Review Board (PRB). The publication of PRB composition is required by 5 U.S.C. 4314(c)(4). The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations to the Director, Defense Logistics Agency, with respect to pay level adjustments and performance awards, and other actions related to management of the SES cadre.

DATES: *Effective Date:* September 26, 2006.

ADDRESSES: Defense Logistics Agency, 8725 John J. Kingman Road, STE 2533, Fort Belvoir, Virginia, 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Hall, SES Program Manager, Human Resources (J–1), Defense Logistics Agency, Department of Defense, (703) 767–6404.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of DLA career executives appointed to serve as members of the SES PRB. Members will serve a 1-year term, which beings on September 26, 2006.

PRB Chair: Major General Loren M. Reno, USAF.

Members: Mr. Jeffrey Neal, Director, Human Resources, Ms. Mae De Vincentis, Director, Information Operations/CFO, Mr. Richard Connelly, Director, Defense Energy Support Center.

Robert T. Dail,

Lieutenant General, USA, Director, Defense Logistics Agency.

[FR Doc. 06–8661 Filed 10–12–06; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF ENERGY

Agency Information Collection Request

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted the proposed collection of information described in this notice to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The proposed collection of information is in a final rule pertaining to test procedures for distribution transformers, which DOE published at 71 FR 24971 (April 27, 2006). DOE received no comments in response to an earlier notice inviting public comment on this proposed collection (71 FR 24844, April 27, 2006).

DATES: Comments regarding this collection must be received on or before November 13, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Comments should be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: OMB Desk Officer for DOE, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503. A copy of the comments should also be sent to: Antonio Bouza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–2J, 1000 Independence Ave., SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Antonio Bouza at the address listed above in **ADDRESSES.**

SUPPLEMENTARY INFORMATION: The following proposed collection of information has been sent to OMB for clearance:

(1) *OMB No.:* Pending Approval. (2) *Package Title:* Test Procedures for Distribution Transformers. (3) *Type of Review:* New collection. (4) *Purpose:* This information collection is necessary for assessing the efficiency of DOE distribution transformers. (5) *Respondents:* 57. (6) *Type of Respondents:* Manufacturers of low-voltage dry-type distribution transformers. (7) *Frequency of Response:* Recordkeeping: Maintenance of (1) data and (2) calibration procedures and actions. (8) *Estimated Number of Burden Hours:* 5,472. *Abstract:* On April 27, 2006, DOE published a final rule that established test procedures for measuring the energy efficiency of distribution transformers (71 FR 24971). When energy conservation standards go into effect for low-voltage dry-type distribution transformers on January 1, 2007, the rule will become applicable to manufacturers of these transformers. The rule would require the manufacturers to meet the following recordkeeping requirements: (1) Have records as to alternative efficiency determination methods available for DOE inspection; (2) maintain calibration records; and (3) document calibration procedures. A Paperwork Reduction Act Submission has been submitted to OMB for clearance, and DOE invites the public to submit comments to OMB on these requirements. OMB is particularly interested in receiving public comments which evaluate: (1) Whether the proposed collection of information is necessary, (2) the accuracy of DOE's estimate of the burden of the proposed information collection, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of the collection of information on those who choose to respond.

Statutory Authority: Department of Energy Organization Act, Public Law 95–91.

Issued in Washington, DC, on October 6, 2006.

Sharon A. Evelin,

Director, Records Management Division, Office of the Chief Information Officer.

[FR Doc. E6–16999 Filed 10–12–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection package to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The package requests a three-year extension of the information collection entitled, ''Reporting and Recordkeeping Requirements for Safety Management System.'' Comments are invited on: (a) Whether the extended information collections are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the

burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this collection must be received on or before November 13, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to: DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503.

Comments should also be addressed to: Jeffrey Martus, IM–11/Germantown Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–1290; or by fax at 301–903–9061 or by e-mail at *Jeffrey.martus@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jeffrey Martus at the address listed above in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: The information collection package listed in this notice for public comment includes the following:

1. (1) *OMB No.:* 1910–5103. (2) *Package Title:* Reporting and Recordkeeping Requirements for Safety Management System. (3) *Type of Review:* Renewal. (4) *Purpose:* This collection is required by the Department to ensure that the management and operating contractors are performing work safety at DOE facilities. (5) *Respondents:* 7. (6) *Estimated Number of Burden Hours:* 2,450.

Statutory Authority: Department of Energy Organization Act, Public Law 95–91.

Issued in Washington, DC, on October 6, 2006.

Sharon A. Evelin,

Director, Records Management Division, Office of the Chief Information Officer.

[FR Doc. E6–17000 Filed 10–12–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Amended Notice of Intent To Expand the Scope of the Environmental Impact Statement for the Alignment, Construction, and Operation of a Rail Line to a Geologic Repository at Yucca Mountain, Nye County, NV

AGENCY: Department of Energy.

ACTION: Amended notice of intent.

SUMMARY: The Department of Energy (DOE or the Department) is providing this Amended Notice of Intent to expand the scope of the ongoing Environmental Impact Statement for the Alignment, Construction and Operation of a Rail Line to a Geologic Repository at Yucca Mountain, Nye County, Nevada (DOE/EIS–0369, Rail Alignment EIS, Notice of Intent, April 8, 2004, 69 FR 18565). In the ongoing Rail Alignment EIS, DOE has undertaken an analysis of alternative rail alignments in which to construct and operate a rail line within what is referred to as the Caliente corridor. Based on new information, DOE now plans to expand the Rail Alignment EIS to incorporate analysis of a new rail corridor alternative. This additional analysis will supplement the corridor analyses in the ''Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada'' (DOE/EIS–0250F, Yucca Mountain Final EIS, February 2002). The expanded analysis will consider the potential environmental impacts of a newly proposed Mina rail corridor at the same level of corridor analysis as is contained in the Yucca Mountain Final EIS, and will review the rail corridor analyses of that Final EIS, and update, as appropriate. The expanded scope will then proceed to include a detailed analysis of alternative alignments within the Mina corridor at the same level of analysis of the ongoing alignment analysis for the Caliente corridor. The result will be to provide the public with information concerning both the potential corridor and alignment impacts of the Mina corridor at the same time DOE presents the potential impacts for the construction and operation of a rail line within the Caliente corridor. The expanded EIS will be entitled the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS (DOE/EIS–0250F–S2 and DOE/EIS–0369).

On April 8, 2004 (69 FR 18557), the Department issued a Record of Decision announcing its selection, both nationally and in the State of Nevada, of the mostly rail scenario analyzed in the Yucca Mountain Final EIS. This decision will ultimately require the construction of a rail line to connect the repository site at Yucca Mountain to an existing rail line in the State of Nevada for the shipment of spent nuclear fuel and high-level radioactive waste. To that end, the Department also selected the Caliente rail corridor in which to examine possible alignments for construction of that rail line. On April 8, 2004 (69 FR 18565), DOE issued a Notice of Intent to prepare an EIS under the National Environmental Policy Act (NEPA) for the alignment, construction, and operation of a rail line for shipments of spent nuclear fuel, high-level radioactive waste, and other materials from a site near Caliente, Nevada, to a geologic repository at Yucca Mountain, Nevada (the Rail Alignment EIS).

During subsequent public scoping, DOE received comments that offered preferences for various rail corridors analyzed in detail in the Yucca Mountain Final EIS, and identified other rail corridors for consideration. In particular, commenters recommended that DOE consider the Mina route, which would include use of an existing rail line from Hazen, Nevada, to the Thorne siding in Hawthorne, Nevada, and the construction of new rail line that would follow an abandoned rail line nearly to Yucca Mountain.

In the Yucca Mountain Final EIS, DOE considered, but eliminated from detailed study, several potential rail routes. One of those potential rail routes, the Mina route, could only connect to an existing rail line by crossing the Walker River Paiute Tribe Reservation northwest of Hawthorne, Nevada, and the Tribe had informed DOE that it would refuse to allow nuclear waste to be transported across its reservation (letter dated December 6, 1991). For this reason, the Department considered the Mina route to pose an unavoidable land use conflict and thus to be unavailable for further consideration.

Following review of the scoping comments for the Rail Alignment EIS, DOE held discussions with the Walker River Paiute Tribe regarding the availability of the Mina route. Subsequently, in May 2006, the Walker River Paiute Tribe informed DOE that the Tribal Council had withdrawn its objection to the completion of an EIS studying the transportation of nuclear waste across its reservation. The Tribe stated that its Tribal Council had not decided to allow such shipments, but indicated that inclusion of the Mina route in an EIS would allow the Tribe

to make a more informed, final decision about the matter.

In view of the Tribal Council's decision, DOE initiated a study to determine the feasibility of the Mina route, and to identify a specific corridor (Mina corridor) and associated preliminary alternative alignments (described below under Mina Alternative Alignments). Based on DOE's preliminary analysis, in comparison with other rail corridors, the Mina corridor appears to offer potential advantages to the extent it would cross fewer mountain ranges, utilize existing rail bed, and also be a shorter distance. These potential advantages would simplify design and construction of a rail line, and therefore would be less costly to construct. The Mina corridor also would appear to have fewer land use conflicts, and would involve less land disturbance, which tends to result in lower adverse environmental impacts overall.

For these reasons, DOE has concluded that the Mina corridor warrants further detailed study. Accordingly, DOE is announcing its intent to expand the scope of the Rail Alignment EIS to supplement the rail corridor analyses of the Yucca Mountain Final EIS, and analyze the Mina corridor. This Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS [1] also will consider, in detail, alignments for the construction and operation of a rail line within the Caliente and Mina rail corridors.

DATES: The Department invites comments on the scope of the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS to ensure that all relevant environmental issues and reasonable alternatives are addressed. Public scoping meetings are discussed below in the **SUPPLEMENTARY INFORMATION** section. DOE will consider all comments received during the 45-day public scoping period, which starts with publication of this Amended Notice of Intent and ends November 27, 2006. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Requests for additional information on the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS or transportation planning in general should be directed to: Mr. M. Lee Bishop, EIS Document Manager, Office of Logistics Management, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, 1551 Hillshire Drive, M/S 011, Las Vegas, NV 89134, Telephone 1–800–967–3477. Written comments on the scope of the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS may be submitted to Mr. M. Lee Bishop at this address, by facsimile to 1–800–967–0739, or via the Internet at *http://www.ocrwm.doe.gov* under the caption, What's New.

FOR FURTHER INFORMATION CONTACT: For general information regarding the DOE NEPA process contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, Telephone 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

On July 23, 2002, the President signed into law (Pub. L. 107–200) a joint resolution of the U.S. House of Representatives and the U.S. Senate designating the Yucca Mountain site in Nye County, Nevada, for development as a geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste. Subsequently, the Department issued a Record of Decision (April 8, 2004) to announce its selection, both nationally and in the State of Nevada, of the mostly rail scenario analyzed in the Yucca Mountain Final EIS as the mode of transportation for spent nuclear fuel and high-level radioactive waste to the repository. Under the mostly rail scenario, the Department would rely on a combination of rail, truck and possibly barge to transport to the repository site at Yucca Mountain up to 70,000 metric tons of heavy metal of spent nuclear fuel and high-level radioactive waste. Most of the spent nuclear fuel and high-level radioactive waste, however, would be transported by rail.

The Department's decision to select the mostly rail scenario in Nevada ultimately will require the construction of a rail line [2] to connect the repository site at Yucca Mountain to an existing rail line in the State of Nevada for the shipment of spent nuclear fuel and high-level radioactive waste in the event the Nuclear Regulatory Commission authorizes construction of the repository, and receipt and possession of these materials at Yucca Mountain. To that end, in the same Record of Decision, the Department also decided to select the Caliente rail corridor [3] to study possible alignments for this proposed rail line. The Caliente rail corridor originates at an existing siding to the Union Pacific railroad near Caliente, Nevada, and extends in a westerly direction to the northwest corner of the Nevada Test and Training Range, before turning south-southeast to the repository at Yucca Mountain. The Caliente corridor ranges between 512 kilometers (318 miles) and 553 kilometers (344 miles) in length, depending on the alternative alignments considered.

On April 8, 2004, DOE issued a Notice of Intent to prepare an EIS under NEPA for the alignment, construction, and operation of a rail line for shipments of spent nuclear fuel, high-level radioactive waste, and other materials [4] from a site near Caliente, Nevada to a geologic repository at Yucca Mountain, Nevada. During subsequent public scoping, DOE received comments that offered preferences for various rail corridors analyzed in detail in the Yucca Mountain Final EIS, and identified other rail corridors for consideration. In particular, commenters recommended that DOE consider ''the Mina route,'' which would include use of an existing rail line from Hazen, Nevada, to the Thorne siding at Hawthorne, Nevada, and the construction of new rail line that would follow an abandoned rail line nearly to Yucca Mountain.

In the Yucca Mountain Final EIS, DOE considered, but eliminated from detailed study, the Mina route and several other potential rail routes (see Section 2.3.3.1). These other potential rail routes were identified in a series of three transportation studies—''Preliminary Rail Access Study'' (January, 1990), the ''Nevada Potential Repository Preliminary Transportation Strategy, Study 1'' (February, 1995), and the ''Nevada Potential Repository Preliminary Transportation Strategy, Study 2'' (February, 1996). Based on the latter (1996) study and public scoping, five potential rail corridors were considered in detail in the Yucca Mountain Final EIS.

In the 1996 study, the Mina route was not recommended for further study, because a rail line within the Mina route could only connect to an existing rail line by crossing the Walker River Paiute

[1] Coincident with this Amended Notice of Intent, DOE is publishing a Notice of Intent to prepare a Supplemental Yucca Mountain EIS (DOE/EIS–0250F–S1). That Supplement will consider the current repository design and plans for its construction and operation, and the transportation of spent nuclear fuel and high-level radioactive waste from sites around the United States to the repository at Yucca Mountain.

[2] Rail line means the railroad track and underlying earthworks.

[3] A corridor is a strip of land 400 meters (0.25 mile) wide through which DOE would identify an alignment for the construction of a rail line.

[4] Other materials are those related to the construction and operation of the repository.

Tribe Reservation, and the Tribe had informed DOE that it would refuse to allow nuclear waste to be transported across its reservation (letter dated December 6, 1991). For this reason, the Department considered the Mina route to pose an unavoidable land use conflict and thus to be unavailable for further consideration (see Section 2.3.3.1 in the Yucca Mountain Final EIS).

Following review of the scoping comments for the Rail Alignment EIS, DOE held discussions with the Walker River Paiute Tribe regarding the availability of the Mina route. Subsequently, in May 2006, the Walker River Paiute Tribe informed DOE that the Tribal Council had withdrawn its objection to the completion of an EIS studying the transportation of nuclear waste across its reservation. The Tribe stated that its Tribal Council had not decided to allow such shipments, but indicated that inclusion of the Mina route in an EIS would allow the Tribe to make a more informed, final decision about the matter.

In view of the Tribal Council's decision, DOE initiated a study to determine the feasibility of the Mina route, and to identify a specific corridor (the Mina corridor) and associated preliminary alternative alignments. Based on DOE's preliminary analysis, in comparison with other rail corridors, the Mina corridor appears to offer potential advantages to the extent it would cross fewer mountain ranges, utilize existing rail bed, and also be a shorter distance. These potential advantages would simplify design and construction of the rail line, and therefore would be less costly to construct. The Mina corridor also would appear to have fewer land use conflicts, and would involve less land disturbance, which tends to result in lower adverse environmental impacts overall.

For these reasons, DOE has concluded that the Mina corridor warrants further detailed study. Accordingly, DOE is announcing its intent to expand the scope of the Rail Alignment EIS to prepare a Supplemental EIS that will supplement the rail corridor analyses of the Yucca Mountain Final EIS. In the Yucca Mountain Final EIS, DOE evaluated the construction and operation of a rail line within five corridors—Caliente, Caliente-Chalk Mountain, Carlin, Jean and Valley Modified. In the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS, DOE will review the environmental information and analyses for these corridors, and update, as appropriate [5]; DOE also plans to consider the Mina corridor at a level of detail commensurate with that of the Yucca Mountain Final EIS. In addition, the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS will consider, in detail, alignments for the construction and operation of a rail line within the Caliente and Mina corridors.

The Mina corridor originates at an existing rail line near Wabuska, Nevada, where it proceeds southeasterly through Hawthorne to Blair Junction, and then on to Lida Junction. At that point, it becomes coincident with the Caliente corridor trending southeasterly through Oasis Valley before turning north-northeast to Yucca Mountain. The Mina corridor is about 450 kilometers (280 miles) in length; however, construction of new rail line would range between about 386 kilometers (240 miles) and 409 kilometers (254 miles) because the corridor includes the existing Department of Defense rail line from Wabuska to the Hawthorne Army Depot in Hawthorne.

Previous Public Scoping Comments

The Department received more than 4,100 comments during the public scoping period for the Rail Alignment EIS that ended June 1, 2004. In general, many of these comments offered preferences for various rail corridors or requested DOE to evaluate rail corridors other than Caliente, and suggested new alternative alignments or criteria (*e.g.*, avoid wilderness study areas) that could be used to modify the preliminary alignments proposed by DOE or to create new alternative alignments. These comments helped inform DOE's decision to expand the scope of the Rail Alignment EIS as discussed under Background above, and to identify the range of reasonable alternative alignments as discussed under Caliente Alternative Alignments below.

Commenters also requested that DOE allow other commodities to be shipped on the rail line by private entities (referred to herein as shared use). As described under Proposed Action below, the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS will evaluate shipments of commercial commodities, in addition to shipments of DOE materials.

DOE also received comments regarding analytical methods for various environmental resources such as cultural resources and water use, treatment of cumulative impacts and Native American concerns, the nature of the evaluation of potential accidents and sabotage, and the identification of mitigation measures. These comments and associated issues will be addressed in the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS.

Proposed Action

Under the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS, the Proposed Action is to determine a rail alignment [6] (within a rail corridor) in which to construct and operate a rail line for shipments of spent nuclear fuel, high-level radioactive waste, and other materials from an existing railroad in Nevada to a geologic repository at Yucca Mountain, Nye County, Nevada. DOE now plans to review the environmental information and analyses for four rail corridors, and update, as appropriate (Caliente, Carlin, Jean and Valley Modified), include and analyze the Mina corridor, and evaluate in detail two alternatives that would implement the Proposed Action—the Mina Alternative and the Caliente Alternative. Under each implementing alternative, DOE will evaluate the potential environmental impacts from the construction and operation of a rail line along various alternative alignments [7] and common segments.[8] As part of rail line operations, DOE also will evaluate, as an option to the Mina and Caliente implementing alternatives, the shipment of commercial commodities by private entities (shared use).

Preliminary Alternatives

As required by the Council on Environmental Quality and Departmental regulations that implement NEPA, the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS will analyze and present the environmental impacts associated with the range of reasonable alternatives to meet DOE's purpose and need for a rail line, and a no-action alternative. The preliminary alternative alignments for the Caliente and Mina rail alignments comprise a series of common segments and alternatives (maps may be obtained as described above in

[5] In a letter to the U.S. Air Force (dated December 1, 2004), DOE eliminated from detailed study alignments that would intersect the Nevada Test and Training Range because of concerns regarding military readiness testing and training activities. This letter was in response to a May 28, 2004 letter from the U.S. Air Force. For the same reasons cited in these letters, DOE does not intend to consider further the Caliente-Chalk Mountain rail corridor.

[6] A strip of land less than 400 meters (0.25 mile) wide through which the location of a rail line would be identified.

[7] A geographic region of the rail alignment for which multiple routes for the rail line have been identified.

[8] A geographic region of the rail alignment for which a single route for the rail line has been identified.

ADDRESSES). The Department is interested in identifying and subsequently evaluating any additional reasonable alternative alignments within the Caliente or Mina corridors that would reduce or avoid known or potential adverse environmental impacts, features having aesthetic values, and land-use conflicts, or alternatives that should be eliminated from detailed consideration. This could include identifying alternative alignments that could avoid environmentally sensitive areas or other land use conflicts.

Caliente Alternative Alignments

DOE's Notice of Intent (April 8, 2004) identified preliminary alternative alignments and common segments to be evaluated in the Rail Alignment EIS. The Notice of Intent also indicated that DOE would consider other potential alternatives if they would minimize, avoid or otherwise mitigate adverse environmental impacts.

Following scoping, DOE evaluated all public comments, as well as information from other sources, that could affect the preliminary alternative alignments and common segments identified in the Notice of Intent. Based on this information, DOE identified additional alternative alignments, and modified the preliminary alignments and common segments identified in the Notice of Intent to create a suite of potential alternatives. This suite was then evaluated using environmental features and engineering and design factors to determine, preliminarily, the range of reasonable alternative alignments. As an example, commenters identified alternative alignments that would avoid Garden Valley by identifying routes through Coal Valley that cross the Golden Gate Range. However, DOE found these alignments are not reasonable alternatives because they would either exceed engineering and design factors or would be far more costly to construct than other alignments that pass through Garden Valley.

On this basis, DOE has identified, preliminarily, alternative alignments at the interface with the Union Pacific Railroad near Caliente, in Garden Valley, near the Reveille Range and the Town of Goldfield, north of Scottys Junction (referred to as Bonnie Claire), and in Oasis Valley. These alternative alignments, which are described below, will be considered in detail in the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS.

Interface With Union Pacific Railroad

DOE has identified two alternative alignments, Caliente and Eccles, either of which alternative alignment would connect the proposed rail line to the existing Union Pacific Railroad in or near the City of Caliente. The Caliente alternative alignment would begin in Caliente, enter Meadow Valley Wash at Indian Cove, and extend generally north through Meadow Valley Wash and along U.S. 93. This alternative alignment would then cross U.S. 93 about 5 kilometers (3 miles) southwest of Panaca and connect to Common Segment 1 about 1 kilometer (0.6 mile) northwest of U.S. 93 and 18 kilometers (11 miles) south of Pioche. The Caliente alternative alignment would be approximately 18 kilometers (11 miles) long.

The Eccles alternative alignment would begin along Clover Creek about 8 kilometers (5 miles) east of Caliente and trend generally north to enter Meadow Valley Wash from the southeast. This alternative alignment would then cross U.S. 93 about 5 kilometers (3 miles) southwest of Panaca and connect to Common Segment 1 about 1 kilometer (0.6 mile) northwest of U.S. 93 and 18 kilometers (11 miles) south of Pioche. The Eccles alternative alignment would be about 18 kilometers (11 miles) long.

Garden Valley

DOE is considering four alternative alignments in the Garden Valley area, referred to as Garden Valley 1, 2, 3, and 8. Garden Valley 1 would run due west through the Golden Gate Range for about 7 kilometers (4 miles), trend in a southwesterly direction through Garden Valley, cross the Lincoln and Nye County line, and connect to Common Segment 2 about 5 kilometers (3 miles) north of the Worthington Mountains Wilderness Area, and 3 kilometers (2 miles) east of the Humboldt Toiyabe National Forest. The Garden Valley 1 alternative alignment would be approximately 35 kilometers (22 miles) long.

Garden Valley 2 would run to the south of Garden Valley 1 and Garden Valley 3, crossing the Lincoln and Nye County line. Garden Valley 2 would continue southwesterly through the Golden Gate Range at Water Gap, turn westward through Garden Valley, and continue southwesterly to connect to Common Segment 2 about 5 kilometers (3 miles) north of the Worthington Mountains Wilderness Area and 3 kilometers (2 miles) east of the Humboldt Toiyabe National Forest. The Garden Valley 2 alternative alignment would be about 37 kilometers (23 miles) long.

Garden Valley 3 would run due west through the Golden Gate Range and then in a northwesterly direction until turning southwest to run along the southeast base of the Quinn Canyon Range. Continuing in a southwesterly direction, it would run through Garden Valley, cross the Lincoln and Nye County line, and connect to Common Segment 2 about 5 kilometers (3 miles) north of the Worthington Mountains Wilderness Area and 3 kilometers (2 miles) east of the Humboldt Toiyabe National Forest. The Garden Valley 3 alternative alignment would be approximately 36 kilometers (22 miles) long.

Garden Valley 8 would run to the south of Garden Valley 1 and Garden Valley 3, crossing the Lincoln and Nye County line. It would continue southwesterly through the Golden Gate Range at Water Gap, would turn westward through Garden Valley, and run in a southwesterly direction before turning sharply westward. Garden Valley 8 would proceed westward and connect to Common Segment 2 about 5 kilometers (3 miles) north of the Worthington Mountains Wilderness Area and 3 kilometers (2 miles) east of the Humboldt Toiyabe National Forest. The Garden Valley 8 alternative alignment would be about 38 kilometers (23 miles) long, 8 kilometers (5 miles) of which parallels Garden Valley Road.

South Reveille

South Reveille 2 and South Reveille 3 alternative alignments would begin 5 kilometers (3 miles) south of the South Reveille Wilderness Study Area. South Reveille 2 would trend to the northwest along the border of the South Reveille Wilderness Study Area. South Reveille 3 would trend northwest a few kilometers to the west and roughly parallel to South Reveille 2. South Reveille 2 or South Reveille 3 would connect to Common Segment 3 in Reveille Valley about 14 kilometers (9 miles) west of State Route 375. South Reveille 2 would be approximately 19 kilometers (12 miles) long and South Reveille 3 would be approximately 20 kilometers (12 miles) long.

Goldfield

DOE is considering three alternative alignments in the Goldfield area, referred to as Goldfield 1, 3, and 4. Goldfield 1 would extend south into the Goldfield Hills area, passing east of Black Butte. It would turn east near Espina Hill and head south to the east of Blackcap Mountain. It would wind around a series of hills and valleys to

maintain an acceptable grade. Goldfield 1 would run for approximately 11 kilometers (7 miles) along an abandoned rail line before joining Common Segment 4 about 1 kilometer (0.6 mile) northeast of Ralston. In total, the Goldfield 1 alternative alignment would be 47 kilometers (29 miles) long.

Goldfield 3 would extend south and farther to the east than the other Goldfield alternative alignments. Like Goldfield 1, Goldfield 3 would wind around a series of hills and valleys to maintain an acceptable grade. Also like Goldfield 1, Goldfield 3 would run for approximately 11 kilometers (7 miles) along an abandoned rail line before joining common Segment 4 about 1 kilometer (0.6 mile) northeast of Ralston. In total, the Goldfield 3 alternative alignment would be about 50 kilometers (31 miles) long.

The western Goldfield alternative alignment, Goldfield 4, would depart from Common Segment 3 to the north of Black Butte and trend southwest. It would then cross U.S. 95 and turn south toward Goldfield. After passing through the southwestern edge of Goldfield and crossing U.S. 95 again, Goldfield 4 would turn south to connect with Common Segment 4. Goldfield 4 would be about 53 kilometers (33 miles) long.

Bonnie Claire

DOE is considering two alternative alignments, Bonnie Claire 2 and 3. Bonnie Claire 2 would depart Common Segment 4 about 8 kilometers (5 miles) north of Stonewall Pass and would trend east toward the Nevada Test and Training Range for about 5 kilometers (3 miles) before turning south for an additional 17 kilometers (11 miles). Bonnie Claire 2 generally would follow the Nevada Test and Training Range boundary and would join Common Segment 5 in Sarcobatus Flats to the north of Scottys Junction near the intersection of State Route 267 and U.S. 95. Bonnie Claire 2 would be approximately 20 kilometers long.

Bonnie Claire 3 would depart Common Segment 4 about 8 kilometers (5 miles) north of Stonewall Pass. Bonnie Claire 3 would trend generally south, paralleling U.S. 95 to the east. After approximately 10 kilometers (6 miles), Bonnie Claire 3 would turn southeast and continue for an additional 10 kilometers (6 miles) through Sarcobatus Flats. It would then join Common Segment 5 approximately 4 kilometers (2 miles) north of Scottys Junction near the intersection of State Route 267 and U.S. 95. Bonnie Claire 3 would be approximately 20 kilometers (12 miles) long.

Oasis Valley

DOE is considering two alternative alignments, referred to as Oasis Valley 1 and Oasis Valley 3. Oasis Valley 1 would depart Common Segment 5 about 3 kilometers (2 miles) north of Oasis Mountain and would run southeast and connect to Common Segment 6. Oasis Valley 1 would be approximately 10 kilometers (6 miles) long.

Oasis Valley 3 would also depart Common Segment 5 about 3 kilometers (2 miles) north of Oasis Mountain and would run generally east and then south before crossing Oasis Valley farther to the east than Oasis Valley 1, and then connecting to Common Segment 6. Oasis Valley 3 would be 14 kilometers (9 miles) long.

Mina Alternative Alignments

Following receipt of the letter regarding the Walker River Paiute Tribal Council decision (May, 2006), the Department initiated a study to consider the feasibility of the Mina route, and to identify a specific corridor (Mina corridor) and associated preliminary alternative alignments. The process used to identify the preliminary alternative alignments within the Mina corridor is consistent with that described under Caliente Alternative Alignments. Alternative alignments were identified near the Town of Schurz, around the Montezuma Range, north of Scottys Junction (referred to as Bonnie Claire), and in Oasis Valley. These are described below.

Town of Schurz

DOE has identified three alternative alignments that would bypass the Town of Schurz, Nevada. Schurz Bypass 1 would depart from the existing rail line about 30 kilometers (18 miles) northwest of the Town of Schurz passing along the eastern side of the valley (Sunshine Flat). From there, the alignment passes east of Weber Reservoir and crosses U.S. 95 about 8 kilometers (5 miles) north of the intersection of U.S. 95 and Alternate U.S. 95. Schurz Bypass 1 then trends southeast remaining on the far side of the valley to where it rejoins the existing rail line about 13 kilometers (8 miles) south of Schurz. Schurz Bypass 1 would be 51 kilometers (32 miles) long.

Schurz Bypass 2 also would depart the existing line at the same point of departure as Schurz Bypass 1 and would pass along the eastern side of Sunshine Flat. From there, the alignment passes east of Weber Reservoir and crosses U.S. 95 about 7 kilometers (4 miles) north of the intersection of U.S. 95 and Alternate U.S. 95. From there, the alignment trends to the southeast but staying to the east of Schurz and west of Schurz Bypass 1 until it rejoins the existing rail line about 13 kilometers (8 miles) south of Schurz. Schurz Bypass 2 would be 50 kilometers (31 miles) long.

Schurz Bypass 3 would depart the existing rail line about 9 kilometers (6 miles) northwest of the Town of Schurz where it would cross the Walker River. The alignment then crosses U.S. 95 about 8 kilometers (5 miles) north of the intersection of U.S. 95 and Alternate U.S. 95 at which point it continues southeasterly to a point where it rejoins the existing rail line about 13 kilometers (8 miles) south of Schurz, on the east side of the valley.

Montezuma Range

DOE identified two alternative alignments that depart near Blair Junction at the intersection of U.S. 95 and U.S. 6 to avoid the Montezuma Range; they rejoin at a point just east of Lida Junction. The first alignment, Montezuma Range 1, would depart Blair Junction paralleling State Route 265 to the Town of Silver Peak where it would proceed north to follow the western side of Clayton Ridge. The alignment would then turn south approximately 16 kilometers (10 miles) before Railroad Pass at which point it would turn east between the southern end of the Goldfield Hills and the Cuprite Hills. The alignment would then cross U.S. 95 about 7 kilometers (5 miles) north of Lida Junction and, paralleling U.S. 95, then head south to a point just east of Lida Junction. Montezuma Range 1 would be about 134 kilometers (83 miles) long.

Montezuma Range 2, after departing from the intersection of U.S. 95 and U.S. 6, would follow the abandoned Tonopah and Goldfield rail roadbed east to the north of Lone Mountain, at which point the alignment would head south following the abandoned roadbed. The alignment would traverse Montezuma Valley south to Klondike and would then parallel U.S. 95 as it approaches the Town of Goldfield. Montezuma Range 2 would stay west of Goldfield and then trend southeasterly to a point just east of Lida Junction where it would reconnect with Montezuma Range 1. Montezuma Range 2 would be about 135 kilometers (84 miles) long.

Bonnie Claire and Oasis Valley

The Bonnie Claire and Oasis Valley alternative alignments are as described above under Caliente Alternative Alignments.

No Action Alternative

The Council on Environmental Quality and Departmental regulations that implement NEPA require consideration of the alternative of no action. Under the No Action Alternative, DOE would not select a rail alignment within the Caliente or Mina rail corridors for the construction and operation of a rail line. As such, the No Action Alternative provides a basis for comparison to the Proposed Action.

In the event that DOE were not to select a rail alignment in the Caliente or Mina corridors, the future course that it would pursue is uncertain. DOE recognizes that other possibilities could be pursued, including identifying and evaluating alignments in other corridors considered in the Yucca Mountain Final EIS.

Potential Environmental Issues and Resources To be Examined

The Council on Environmental Quality regulations direct Federal agencies preparing an EIS to focus on significant environmental issues (40 CFR 1502.1) and discuss impacts in proportion to their significance (40 CFR 1502.2). Accordingly, the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS will analyze issues and impacts with the amount of detail commensurate with their importance.

To facilitate the scoping process, DOE has identified a preliminary list of issues and environmental resources that it may consider in the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS. The list is not intended to be all-inclusive or to predetermine the scope or alternatives of the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS, but should be used as a starting point from which the public can help DOE define the scope of the EIS.

- Potential impacts to the concept of multiple use as it applies to public land use planning and management specified by the Federal Land Policy and Management Act of 1976.
- Potential impacts to land use and ownership.
- Potential impacts to plants, animals and their habitats, including impacts to wetlands, and threatened and endangered and other sensitive species.
- Potential impacts to cultural resources.
- Potential impacts to American Indian resources.
- Potential impacts to paleontological resources.
- Potential impacts to the public from noise and vibration.
- Potential impacts to the general public and workers from radiological exposures during incident-free operations of the railroad.
- Potential impacts to the general public and workers from radiological exposures from potential accidents during operations of the railroad.
- Potential impacts to water resources and floodplains.
- Potential impacts to aesthetic values.
- Potential disproportionately high and adverse impacts to low-income and minority populations (environmental justice).
- Irretrievable and irreversible commitment of resources.
- Compliance with applicable Federal, state and local requirements.

The Department specifically invites comments on the following relative to the Mina corridor and its alternative alignments:

1. Should additional alternative alignments be considered that might minimize, avoid or mitigate adverse environmental impacts (for example, looking beyond the 0.25 mile wide Mina corridor, avoiding environmentally sensitive areas)?

2. Should any of the preliminary alternatives be eliminated from detailed consideration?

3. Should additional environmental resources be considered?

4.What mitigation measures should be considered?

In addition, the Department is interested in identifying any significant changes to, or new information relevant to, the rail corridors analyzed in the Yucca Mountain Final EIS.

Schedule

The DOE intends to issue the Draft Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS in 2007 at which time its availability will be announced in the **Federal Register** and local media. A public comment period will start upon publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register**. The Department will consider and respond to comments received on the Draft in preparing the Final Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS.

Other Agency Involvement

Currently, the U.S. Bureau of Land Management, U.S. Air Force and the U.S. Surface Transportation Board are cooperating agencies in the preparation of the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS. The Department also expects to invite the following to be cooperating agencies: Walker River Paiute Tribe, U.S. Bureau of Indian Affairs, and the U.S. Army. The Tribe and these agencies have management and regulatory authority over lands traversed by alternative rail alignments within the Mina and Caliente rail corridors, or special expertise germane to the construction and operation of a rail line. DOE will consult with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Nuclear Regulatory Commission, Native American Tribal organizations, the State of Nevada, and Nye, Lincoln, Esmeralda, Mineral, Churchill and Lyon Counties regarding the environmental and regulatory issues germane to the Proposed Action. DOE invites comments on its identification of cooperating and consulting agencies and organizations.

Public Scoping Meetings

DOE will hold public scoping meetings on the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS. The meetings will be held at the following locations and times:

- Amargosa Valley, Nevada. Longstreet Hotel Casino, Nevada State Highway 373, November 1, 2006 from 4–7 p.m.[9]
- Caliente, Nevada. Caliente Youth Center, U.S. 93 North, November 8, 2006 from 6–8 p.m.
- Goldfield, Nevada. Goldfield School Gymnasium, Hall and Euclid, November 13, 2006 from 4–7 p.m.
- Hawthorne, Nevada. Hawthorne Convention Center, 932 E. Street, November 14, 2006 from 4–7 p.m.
- Fallon, Nevada. Fallon Convention Center, 100 Campus Way, November 15, 2006 from 4–7 p.m.

The public scoping meetings will be an open meeting format without a formal presentation by DOE. Members of the public are invited to attend the meetings at their convenience any time during meeting hours and submit their comments in writing at the meeting, or in person to a court reporter who will be available throughout the meeting. This open meeting format increases the opportunity for public comment and provides for one-on-one discussions with DOE representatives involved with

[9] DOE will hold a joint public scoping meeting on the Supplemental Yucca Mountain EIS (DOE/EIS–0250F–S1) and Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS (DOE/EIS–0250F–S2 and DOE/EIS–0369) in Amargosa Valley, Longstreet Hotel Casino, Nevada State Highway 373, November 1 from 4–7 pm. Additional public scoping meetings on the Supplemental Yucca Mountain EIS will be held in Washington, DC, L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW, October 30 from 4–7 pm; and Las Vegas, Cashman Center, 850 North Las Vegas Blvd., November 2 from 4–7 pm.

the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS, and transportation planning in general.

The public scoping meetings will be held during the public scoping comment period. The comment period begins with publication of this Amended Notice of Intent in the **Federal Register** and closes November 27, 2006. Comments received after this date will be considered to the extent practicable. Written comments may be provided in writing, facsimile, or by the Internet to Mr. Lee Bishop, EIS Document Manager (see **ADDRESSES** above).

Public Reading Rooms

Documents referenced in this Amended Notice of Intent and related information are available at the following locations: Beatty Yucca Mountain Information Center, 100 North E. Avenue, Beatty, NV 89003, (775) 553–2130; Esmeralda County Yucca Mountain Oversight Office, 274 E. Crook Avenue, Goldfield, NV 89013, (775) 485–3419; Las Vegas Yucca Mountain Information Center, 4101–B Meadows Lane, Las Vegas, NV 89107, (702) 295–1312; Lincoln County Nuclear Waste Project Office, 100 Depot Avenue, Caliente, NV 89008, (775) 726–3511; Nye County Department of Natural Resources and Federal Facilities, 1210 E. Basin Road, Suite #6, Pahrump, NV 89060 (775) 727–7727; Pahrump Yucca Mountain Information Center, 2341 Postal Drive, Pahrump, NV 89048, (775) 571–5817; University of Nevada, Reno, The University of Nevada Libraries, Business and Government Information Center, M/S 322, 1664 N. Virginia Street, Reno, NV 89557, (775) 784–6500, Ext. 309; and the U.S. Department of Energy Headquarters Office Public Reading Room, 1000 Independence Avenue SW., Room 1E–190 (ME–74) FORS, Washington, DC 20585, 202–586–3142.

Issued in Washington, DC, October 10, 2006.

David R. Hill,

General Counsel.

[FR Doc. 06–8675 Filed 10–10–06; 4:15 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Supplement to the Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, NV

AGENCY: U.S. Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy (DOE or the Department) is announcing its intent to prepare a Supplement to the ''Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada'' (DOE/EIS–0250F, February 2002) (Yucca Mountain Final EIS). The Proposed Action addressed in the Yucca Mountain Final EIS is to construct, operate and monitor, and eventually close a geologic repository at Yucca Mountain in southern Nevada for the disposal of spent nuclear fuel and high-level radioactive waste.

The Yucca Mountain Final EIS considered the potential environmental impacts of a repository design for surface and subsurface facilities, a range of canister packaging scenarios and repository thermal operating modes, and plans for the construction, operation and monitoring, and eventual closure of the repository. The Yucca Mountain Final EIS also considered the environmental impacts of the transportation of spent nuclear fuel and high-level radioactive waste from commercial and DOE sites to the repository by two principal modes—mostly truck and mostly rail. In the Yucca Mountain Final EIS DOE recognized that these repository design concepts and operational plans would continue to develop during the design and engineering process.

Since publication of the Yucca Mountain Final EIS, DOE has continued to develop the repository design and associated plans. As now planned, the proposed surface and subsurface facilities would allow DOE to operate the repository following a primarily canistered approach in which most commercial spent nuclear fuel would be packaged at the commercial sites in multipurpose transport, aging and disposal canisters (TADs), and all DOE materials would be packaged in disposable canisters at the DOE sites. Waste packages would be arrayed in the repository underground to achieve what is referred to as a higher-thermal operating mode, and most spent nuclear fuel and high-level radioactive waste would arrive at the repository by rail.

To evaluate the potential environmental impacts of the current repository design and operational plans, DOE has decided to prepare a Supplement to the Yucca Mountain Final EIS [1], consistent with the National Environmental Policy Act (NEPA) and the Nuclear Waste Policy Act, as amended (Pub. L. 97–425) (NWPA). This Supplemental Yucca Mountain EIS (DOE/EIS–0250–S1) is being prepared to assist the U.S. Nuclear Regulatory Commission (NRC) in satisfying its NEPA responsibilities pursuant to the NWPA (Section 114(f)(4)) [2].

DATES: The Department invites comments on the scope of the Supplemental Yucca Mountain EIS to ensure that all relevant environmental issues are addressed. Public scoping meetings are discussed below in the **SUPPLEMENTARY INFORMATION** section. DOE will consider all comments received during the 45-day public scoping period, which starts with publication of this Notice of Intent and ends November 27, 2006. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Requests for additional information on the Supplemental Yucca Mountain EIS or on the repository program in general, should be directed to: Dr. Jane Summerson, EIS Document Manager, Regulatory Authority Office, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, 1551 Hillshire Drive, M/S 010, Las Vegas, NV 89134, Telephone 1–800–967–3477. Written comments on the scope of the Supplemental Yucca Mountain EIS may be submitted to Dr. Jane Summerson at this address, or by facsimile to 1–800–967–0739, or via the Internet at *http://www.ocrwm.doe.gov* under the caption What's New.

FOR FURTHER INFORMATION CONTACT: For general information regarding the DOE NEPA process contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, Telephone 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

[1] Coincident with this Notice of Intent, DOE is publishing an Amended Notice of Intent to prepare a Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS (DOE/EIS–0250F–S2 and DOE/EIS–0369). That EIS will review the rail corridor analyses of the Yucca Mountain Final EIS, and update, as appropriate, and will analyze the proposed Mina corridor; it also will include detailed analyses of alternative alignments for the construction and operation of a rail line within the Mina corridor, as well as the Caliente corridor.

[2] Section 114(f)(4) of the NWPA provides that any environmental impact statement ''prepared in connection with a repository * * * shall, to the extent practicable, be adopted by the Commission [NRC] in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 * * *.''

Background

Section 111(a)(4) of the NWPA states that the Federal government has the: ''responsibility to provide for the permanent disposal of high-level radioactive waste and such spent nuclear fuel as may be disposed of in order to protect the public health and safety and the environment.''

The NWPA directs the Secretary of Energy, if the Secretary decides to recommend approval of the Yucca Mountain site for development of a repository, to submit a final environmental impact statement with any recommendation to the President. The Department prepared the Yucca Mountain Final EIS to fulfill that requirement.

On February 14, 2002, the Secretary, in accordance with the NWPA, transmitted his recommendation (including the Yucca Mountain Final EIS) to the President for approval of the Yucca Mountain site for development of a geologic repository. The President considered the site qualified for application to the NRC for a construction authorization and recommended the site to the U.S. Congress. Subsequently, on July 23, 2002, the President signed into law (Pub. L. 107–200) a joint resolution of the U.S. House of Representatives and the U.S. Senate designating the Yucca Mountain site for development as a geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste. The Department is now preparing a license application for submittal to the NRC seeking authorization to construct the repository, as required by the NWPA (Section 114(b)).

In the Yucca Mountain Final EIS, DOE considered the potential environmental impacts of a repository design for surface and subsurface facilities, a range of canister packaging scenarios and repository thermal operating modes, and plans for the construction, operation and monitoring, and eventual closure of the repository. The Yucca Mountain Final EIS also described and evaluated the transportation of spent nuclear fuel and high-level radioactive waste from commercial and DOE sites to the repository by two principal modes—mostly truck and mostly rail. DOE recognized at that time that these repository design concepts and operational plans would continue to develop during the design and engineering process.

More specifically, the Yucca Mountain Final EIS included evaluations of separate canistered and uncanistered packaging scenarios for commercial spent nuclear fuel, and a repository design comprised of three primary surface operations areas (North Portal Operations Area, South Portal Development Area, Ventilation Shaft Operations Area) in which spent nuclear fuel and high-level radioactive waste would be handled in two principal facilities (Carrier Preparation Building, Waste Handling Building). The Yucca Mountain Final EIS also evaluated a range of underground thermal operating modes (referred to as lower- and higher-temperature modes) in which heat from the waste packages would raise the temperature of the adjacent rock to a range of temperatures from below the boiling point of water to above the boiling point. Two scenarios, mostly truck and mostly rail, were analyzed for the transportation of spent nuclear fuel and high-level radioactive waste from the commercial and DOE sites to the repository.

Since publication of the Yucca Mountain Final EIS, DOE has continued to develop the repository design and associated plans. As now planned (and described in greater detail in the Proposed Action below), the proposed surface and subsurface facilities would allow DOE to operate the repository following a primarily canistered approach in which most commercial spent nuclear fuel would be packaged at the commercial sites in TADs, and all DOE materials would be packaged in disposable canisters at the DOE sites. These TADs and disposable canisters then would be transported mostly by rail [3] to the repository where they would be placed on aging (or staging) [4] pads prior to disposal, or inserted into waste packages and disposed of in the repository underground.

At the repository site, spent nuclear fuel and high-level radioactive waste would now be handled in up to six principal facilities located within three primary surface operations areas. A fourth operations area would be developed to support excavation of the underground repository. A higher-thermal (temperature) operating mode would be employed.

Based on the current planning, the Department does not believe that any of the developments to the repository design or operational plans would have a significant impact on the environmental effects considered in the Yucca Mountain Final EIS. Nevertheless, to assist NRC in satisfying its NEPA responsibilities pursuant to the NWPA (Section 114(f)(4)), DOE has decided to prepare this Supplemental EIS.

Proposed Action

Under the Proposed Action, DOE would construct, operate and monitor, and eventually close a geologic repository at Yucca Mountain for the disposal of up to 70,000 metric tons of heavy metal (MTHM) of commercial and DOE-owned spent nuclear fuel and high-level radioactive waste.[5] DOE would dispose of these materials in the repository using the inherent, natural geologic features of the mountain and engineered barriers to ensure long-term isolation of the spent nuclear fuel and high-level radioactive waste from the human environment. These materials would be emplaced underground at least 200 meters (660 feet) below the surface and at least 160 meters (530 feet) above the water table. The NRC, through its licensing process, would regulate repository construction, operation and monitoring, and closure.

Under the Proposed Action, most spent nuclear fuel and high-level radioactive waste would be shipped from 72 commercial and 4 DOE sites [6] to the repository in NRC-certified transportation casks placed on trains dedicated only to these shipments. Some shipments, however, would arrive at the repository by truck.

Under the Proposed Action, all DOE spent nuclear fuel and high-level radioactive waste would be placed in disposable canisters at the DOE sites, and as much as 90 percent of the commercial spent nuclear fuel would be placed in TADs at the commercial sites prior to shipment. Upon arrival at the repository, both types of canisters (DOE disposable and TADs) would be placed into corrosion-resistant overpacks

[3] On April 8, 2004 (69 FR 18557), the Department issued a Record of Decision selecting, both nationally and in the State of Nevada, the mostly rail scenario analyzed in the Yucca Mountain Final EIS. This decision will ultimately require the construction of a rail line to connect the repository site at Yucca Mountain to an existing rail line in the State of Nevada.

[4] The terminology refers to retaining commercial spent nuclear fuel on the surface at the repository to meet waste package thermal limits (aging), or to provide a surge capacity to maintain flexibility in waste handling operations (staging).

[5] The 70,000 MTHM includes 63,000 MTHM of commercial spent nuclear fuel, about 2,333 MTHM of DOE fuel (includes about 65 MTHM of naval fuel), and about 4,667 MTHM of DOE high-level radioactive waste.

[6] In 2002, fifty-four additional sites, primarily domestic research reactors, were expected to ship spent nuclear fuel to two DOE sites prior to disposal at the repository (see Records of Decision June 1, 1995 at 60 FR 28680, and March 8, 1996 at 61 FR 9441). Also, the Yucca Mountain Final EIS analyzed fuel shipments from 5 DOE sites, including Fort St. Vrain, to the repository. Presently, it is anticipated that fuel from Fort St. Vrain will be shipped to Idaho National Laboratory prior to being shipped to the repository.

(waste packages) prior to emplacement in the repository underground.

The remaining commercial spent nuclear fuel (about 10 percent) would be transported to the repository in dual-purpose canisters (canisters suitable for storage and transportation), or would be uncanistered. At the repository, uncanistered spent nuclear fuel would be placed directly into TADs and then waste packages for disposal. Commercial spent nuclear fuel arriving in dual-purpose canisters would first be removed from the canisters, placed into TADs and then into waste packages for disposal.

Handling of spent nuclear fuel and high-level radioactive waste would take place in the geologic repository operations area, which includes the North Portal area, the South Portal development area, a North Construction Portal development area, and the surface shaft areas. The surface portion of the geologic repository operations area also would include the facilities necessary to receive, package, and support emplacement of spent nuclear fuel and high-level radioactive waste in the repository. Waste transfer operations would be conducted inside reinforced concrete and metal frame buildings designed and constructed to withstand earthquakes and other phenomena. Workers and the public would be protected from radiation by shielded transfer equipment and walls, exhaust filtering systems, and the use of remotely controlled equipment to remove the waste forms from the transportation casks for insertion into waste packages.

The primary surface waste handling facilities include a wet handling facility, a receipt facility, and three separate canister receipt and closure facilities. DOE also is considering an initial handling facility. These facilities would allow the various types of materials received at the repository to be prepared for disposal.

The wet handling facility would receive commercial spent nuclear fuel as bare fuel assemblies (uncanistered) or in dual-purpose canisters, either in truck or rail transportation casks. Commercial spent nuclear fuel would be transferred underwater from the transportation casks or dual-purpose canisters into TADs. The wet handling facility would include provisions for opening transportation casks and dual-purpose canisters, and for drying and closing the loaded TADs. Loaded TADs either would be placed into overpacks for placement on aging/staging pads, or would be transferred to the canister receipt and closure facilities for loading into waste packages for disposal.

The receipt facility would receive TADs and dual-purpose canisters in rail transportation casks. The TADs and dual-purpose canisters would be transferred (dry) from the transportation casks either to overpacks for placement on the aging/staging pads, or to shielded transfer casks for transfer to the canister receipt and closure facilities. Shielded transfer casks also would transfer dual-purpose canisters to the wet handling facility, as necessary.

The canister receipt and closure facilities would receive DOE disposable canisters and TADs in rail transportation casks, shielded transfer casks and aging/staging overpacks. These facilities also could receive truck casks. There, TADs and DOE disposable canisters would be placed into waste packages for disposal.

If constructed, the initial handling facility would receive DOE high-level radioactive waste canisters and naval spent nuclear fuel canisters in truck and rail transportation casks. These canisters would be removed from the transportation casks and transferred to waste packages for disposal.

Waste packages containing TADs, naval nuclear spent fuel, or DOE disposable canisters would be placed on pallets and loaded onto shielded waste package transporters. The shielded waste package transporters would transfer the waste packages to the underground for emplacement in dedicated tunnels (drifts). In these drifts, waste packages would be aligned end-to-end. Emplacement drifts would be excavated in a series of panels, phased to match the anticipated throughput rate of the surface waste handling facilities.

The repository also would have other underground excavations. These would include, for example, main drifts to provide access to the surface and the emplacement drifts, and exhaust mains to exhaust ventilation air from the emplacement drifts.

Under the Proposed Action, thermal output of the waste packages would heat the adjacent rock in excess of the boiling temperature of water (i.e., higher-thermal operating mode). In this higher-thermal mode, the repository emplacement drifts would remain open and ventilated for a nominal period of 50 years after emplacement of the spent nuclear fuel and high-level radioactive waste; ventilation would remove much of the heat and humidity from the emplacement drifts during this period. The higher thermal operating mode would be achieved by a combination of closely spaced waste packages, a nominal ventilation period of 50 years, and managing waste package thermal output by mixing lower heat output waste packages with higher heat output packages in the drifts (for example).

After the repository is closed and sealed, the rock around the emplacement drifts would dry, minimizing the amount of water that might contact the waste packages for hundreds of years. However, a substantial portion of the rock between the drifts would remain at temperatures below boiling, and this would promote drainage of water through the central portions of the rock, rather than into the emplacement drifts.

The surface and subsurface facilities and associated infrastructure,[7] such as the on-site road and water distribution networks and emergency response facilities, would be constructed in phases to accommodate the expected receipt rates of spent nuclear fuel and high-level radioactive waste. Emplacement (disposal) operations, which would last up to 50 years, would be followed by a preclosure monitoring period of 50 years. Towards the end of the preclosure monitoring period, titanium drip shields would be installed over the waste packages. The drip shields would divert moisture that might drip from the drift walls, as well as condensed water vapor around the waste packages, to the drift floor thereby increasing the life expectancy of the waste packages. Drip shields also would protect the waste packages from rock falls.

Under the Proposed Action, emplaced waste packages could be retrieved at any time prior to 100 years after the start of emplacement. Following waste emplacement, surface facilities would be decommissioned and after the monitoring period the repository would be closed. Closure would involve sealing the shafts, ramps, exploratory boreholes and other repository openings. The main drifts would be filled with crushed rock and surface caps would be installed to discourage human intrusion. A network of monuments and markers would be erected around the site surface to warn

[7] DOE published a ''Draft Environmental Assessment for the Proposed Infrastructure Improvements for the Yucca Mountain Project, Nevada'' on July 6, 2006 (71 FR 38391). DOE proposes to repair, replace, or improve certain infrastructure at the site to enhance safety and to safely continue operations, scientific testing, and maintenance until such time as NRC decides whether to authorize construction of a repository. To the extent that activities proposed by DOE in its environmental assessment, such as construction of a new access road or new power lines, may not be undertaken in the timeframe considered in the environmental assessment, they will be considered in this Supplemental Yucca Mountain EIS (DOE/EIS–0250F–S1).

future generations of the presence and nature of the buried radioactive waste.

No Action Alternative

Under the No Action Alternative, DOE would terminate activities at Yucca Mountain and undertake site reclamation to mitigate any significant adverse environmental impacts. Commercial nuclear power utilities and DOE would continue to manage spent nuclear fuel and high-level radioactive waste at sites throughout the United States. The No Action Alternative was analyzed in the Yucca Mountain Final EIS as a basis for comparison with the Proposed Action.

Since completion of the Yucca Mountain Final EIS, DOE has not identified any relevant changes in circumstances or information bearing on environmental concerns regarding the No Action Alternative. For this reason, DOE anticipates that the Supplemental Yucca Mountain EIS will incorporate by reference the information describing and analyzing the No Action Alternative presented in the Yucca Mountain Final EIS (pursuant to Council on Environmental Quality (CEQ) regulations at 40 Code of Federal Regulations (CFR) 1502.21).

Potential Environmental Issues and Resources To Be Examined

The CEQ regulations direct Federal agencies preparing an EIS to focus on significant environmental issues (40 CFR 1502.1) and discuss impacts in proportion to their significance (40 CFR 1502.2). Accordingly, the Supplemental Yucca Mountain EIS will analyze issues and impacts with the amount of detail commensurate with their importance. Under these guidelines, aspects of the Proposed Action with clearly small environmental impacts usually would require less depth and breadth of analysis. To the degree that the Proposed Action would affect public health or safety, however, the potential impacts generally are a matter of public interest, regardless of their significance. Therefore, DOE plans to pay particular attention to worker and public health and safety associated with the handling and disposal, and transportation of spent nuclear fuel and high-level radioactive waste, even where such impacts would not be significant.

To facilitate the scoping process, DOE has identified a preliminary list of issues and environmental resources that it may consider in the Supplemental Yucca Mountain EIS. The list is not intended to be all-inclusive, but should be used as a starting point for public input on the scope of the Supplemental Yucca Mountain EIS.

- Radiological releases. The potential impacts (i.e., latent cancer fatalities) to the public and workers from potential radiological releases during routine loading of canisters and transportation casks at the commercial sites, and from handling and disposal operations at the repository.
- Worker safety and health. Potential health and safety impacts (i.e., injuries and fatalities) to workers during handling and disposal operations at the commercial and DOE sites and the repository.
- Transportation. The potential radiological and non-radiological impacts (i.e., traffic injuries and fatalities) to the public and workers associated with the shipment of materials to the repository under the mostly rail scenario.
- Accidents. The potential radiological impacts to workers and the public from reasonably foreseeable accidents during loading of canisters at the sites, transportation and repository operations, including any accidents with low probability but high potential consequences.
- Sabotage. The potential radiological impacts to workers and the public from sabotage of transportation and repository operations.
- Waste isolation. Potential radiological and non-radiological impacts (e.g., chemically toxic materials) associated with the long-term performance of the repository.
- Socioeconomic conditions. Potential local regional socioeconomic impacts to the surrounding communities from construction, operation and closure of the repository.
- Water and air resources. Potential impacts to air resources, and water quality and use.
- Cultural resources. Potential impacts to archaeological and historic resources and American Indian issues of concern.
- Biological resources. Potential impacts to plants, animals and their habitats, including impacts to endangered and threatened species.
- Cumulative impacts from the Proposed Action and other past, present and reasonably foreseeable future actions.
- Environmental justice. Potential for disproportionately high and adverse impacts on minority or low-income populations.

Schedule

The DOE intends to issue the Draft Supplemental Yucca Mountain EIS in 2007, at which time its availability will be announced in the **Federal Register** and in media in Nevada. A public comment period will start upon publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register**. DOE will hold public hearings during the comment period. The Department will consider and respond to comments received on the Draft Supplemental Yucca Mountain EIS in preparing the Final Supplemental Yucca Mountain EIS.

Other Agency Involvement

The Department intends to consult with Federal agencies, such as the U.S. Army Corps of Engineers, U.S. Bureau of Land Management, U.S. Air Force, and the U.S. Department of the Navy, and with state agencies, such as the Nevada Department of Transportation and the Nevada Division of Environmental Protection, during preparation of the Supplemental Yucca Mountain EIS.

Public Scoping Meetings

DOE will hold public scoping meetings on the Supplemental Yucca Mountain EIS. The meetings will be held at the following locations and times:

- Washington, District of Columbia, L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., October 30 from 4–7 p.m.
- Amargosa Valley, Nevada. Longstreet Hotel Casino, Nevada State Highway 373, November 1 from 4–7 p.m.[8]
- Las Vegas, Nevada. Cashman Center, 850 North Las Vegas Blvd., November 2 from 4–7 p.m.

The public scoping meetings will be an open meeting format without a formal presentation by DOE. Members of the public are invited to attend the meetings at their convenience any time during meeting hours and submit their comments in writing at the meeting, or in person to a court reporter who will be available throughout the meeting. This open meeting format increases the opportunity for public comment and provides for one-on-one discussions with DOE representatives involved with

[8] DOE will hold a joint public scoping meeting on the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS (DOE/EIS–0250F–S2 and DOE/EIS–0369) and on the Supplemental Yucca Mountain EIS (DOE/EIS–0250F–S1) in Amargosa Valley, Longstreet Hotel Casino, Nevada State Highway 373, November 1 from 4–7 pm. Additional public scoping meetings on the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS will be held in Caliente, Caliente Youth Center, U.S. 93 North, November 8 from 6–8 pm; Goldfield, Goldfield School Gymnasium, Hall and Euclid, November 13 from 4–7 pm; Hawthorne, Hawthorne Convention Center, 932 E. Street, November 14 from 4–7 pm; and Fallon, Fallon Convention Center, 100 Campus Way, November 15, from 4–7 pm.

the Supplemental Yucca Mountain EIS and the repository program.

The public scoping meetings will be held during the public scoping comment period. The comment period begins with publication of this Notice of Intent in the **Federal Register** and closes November 27, 2006. Comments received after this date will be considered to the extent practicable. Written comments may be provided in writing, by facsimile, or via the Internet to Dr. Jane Summerson, EIS Document Manager (see **ADDRESSES** above).

Public Reading Rooms

Documents referenced in this Notice of Intent and related information are available at the following locations: Beatty Yucca Mountain Information Center, 100 North E. Avenue, Beatty, NV 89003, (775) 553–2130; Esmeralda County Yucca Mountain Oversight Office, 274 E. Crook Avenue, Goldfield, NV 89013, (775) 485–3419; Las Vegas Yucca Mountain Information Center, 4101–B Meadows Lane, Las Vegas, NV 89107, (702) 295–1312; Lincoln County Nuclear Waste Project Office, 100 Depot Avenue, Caliente, NV 89008, (775) 726–3511; Nye County Department of Natural Resources and Federal Facilities, 1210 E. Basin Road, Suite #6, Pahrump, NV 89060 (775) 727–7727; Pahrump Yucca Mountain Information Center, 2341 Postal Drive, Pahrump, NV 89048, (775) 571–5817; University of Nevada, Reno, The University of Nevada Libraries, Business and Government Information Center, M/S 322, 1664 N. Virginia Street, Reno, NV 89557, (775) 784–6500, Ext. 309; and the U.S. Department of Energy Headquarters Office Public Reading Room, 1000 Independence Avenue, SW., Room 1E–190 (ME–74) FORS, Washington, DC, 20585, 202–586–3142.

Issued in Washington, DC, October 10, 2006.

David R. Hill,

General Counsel.

[FR Doc. 06–8676 Filed 10–10–06; 4:15 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–445–016]

Alliance Pipeline L.P.; Notice of Negotiated Rates

October 5, 2006.

Take notice that on October 2, 2006, Alliance Pipeline L.P. (Alliance) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, Eleventh Revised Sheet No. 11, to become effective November 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16976 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–154]

CenterPoint Energy Gas Transmission Company; Notice Of Negotiated Rate Filing

October 5, 2006.

Take notice that on October 3, 2006, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing and approval a negotiated rate agreement between CEGT and Norphlet Chemical Incorporated. CEGT has entered into an agreement to provide firm transportation service to this shipper under Rate Schedule FT and requests the Commission accept and approve the transaction under which transportation service will commence upon the later of December 1, 2006, or the ''in-service'' date following completion of necessary delivery facilities.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16984 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–633–000]

Colorado Interstate Gas Company; Notice of Operational Purchases/Sales Annual Report

October 5, 2006.

Take notice that on September 29, 2006, Colorado Interstate Gas Company, (CIG) tendered for filing its annual report of operational purchases and sales in accordance with section 37.3 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment date: 5 p.m. Eastern Time October 12, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16979 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–466–000]

Columbia Gas Transmission Corporation; Notice of Application

October 5, 2006.

Take notice that on September 28, 2006, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed an application in Docket No. CP06–466–000, pursuant to section 7(b) of the Natural Gas Act for approval to abandon, by sale, to Somerset Gas Gathering of Pennsylvania, L.L.C. (Somerset Gas) certain natural gas facilities, known as the 1818/1862 System, located in McKean, Cameron and Clinton Counties, Pennsylvania. Columbia further requests that the Commission find the facilities, when sold, as exempt from the Commission's jurisdiction pursuant to Section 1(c) of the NGA. Additionally, Somerset Gas field in Docket No. CP06–467–000 a request for a limited jurisdiction certificate to provide service to Columbia through the subject facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Fredric J. George, Lead Counsel, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325–1273; telephone (304) 357–2359, fax (304) 357–3206.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right

to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 26, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16987 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1395–002]

Covanta Delaware Valley, L.P.; Notice of Filings

October 6, 2006.

On September 18, 2006, Covanta Delaware Valley, LP filed a triennial market power update, pursuant to the Commission's Order issued July 14, 2000, demonstrating that it continues to lack market power in generation and transmission and cannot erect barriers to entry.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 10, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16961 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–635–000]

Dominion Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 5, 2006.

Take notice that on September 29, 2006, Dominion Transmission Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective November 1, 2006:

Thirtieth Revised Sheet No. 31
Sixth Revised Sheet No. 31A
Thirty-Third Revised Sheet No. 32
Sixth Revised Sheet No. 32A
Nineteenth Revised Sheet No. 34
Fourth Revised Sheet No. 34A
Twenty-Sixth Revised Sheet No. 35
Sixth Revised Sheet No. 35A
Nineteenth Revised Sheet No. 39
Seventh Revised Sheet No. 39A

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16980 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–636–000]

Dominion Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 5, 2006.

Take notice that on September 29, 2006, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective November 1, 2006:

Twenty-Ninth Revised Sheet No. 31
Fifth Revised Sheet No. 31A
Thirty-Second Revised Sheet No. 32
Fifth Revised Sheet No. 32A
Eighteenth Revised Sheet No. 34
Third Revised Sheet No. 34A
Twenty-Fifth Revised Sheet No. 35
Fifth Revised Sheet No. 35A
Eighteenth Revised Sheet No. 39
Sixth Revised Sheet No. 39A

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance

with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16981 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–109–000]

Duquesne Light Company; Notice of Filing

October 5, 2006.

Take notice that on September 29, 2006, Duquesne Light Company (Duquesne) filed a petition for declaratory order requesting approval of incentive rate treatments in connection with a high voltage transmission project that it is planning to construct, or cause to be constructed, to enhance the reliability of 138 kV and 345 kV transmission service to the City of Pittsburgh, Pennsylvania and surrounding areas.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 29, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16971 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–431–002]

El Paso Natural Gas Company; Notice of Request for Waiver

October 6, 2006.

Take notice that on September 29, 2006, El Paso Natural Gas Company (EPNG) tendered for filing a request to permit EPNG to extend certain tariff waivers described in its Supplement to Requests for Waiver Filing filed August 31, 2006 in Docket No. RP06–431–001.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 12, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16965 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–5–003]

Empire State Pipeline and Empire Pipeline, Inc.; Notice of Compliance Filing

October 5, 2006.

Take notice that on September 18, 2006, Empire State Pipeline and Empire Pipeline, Inc. (collectively Empire), submitted a compliance filing pursuant to ''Preliminary Determination on Non-Environmental Issues'' issued July 20, 2006 in Docket No. CP06–5–000, *et al.*, 116 FERC ¶ 61,074.

Empire states that the filing contains: (1) Revised *pro forma* tariff sheets reflecting the Commission's rulings in the July 20, 2006 order as required by Ordering Paragraph G, which include revised recourse rates in accordance with Ordering Paragraph H; (2) revised Exhibit N, Parts 1 and 3, which shows the derivation of the revised initial rates, in accordance with Ordering Paragraph H, including support for

Empire's proposed discount adjustment, as required by Paragraph 106 of the July 20, 2006 order; and (3) the Affidavit of Ronald C. Kraemer, Vice President, which includes additional support for Empire's proposes discount adjustment, as required by Paragraph 106.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time October 23, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16970 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR06–12–000]

Enbridge Pipeline (NE Texas Liquids) L.P.; Notice of Temporary Waiver of Filing and Reporting Requirements

October 5, 2006.

Take notice that on August 23, 2006, Enbridge Pipelines (NE Texas Liquids) L.P. (Enbridge) filed a Petition for Temporary Waiver of Filing and Reporting Requirements of the Interstate Commerce Act (ICA) Section 6 and Section 20 applicable to interstate common carrier pipelines for its new liquids pipeline, the Hide Town Line. Enbridge states that it anticipates that it will complete the construction and testing of both the Hide Town Plant and the Hide Town Line no later than mid-October 2006. Enbridge requests approval to permit use of the Hide Town Line by November 1, 2006.

Enbridge states that it is in the process of constructing a new natural gas processing plant (the Hide Town Plant) and a new, dedicated liquids pipeline to transport the products from the Hide Town Plant to downstream, interstate markets. All of the throughput moved on the pipeline will be owned by an Enbridge affiliate. There will not be any intermediate points on the pipeline, nor has any third-party expressed an interest in becoming a shipper on the pipeline.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time October 10, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16973 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–095]

Gas Transmission Northwest Corporation; Notice of Negotiated Rate

October 5, 2006.

Take notice that on September 29, 2006, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1-A, the following tariff sheets, to become effective October 1, 2006:

Thirty-Eighth Revised Sheet No. 15, Eighth Revised Sheet No. 17.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16968 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–3–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes in FERC Gas Tariff

October 6, 2006.

Take notice that on October 2, 2006, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its Sixth Revised Volume No. 1 FERC Gas Tariff, the following tariff Sheets, to become effective November 1, 2006:

First Revised Sheet No. 1103
Second Revised Sheet No. 1104

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16959 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR06–22–000]

Kinder Morgan Border Pipeline, L.P.; Notice of Petition for Rate Approval

October 6, 2006.

Take notice that on September 29, 2006, Kinder Morgan Border Pipeline, L.P. (KM Border) filed a petition for rate approval for NGPA Section 311 maximum transportation rates, pursuant to Section 284.123(b)(2) of the Commission's regulations.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time October 27, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16964 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–2–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

October 5, 2006.

Take notice that on October 2, 2006, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Eleventh Revised Sheet No. 478, with an effective date of November 1, 2006.

National Fuel states that copies of the filing were served upon its customers and interested State commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that

document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16983 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–061]

Northern Natural Gas Company; Notice of Negotiated Rates

October 5, 2006.

Take notice that on October 4, 2006, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective on November 1, 2006:

42 Revised Sheet No. 66.
36 Revised Sheet No. 66A.
Fifth Revised Sheet No. 66B.

Northern states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16985 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–1–000]

Paiute Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 2006.

Take notice that on October 2, 2006, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, the following tariff sheets, to be effective November 1, 2006:

Third Revised Sheet No. 25
Eighth Revised Sheet No. 63
Fifth Revised Sheet No. 63A
Third Revised Sheet No. 65A
Third Revised Sheet No. 66

Paiute states that copies of this filing are being served upon all of Paiute's customers and interested State regulatory commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16982 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–467–000]

Somerset Gas Gathering of Pennsylvania, L.L.C.; Notice of Application

October 5, 2006.

Take notice that on September 28, 2006, Somerset Gas Gathering of Pennsylvania, L.L.C. (Somerset Gas), filed an application in Docket No. CP06–467–000, pursuant to section 1(b) of the Natural Gas Act for a Limited Jurisdiction Certificate to provide transportation service to Columbia Gas Transmission Corporation (Columbia) through certain natural gas facilities, known as the 1818/1862 System, located in McKean, Cameron and Clinton Counties, Pennsylvania, that Columbia proposes to abandon, by sale, to Somerset Gas in Docket No. CP06–466–000, all as more fully set forth in the application which is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Gregory D. Russell, Vorys, Sater, Seymour and Pease, LLP, 52 East Gay Street, P.O. Box 1008, Columbus, Ohio 43216–1008; telephone (614) 464–5468, fax (614) 719–4935.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 26, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16969 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–073]

TransColorado Gas Transmission Company; Notice of Negotiated Rate

October 5, 2006.

Take notice that on October 3, 2006, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Tenth Revised Sheet No. 22B, to be effective October 4, 2006.

TransColorado states that the tendered tariff sheet proposes to revise TransColorado's Tariff to reflect an amended negotiated-rate contract.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16986 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–619–001]

Transcontinental Gas Pipe Line Corporation; Notice of Corrected Tariff Sheet

October 5, 2006.

Take notice that on October 4, 2006, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Ninth Revised Sheet No. 30 to be effective November 1, 2006.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16977 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–406–002]

Williams Power Company, Inc.; Notice of Filing

October 5, 2006.

Take notice that on October 3, 2006, Williams Power Company, Inc. filed a response to the Commission's September 26, 2006 deficiency letter.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16972 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–632–000]

Wyoming Interstate Company, Ltd.; Notice of Operational Purchases/Sales Annual Report

October 5, 2006.

Take notice that on September 29, 2006, Wyoming Interstate Company, Ltd. (WIC) tendered for filing its annual report of operational purchases and sales in accordance with section 33.3 of the general terms and conditions of its FERC Gas Tariff, Second Revised Volume No. 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time October 12, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16978 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 5, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–168–000.

Applicants: Triton Power Michigan LLC; Thermo Cogeneration Partnership, L.P.

Description: Triton Power Michigan LLC and Thermo Cogeneration Partnership submit their application for authorization under Section 203 of the FPA.

Filed Date: 09/27/2006.

Accession Number: 20061003–0146.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 18, 2006.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG06–84–000.

Applicants: Peetz Logan Interconnect, LLC.

Description: Peetz Logan Interconnect, LLC submits a notice of self-certification of exempt wholesale generator status.

Filed Date: 09/27/2006.

Accession Number: 20061003–0304.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 18, 2006.

Docket Numbers: EG07–1–000.

Applicants: Ewington Energy Systems LLC.

Description: Ewington Energy Systems LLC submits a Notice of Self-Certification of Exempt Wholesale Generator Status located in Jackson County, MN.

Filed Date: 10/03/2006.

Accession Number: 20061003–5033.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 24, 2006.

Docket Numbers: EG07–2–000.

Applicants: Cisco Wind Energy LLC.

Description: Cisco Wind Energy LLC submits a Notice of Self Certification of Exempt Wholesale Generator Status.

Filed Date: 10/03/2006.

Accession Number: 20061003–5037.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 24, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER94–1188–041; ER98–4540–010; ER99–1623–010; ER98–179–012; ER06–1046–003.

Applicants: LG&E Energy Marketing Inc.; Louisville Gas & Electric Company; Kentucky Utilities company; Western Kentucky Energy Corporation.

Description: LG&E Energy Marketing Inc et al submits a notice of change in status with regard to the characteristics upon which FERC previously relied in granting the E.ON Parties market-based rate authority.

Filed Date: 10/02/2006.

Accession Number: 20061005–0035.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER98–1150–008.

Applicants: Tucson Electric Power Company.

Description: Tucson Electric Power Co notifies FERC that it has began purchasing up to 100 MW of power from Tri-State Generation and Transmission Association, Inc, effective 9/1/06 under ER98–1150.

Filed Date: 09/27/2006.

Accession Number: 20061004–0053.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 18, 2006.

Docket Numbers: ER99–1005–006.

Applicants: Kansas City Power & Light Company.

Description: Kansas City Power & Light Co submits a notice of a non-material change in status, related market-based rate authority granted pursuant to the reporting requirements of Order 652.

Filed Date: 10/03/2006.

Accession Number: 20061003–0097.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 24, 2006.

Docket Numbers: ER02–2560–006.

Applicants: Louisville Gas & Electric Company; Kentucky Utilities Company.

Description: Louisville Gas & Electric Company & Kentucky Utilities Company in compliance electric refund report.

Filed Date: 10/02/2006.

Accession Number: 20061002–5037.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER04–1232–005.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool Inc submits revised pages to its OATT intended to implement the rate change for Southwestern Public Service Co.

Filed Date: 10/02/2006.

Accession Number: 20061003–0248.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER05–1235–003; ER06–847–002.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Co submits a compliance filing, pursuant to Commission's 9/1/06 Order.

Filed Date: 10/02/2006.

Accession Number: 20061003–0249.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER06–20–006.

Applicants: Louisville Gas & Electric Company; E.ON US, LLC.

Description: E.ON US, LLC et al submits a joint OATT pursuant to the August 23, 2006 letter order.

Filed Date: 09/28/2006.

Accession Number: 20061003–0255.

Comment Date: 5 p.m. Eastern Time on Thursday, October 19, 2006.

Docket Numbers: ER06–1001–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator Inc submits proposed revisions to Schedule 10—FERC (Annual Charge Recovery), OAT&EM Tariff.

Filed Date: 10/02/2006.

Accession Number: 20061003–0247.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER06–1024–001.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Co submits an amendment to its 5/19/06 filing to revise Service Agreements 4 & 6.

Filed Date: 10/02/2006.

Accession Number: 20061005–0031.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER06–1088–001.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc on behalf of Entergy Operating Companies submits corrections to its 6/1/06 filing of the 2006 rate redetermination.

Filed Date: 10/02/2006.

Accession Number: 20061004–0138.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER06–1346–001.

Applicants: White Creek Wind I, LLC.

Description: White Creek Wind I, LLC submits an amendment to its 8/4/06 application and the amended tariff.

Filed Date: 10/02/2006.

Accession Number: 20061003–0245.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER06–1544–000.

Applicants: AEP Texas North Company.

Description: AEP Texas North Co submits seven ERCOT Generation Interconnection Agreements with AEP Texas North Generation Co.

Filed Date: 09/28/2006.

Accession Number: 20061003–0178.

Comment Date: 5 p.m. Eastern Time on Thursday, October 19, 2006.

Docket Numbers: ER06–1547–000.

Applicants: Duke Power Company LLC.

Description: Duke Power Company, LLC dba Duke Energy Carolinas, LLC submits the 7/19/06 Confirmation with North Carolina Municipal Power Agency Number 1.

Filed Date: 09/29/2006.

Accession Number: 20061003–0124.

Comment Date: 5 p.m. Eastern Time on Friday, October 20, 2006.

Docket Numbers: ER06–1549–000.

Applicants: Duquesne Light Company.

Description: Duquesne Light Co submits First Revised Sheet 314 et al to FERC Electric Tariff, Sixth Revised Volume 1 to be effective 12/1/06.

Filed Date: 09/29/2006.

Accession Number: 20061003–0240.

Comment Date: 5 p.m. Eastern Time on Friday, October 20, 2006.

Docket Numbers: ER07–1–000.

Applicants: FirstEnergy Solutions Corp.

Description: FirstEnergy Solutions Corporation submits a request for authorization to sale electricity to Pennsylvania Power Company.

Filed Date: 10/02/2006.

Accession Number: 20061004–0127.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER07–2–000.

Applicants: PSI Energy, Inc.

Description: PSI Energy Inc dba Duke Energy Indiana, Inc on behalf of itself and Indiana Municipal Power Agency submits the Ninth Amendment to the Power Coordination Agreement.

Filed Date: 10/02/2006.

Accession Number: 20061004–0067.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER07–3–000.

Applicants: Central Hudson Gas & Electric Corporation.

Description: Central Hudson Gas & Electric Corp submits its Rate Schedule 206, Original Sheet Nos. 1–6, effective 8/1/06.

Filed Date: 10/02/2006.

Accession Number: 20061004–0164.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER07–4–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits an executed Interconnection Agreement w/ Southwestern Electric Power Company et al designated as Service Agreement No. 1285.

Filed Date: 10/02/2006.

Accession Number: 20061004–0068.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER07–5–000.

Applicants: WPS Resources Operating Companies; Upper Peninsula Power Company.

Description: WPS Resources Operating Companies on behalf of Wisconsin Public Service Corp et al submits two notices of cancellation and two revised service agreement cover sheets.

Filed Date: 10/02/2006.

Accession Number: 20061004–0069.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER07–7–000.

Applicants: Black Rock Group, LLC.

Description: Black Rock Group, LLC submits a notice of cancellation of its FERC Electric Tariff, Original Volume 1.

Filed Date: 10/02/2006.

Accession Number: 20061005–0032.

Comment Date: 5 p.m. Eastern Time on Monday, October 23, 2006.

Docket Numbers: ER07–8–000.

Applicants: GGBB Energy, Inc.

Description: GGBB Energy, Inc submits a Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority designated as FERC Electric Tariff, Original Volume 1.

Filed Date: 10/03/2006.

Accession Number: 20061005–0033.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 24, 2006.

Docket Numbers: ER07–9–000.

Applicants: Rowan County Power, LLC.

Description: Rowan County Power, LLC submits a Notice of Cancellation of its market-based rate tariff, FERC Electric Tariff, Third Revised Volume No. 1.

Filed Date: 10/03/2006.

Accession Number: 20061005–0034.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 24, 2006.

Docket Numbers: ER07–10–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co submits its Communication Facilities Agreement with the City of Riverside, California.

Filed Date: 10/03/2006.

Accession Number: 20061005–0030.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 24, 2006.

Docket Numbers: ER07–11–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison submits First Revised Sheet 256 et al, First Revised Volume 5, to be effective 12/2/06.

Filed Date: 10/03/2006.

Accession Number: 20061005–0056.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 24, 2006.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC07–1–000.

Applicants: Uskmouth Power Limited.

Description: Uskmouth Power Ltd submits a Foreign Utility Notice of Self Certification pursuant to section 366.1 of PUCHA.

Filed Date: 10/03/2006.

Accession Number: 20061003–5016.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 24, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's

eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16967 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–12514–000]

Northern Indiana Public Service Company; Norway-Oakdale Project, Indiana; Notice of Availability of Environmental Assessment

October 6, 2006.

In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and Federal Energy Regulatory Commission (Commission) regulations (18 CFR part 380), Commission staff have reviewed the application for license for the Norway-Oakdale Project and have prepared an environmental assessment (EA) for the project. The project is located on the Tippecanoe River in Carroll and White counties, Indiana.

In this EA, Commission staff analyzes the probable environmental effects of implementing the project and conclude that approval of the project, with appropriate staff-recommended environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in Public Reference Room 2–A of the Commission's offices at 888 First Street, NE., Washington, DC. The EA also may be viewed on the Commission's Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Additional information about the project is available from the Commission's Office of External Affairs at (202) 502–6088, or on the Commission's Web site using the ''eLibrary'' link. For assistance with eLibrary, contact *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659.

Any comments on the EA should be filed within 30 days of the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please reference the specific project and FERC Project No. on all comments. Comments may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

For further information please contact: Sergiu Serban (202) 502–6211 or at *sergiu.serban@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–16962 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2082–027]

PacifiCorp; Oregon and California; Notice of Intention To Hold Public Meetings for Discussion of the Draft Environmental Impact Statement for the Klamath Hydroelectric Project

October 5, 2006.

On September 25, 2006, Commission staff delivered the Draft Environmental Impact Statement (DEIS) for the relicensing of the Klamath Hydroelectric project to the Environmental Protection Agency and mailed it to resource and land management agencies, interested organizations, and individuals.

The DEIS was noticed in the **Federal Register** on September 29, 2006 (71 FR 57503) and comments are due November 24, 2006. The DEIS evaluates the environmental consequences of the issuance of a new license for the continued operation and maintenance of the Klamath Hydroelectric, located primarily on the Klamath River, in Klamath County, Oregon and Siskiyou County, California. The existing project occupies a total of 219 acres of land administered by the U.S. Bureaus of Land Management and Reclamation. It also evaluates the environmental effects of implementing the licensee's proposals, agency and NGO recommendations, staff's recommendations, and the no-action alternative.

Four public meetings, which will be recorded by an official stenographer, are scheduled as follows.

Date: Tuesday, November 14, 2006.

Time: 9 a.m.–12 noon (PST).

Place: Shilo Inn.

Address: 2500 Almond Street, Klamath Falls, Oregon.

Date: Wednesday, November 15, 2006.

Time: 9 a.m.–12 noon (PST).

Place: Yreka Community Theatre.

Address: 812 North Oregon Street, Yreka, California.

Date: Wednesday, November 15, 2006.

Time: 7–10 p.m. (PST).

Place: Yreka Community Theatre.

Address: 812 North Oregon Street, Yreka, California.

Date: Thursday, November 16, 2006.

Time: 7–10 p.m. (PST).

Place: Red Lion Hotel.

Address: 1929 Fourth Street, Eureka, California.

At these meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the DEIS for the Commission's public record.

For further information, please contact John Mudre at e-mail address *john.mudre@ferc.gov*, or by telephone at (202) 502–8902.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16974 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

October 5, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2210–141.

c. *Date filed:* September 8, 2006.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Smith Mountain Pumped Storage Project.

f. *Location:* The project is located on the Roanoke River, in Bedford, Pittsylvania, Franklin, and Roanoke Counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and 799 and 801.

h. *Applicant Contact:* Teresa P. Rogers, Hydro Generation Department, Appalachian Power, P.O. Box 2021, Roanoke, VA 24022–2121, (540) 985–2441.

i. *FERC Contact:* Jon Cofrancesco at 202–502–8951, or e-mail *Jon.Cofrancesco@ferc.gov*

j. *Deadline for filing comments and/or motions:* November 6, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2210–141) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Application:* The licensee requests a variance to grant David L. Madary permission to construct a floating dock that will serve a single family home in the Beaverdam Creek area of Bedford County, Virginia. The proposed structure will be located adjacent to shoreline classified as Conservation/Environmental according to the Shoreline Management Plan, approved on July 5, 2005. The licensee is requesting the variance because the proposed action is not in conformance with the approved Shoreline Management Plan because of its proximity to wetlands. The licensee submitted the request for variance because the wetlands will not be impacted nor will vegetation be removed from the project boundary.

l. *Location of Application:* The filing is available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online support at *FERCOnlineSupport@ferc.gov* or toll free (866) 208–3676 or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''Comments'', ''Recommendations for Terms and Conditions'', ''Protest'', or ''Motion to Intervene'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16975 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR04–6–000]

Cranberry Pipeline Corp.; Notice of Technical Conference

October 6, 2006.

Take notice that the Commission will convene a technical conference on Wednesday, November 8, 2006, at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

On November 14, 2005, Cranberry Pipeline Corp. (Cranberry) filed a revised statement of operating conditions in order to comply with the Commission's September 13, 2005 order in this proceeding. *Cranberry Pipeline Corp.*, 112 FERC ¶ 61,268 (2005). In its filing, Cranberry stated that, if the Consumer Advocate Division of the State of West Virginia Public Service Commission (CAD) renewed its protests of the Statement of Operating Conditions, Cranberry requested that a technical conference be convened. In its December 18, 2005 protest of the compliance filing, CAD stated it had no objection to Cranberry's request for a technical conference.

On January 4, 2006, Cranberry answered the protests of CAD and the Public Service Commission of West Virginia, and reiterated that, in light of the two protests, it requested a technical conference to permit it to support its proposed terms and conditions for storage service, and to permit the parties to explain their respective positions.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

All interested parties and staff are permitted to attend. For further information please contact Eric Winterbauer at (202) 502–8329 or e-mail *eric.winterbauer@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–16963 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD06–11–000]

Transparency Provisions of the Energy Policy Act of 2005; Program for the Technical Conference

October 6, 2006.

On September 5, 2006 and on September 29, 2006, the Federal Energy Regulatory Commission (Commission) announced that a conference will be held in the above-referenced proceeding on October 13, 2006, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in the Commission Meeting Room from 9:30 a.m. until 3 p.m. (EDT). The Chairman and Commissioners are expected to attend.

All interested persons are invited to attend. There is *no* registration or fee to attend.

Sections 316 and 1281 of the Energy Policy Act of 2005,[1] respectively, added section 23 to the Natural Gas Act [2] and section 220 to the Federal Power Act.[3] These sections provide that the Commission may act to facilitate price transparency in wholesale natural gas and electricity markets, and authorize the Commission to adopt such rules as may be necessary to assure the timely dissemination of information about the availability and prices of natural gas and electric energy and transmission service in such markets.

The conference will consist of two panels. The morning panel will focus on natural gas and the afternoon panel will focus on electric energy. Each panel will include representatives from across the relevant industry, with as broad representation as possible (industry representatives). In addition, representatives from the index publishers, relevant markets, and other market information providers will in attendance and available to answer questions or respond to points during the discussion (information providers). The Commission regrets that all requests to be panelists could not be accommodated because of time limitations. Any interested persons may submit comments into the docket, preferably by November 1, 2006.

Each panel will begin with short statements (no longer than three minutes) by the industry representatives related to the questions published in the September 29, 2006 notice. Following those initial statements, the industry representatives and, as needed, the information providers will engage in discussion led by questions from the Commissioners and staff. Before the end of the panel, the information providers will be permitted a short statement (no longer than two minutes) to respond to issues discussed or to summarize how their services support the goals of market transparency.

The morning panel will focus on facilitating price transparency in markets for the sale or transportation of physical natural gas in interstate commerce.

Panel 1 9 a.m.–11:30 a.m.

- Christopher Conway, President, Conoco/Phillips Gas and Power, and Chairman of Natural Gas Supply Association.
- Donald Santa, President, Interstate Natural Gas Association of America.
- Jane R. Lewis-Raymond, Vice President, General Counsel, Corporate Secretary & Chief Compliance Officer-Piedmont Natural Gas Co., representing the American Gas Association.
- Les Fyock, Vice President, American Public Gas Association.
- Alex Strawn, Senior Purchasing Manager, Proctor & Gamble, and Chairman of Process Gas Consumers.
- Paul Cicio, Executive Director, Industrial Energy Consumers of America
- Sheila Rappazzo, Chief, Gas Policy Office of Gas & Water, NY State Department of Public Service.

To respond to comments and questions from the Commissioners, staff, or industry representatives listed above, the following information providers will be present:

- Michael Prokop, Executive Vice President, Amerex Brokers, LLC.
- Porter Bennett, President, Bentek Data.
- Bob Anderson, Executive Director of CCRO and President of Energy Data. Hub, representing Committee of Chief Risk Officers.
- Sean O'Leary, Chief Executive Officer, Genscape.
- Chuck Vice, President & Chief Operating Officer, InterContinental Exchange (ICE).
- Larry Foster, Global Editorial Director, Power, McGraw Hill Platts.
- Dexter Steiss, Executive Publisher, Natural Gas Intelligence.
- Robert Levin, Senior Vice President, Research Department NYMEX.
- Andrew Ott, Vice President of Market Services, PJM, on behalf of PJM and the ISO/RTO Council.
- Randy Rischard, Publisher, SNL Energy.

The afternoon panel will focus on facilitating price transparency in markets for the sale and transmission of electric energy in interstate commerce.

Panel 2 1 p.m.–3 p.m.

- John E. Shelk, President and Chief Executive Officer, Electric Power Supply Association.
- Gloria Halstead, Director, Federal Agency Relations, Edison Electric Institute.
- Howard Spinner, Virginia State Corporation Commission.
- Jeffrey L. Walker, Senior Vice President President & Chief Risk Officer ACES Power Marketing.

To respond to comments and questions from the Commissioners, staff or industry representatives listed above, the following information providers will be present:

- Michael Prokop, Executive Vice President, Amerex Brokers, LLC.
- Bob Anderson, Executive Director of CCRO and President of Energy Data Hub, representing Committee of Chief Risk Officers.
- Sean O'Leary, Chief Executive Officer, Genscape.
- Chuck Vice, President & Chief Operating Officer, InterContinental Exchange (ICE).
- Brian Jordan, McGraw Hill Platts.
- Ron McNamara, Vice President, Market Management & Chief Economist, MISO.
- Robert Levin, Senior Vice President, Research Department NYMEX.
- Andrew Ott, Vice President of Market Services, on behalf of PJM Interconnection and the ISO/RTO Council.
- Randy Rischard, Publisher, SNL Energy.

The sessions will be dedicated, for the most part, to a discussion of the availability of information that the market deems necessary to transact business effectively and efficiently, how should it be disseminated, what necessary data is in abundance and what data is either hard to acquire or unavailable, and what more (if anything) should the Commission do.

As previously announced, a free webcast of this event will be available through *www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the webcasts and offers access to the meeting via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

Transcripts of the meeting will be available immediately for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646). They will be available for free on the Commission's eLibrary system and on the events calendar approximately one week after the meeting.

FERC conferences and meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

Questions about the conference should be directed to Saida Shaalan, by

[1] Energy Policy Act of 2005, §§ 316 and 1281, Pub. L. No. 109–59, 119 Stat. 594, 691–92 and 978–79 (2005).

[2] 15 U.S.C. § 717t–2 (2005).

[3] 16 U.S.C. § 824t (2005).

e-mail at *Saida.Shaalan@FERC.gov* or by phone at 202–502–8278.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16966 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD07–2–000]

Technical Conference on Public Utility Holding Company Act of 2005 and Federal Power Act Section 203 Issues; Notice of Technical Conference

October 6, 2006.

Take notice that on December 7, 2006, a technical conference will be held at the Federal Energy Regulatory Commission (Commission) to discuss certain issues raised in rulemakings issued in Docket Nos. RM05–32 and RM05–34. *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005*, Order No. 667, FERC Stats. & Regs. ¶ 31,197 (2005), order on reh'g, Order No. 667–A, FERC Stats. & Regs. ¶ 31,213, order on reh'g, Order No. 667–B, FERC Stats. & Regs. ¶ 31,224 (2006), *reh'g pending; Transactions Subject to FPA Section 203,* Order No. 669, FERC Stats. & Regs. ¶ 31,200 (2006), order on reh'g, Order No. 669–A, FERC Stats. Regs. ¶ 31,214 (2006), *order on reh'g*, Order No. 669–B, FERC Stats. & Regs. ¶ 31,225 (2006). The technical conference will be held from 9:30 a.m. to 4:30 p.m. (EST) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in the Commission Meeting Room. All interested persons are invited to attend. A further notice with a detailed agenda will be issued in advance of the conference.

A free webcast of this event will be available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For more information about this conference, please contact:

Andrew P. Mosier, Jr., Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6274, *Andrew.Mosier@ferc.gov.*

Roshini Thayaparan, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6857, *Roshini.Thayaparan@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–16960 Filed 10–12–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6680–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 2006 (71 FR 17845).

Draft EISs

EIS No. 20060084, ERP No. D–AFS–K65302–CA, Commercial Park Stock Permit Reissuance for the Sierra National Forest and Trail Management Plan for the Dinkey Lakes Wilderness, Application Reissuance Special-Use-Permit, Mariposa, Madera and Fresno Counties, CA.

Summary: EPA expressed environmental concerns about the adverse impacts of sediment and manure to water quality. Alternative 3—Destination Management offers the best remedy and should be given additional consideration. The final EIS should include a detailed monitoring and enforcement plan.

Rating EC2.

EIS No. 20060181, ERP No. D–BLM–K08031–00, Devers-Palo Verde No. 2 Transmission Line Project, Construction and Operation a New 230-mile 500 kV Electric Transmission Line between Devers Substation in California and Harquahala Generating Substation in Arizona.

Summary: EPA expressed environmental concerns with potential impacts to wetlands and air quality. The final EIS should include a more detailed discussion of cumulative impacts to air quality and riparian habitat.

Rating EC2.

EIS No. 20060321, ERP No. D–AFS–K65318–CA, Diamond Vegetation Management Project, To Shift Existing Conditions Toward Desired Future Conditions, MT. Hough Ranger District, Plumas National Forest, Plumas County, CA.

Summary: EPA expressed environmental concerns about impacts to water quality and requested additional information on cumulative watershed effects in Riparian Habitat Conservation Areas. The final EIS should include mitigation measures to further reduce erosion from roads, stream bank instability and channel erosion.

Rating EC2.

Final EISs

EIS No. 20060281, ERP No. F–NPS–K39095–CA, Furnace Creek Water Collection System, Reconstruction, Death Valley National Park, Implementation, Inyo County, CA.

Summary: The Final EIS addressed EPA's concerns with a discharge of reverse osmosis residuals into Furnace Creek; therefore, EPA has no objections to the project.

EIS No. 20060288, ERP No. F–FTA–K54030–CA, Warm Springs Extension, Proposing 5.4 mile Extension of the BART System in the City of Fremont, Funding, San Francisco Bay Area Rapid Transit District, Alameda County, CA.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20060367, ERP No. F–FHW–J40172–UT, Syracuse Road 1000 West to 2000 West, Transportation Improvements, Funding and U.S. Army COE Section 404 Permit, Syracus City, Davis County, UT.

Summary: No formal comment letter was sent to the preparing agency.

Dated: October 10, 2006.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E6–17014 Filed 10–12–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6680–1]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*. Weekly receipt of Environmental Impact Statements Filed 10/02/2006 through 10/06/2006. Pursuant to 40 CFR 1506.9.

EIS No. 20060406, Draft EIS, BLM, AK, Bay Resource Management Plan, Implementation, Located within the Bristol Bay and Goodnews Bay Areas, AK, Comment Period Ends: 01/11/2007, Contact: Mark Fullmer 907–267–1246

EIS No. 20060407, Final EIS, NPS, WA, Ebey's Landing National Historical Reserve General Management Plan, Implementation, Town of Coupeville, Island County, WA, Wait Period Ends: 11/16/2006, Contact: Rob Harbour 360–678–6084

EIS No. 20060408, Draft EIS, FAA, NM, Taos Regional Airport (SKX) Airport Layout Plan Improvements, Construction and Operation, Town of Taos, Taos County, NM, Comment Period Ends: 11/27/2006, Contact: Joyce M. Porter 817–222–5644.

EIS No. 20060409, Final EIS, AFS, UT, Lake Project, Proposal to Maintain Vegetative Diversity and Recover Economic Value of Dead, Dying and High Risk to Mortality Trees, Manti-La Sal National Forest, Ferron/Price Ranger District, Emery and Sanpete Counties, UT, Wait Period Ends: 11/16/2006, Contact: Diane Cote 435–636–3320.

EIS No. 20060410, Final EIS, AFS, 00, Wasatch-Cache National Forest Noxious Weed Treatment Program, Proposes to Treat Noxious Weeds 1.2 Million Acres of Wilderness and Non-Wilderness Areas, several counties, UT and Uinta County, WY, Wait Period Ends: 11/16/2006, Contact: Mike Duncan 801–236–3415.

EIS No. 20060411, Draft Supplement, COE, 00, PROGRAMMATIC—Fort Bliss Texas and New Mexico Mission and Master Plan, To Modify Current Land Use, EL Paso, TX and Dona Ana and Otero Counties, NM, Comment Period Ends: 12/12/2006 Contact: John Barrera 915–568–3908.

EIS No. 20060412, Draft EIS, FTA, MO, Branson Transit Study, Proposed Alternatives Analysis selection, Transit Improvements, City of Branson, Taney County, MO, Comment Period Ends: 11/27/2006, Contact: Joan Roeseler 816–329–3936

EIS No. 20060413, Draft EIS, FTA, FL, PROGRAMMATIC—South Florida East Coast Corridor Transit Analysis Study Tier 1, To Address Transportation Demand, Miami-Dade, Broward and Palm Beach Counties, FL, Comment Period Ends: 12/08/2006, Contact: Tony Dittmeier 404–562–3512.

EIS No. 20060414, Draft EIS, USA, CO, Pinon Canyon Maneuver Site (PCMS) Transformation Program, Implementation, Base Realignment and Closure Activities, Fort Carson, Las Animas, Otero and Huerfano Counties, CO, Comment Period Ends: 11/27/2006, Contact: Karen Wilson 703–602–2861

EIS No. 20060415, Draft EIS, USA, CO, Fort Carson Transformation Program, Implementation, Base Realignment and Closure Activities, Fort Carson, El Paso, Pueblo and Fremont Counties, CO, Comment Period Ends: 11/27/2006, Contact: Karen Wilson 703–602–2861.

EIS No. 20060416, Draft EIS, NOA, 00, Gulf of Mexico Red Snapper Total Allowable Catch and Reduce Bycatch in the Gulf of Mexico Directed and Shrimp Trawl Fisheries, To Evaluate Alternatives, Gulf of Mexico, Comment Period Ends: 11/27/2006, Contact: Roy E. Crabtree 727–824–5305

EIS No. 20060417, Final EIS, COE, NJ, NJ–92 Project, New Jersey Turnpike Authority, Transportation Improvement from East-West Highway Link connecting U.S. Route 1 in South Brunswick Township with the New Jersey Turnpike at Interchange 8A in Monroe Township, Middlesex County, NJ, Wait Period Ends: 11/16/2006, Contact: James Cannon 917–790–8412.

Dated: October 10, 2006.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E6–17013 Filed 10–12–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0816; FRL–8097–3]

The Association of American Pesticide Control Officials State FIFRA Issues Research and Evaluation Group Working Committee on Water Quality Pesticide Disposal; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality and Pesticide Disposal (WQ/PD) will hold a 2–day meeting, beginning on November 6, 2006 and ending November 7, 2006. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on November 6, 2006 from 8.30 a.m. to 5 p.m. and 8:30 a.m. to 12 noon on November 7, 2006.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at Radisson Hotel Reagan National Airport, 2020 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Georgia McDuffie, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: *mcduffie.georgia@epa.gov* or Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax (802) 472–6957; e-mail address: *aapco@plainfield.bypass.com*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you all parties interested in SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and

encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to: Those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0816. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

II. Tentative Agenda

1. Office of Pesticide Programs-Office of Water Partnerships in Pesticide Water Quality Programs.
2. Disposal of Pesticide-Treated Seed.
3. Prioritizing Ambient Water Criteria for Pesticides.
4. Endangered Species and Pesticide Water Quality Issues.
5. Atrazine Special Review Progress.
6. Pesticide Degradates.
7. EPA Water Quality Performance Measures/State End-of-year Reporting.
8. Committee Workgroups Issues Papers, Updates, Surveys.
9. FIFRA/CWA: Court Cases, USEPA Proposed Rules.
10. Water Quality Pesticide Regulatory Education Program Course Review.
11. Container/Containment Rule Implementation; Container Recycling: State Information Gathering.
12. Toxicity and Fate Data Retrieval Protocol for States.
13. Pyrethroid Registration Evaluation and Lab Analytical Issues.
14. Water Quality Benchmarks for Screening-Level Assessments.
15. EPA Update/Briefing:
- a. Office of Pesticide Programs Update.
- b. Office of Enforcement Compliance Assurance Update.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: October 4, 2006.

William R. Diamond,

Director, Field External Affairs Division, Office of Pesticide Programs

[FR Doc. E6–16910 Filed 10–12–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0814; FRL–8098–7]

Pesticide Program Dialogue Committee, Pesticide Registration Improvement Act Process Improvement Workgroup; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Pesticide Program Dialogue Committee (PPDC), Pesticide Registration Improvement Act (PRIA) Process Improvement Workgroup will hold a public meeting on November 2, 2006. An agenda for this meeting is being developed and will be posted on EPA's website. The workgroup is developing advice and recommendations on topics related to EPA's registration process.

DATES: The meeting will be held on Thursday, November 2, 2006, from 10 a.m. to 1 p.m.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at Rm. S–4370 and S–4380, One Potomac Yard (South Building), 2777 S. Crystal, Drive Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Elizabeth Leovey, 7501P, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7328; fax number: (703) 308–4776; e-mail address:*leovey.elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who are concerned about implementation of the Pesticide Registration Improvement Act (PRIA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Federal Food, Drug, and Cosmetic Act (FFDCA). Other potentially affected entities may include but are not limited to agricultural workers and farmers; pesticide industry trade associations; environmental, consumer and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. Since other entities may also be interested, the Agency has not attempted to describe all specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2006–0814. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this**Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

The Office of Pesticide Programs (OPP) is entrusted with the responsibility of ensuring the safety of the American food supply, protection and education of those who apply or are exposed to pesticides occupationally or through use of products, and the general protection of the environment and special ecosystems from potential risks posed by pesticides.

The PPDC was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995 for a 2 year–term and has been renewed every 2 years since that time. PPDC provides advice and recommendations to OPP on a broad range of pesticide regulatory, policy, and program implementation issues that are associated with evaluating and reducing risks from the use of pesticides. The following sectors are represented on the PPDC: Pesticide industry and trade associations;

environmental/public interest and consumer groups; farm worker organizations; pesticide user, grower and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations. Copies of the PPDC charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

III. How Can I Request to Participate in this Meeting?

This meeting will be open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting. Opportunity will be provided for questions and comments by the public. Any person who wishes to file a written statement may do so before or after the meeting by giving a copy of the statement to the person listed under **FOR FURTHER INFORMATION CONTACT**. These statements will become part of the permanent record and will be available for public inspection at the address listed under Unit 1.B.1. Do not submit any information in your request that is considered CBI.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

List of Subjects

Environmental protection.

Dated: October 4, 2006.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. E6–16913 Filed 10–12–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0801; FRL–8097–7]

Petition to Revoke Tolerances Established for Carbaryl; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is seeking public comment on a January 10, 2005, petition from the Washington Toxics Coalition (Washington Toxics), available in docket number EPA–HQ–OPP–2006–0801, requesting that the Agency revoke all tolerances for the pesticide carbaryl. The petitioner, Washington Toxics, requests this action to obtain what they believe would be proper application of the safety standards of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), section 408, as amended by the Food Quality Protection Act (FQPA) of 1996. Washington Toxics is filing this petition in response to a Notice of Availability for the Carbaryl Interim Reregistration Eligibility Decision (IRED), published in the **Federal Register** on October 27, 2004. The carbaryl IRED is available on the website *http://www.regulations.gov* under docket number EPA–HQ–OPP–2003–0376 and on the Agency's pesticide web page, *http://www.epa.gov/pesticides/reregistration/status.htm*.

DATES: Comments must be received on or before November 13, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0801, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0801. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Christina Scheltema, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8000; fax number: (703) 308–7070; e-mail address: *scheltema.christina@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Since others also may be interested, the Agency has not

attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA requests public comment during the next 30 days on a petition (available in docket number EPA–HQ–OPP–2006–0801) received from the Washington Toxics Coalition requesting that the Agency revoke all tolerances (maximum legal residue limits) for the pesticide carbaryl. The petitioner claims that EPA cannot make a finding that there is a reasonable certainty of no harm from dietary residues of carbaryl and, therefore, EPA must revoke all tolerances established under Section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996. In addition, Washington Toxics is petitioning EPA to cancel all uses of carbaryl because Washington Toxics believes carbaryl cannot perform its intended function with out causing unreasonable adverse affects on the environment. Washington Toxics filed its petition pursuant to section 408(d) of FFDCA and in response to a Notice of Availability for the Carbaryl Interim Reregistration Eligibility Decision (IRED), published in the **Federal Register** on October 27, 2004.EPA's assessment of human health and environmental risks of carbaryl, and finding on whether the tolerances for carbaryl comply with the safety standard in FFDCA Section 408, as amended by the FQPA, are contained in the Interim Reregistration Eligibility Decision document for carbaryl, which is available on EPA's website at *http://www.regulations.gov*, under docket number EPA–HQ–OPP–2003–0376 and on the pesticide web page at *http://www.epa.gov/pesticides/reregistration/status.htm*.

List of Subjects

Environmental protection, Pesticides and pests, Carbaryl, Washington Toxics Coalition petition.

Dated: September 28, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–16905 Filed 10–12–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0800; FRL–8096–2]

Notice of Filing of a Pesticide Petition for Establishment of Regulations for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before November 13, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0800 and pesticide petition number (PP) 6G7089, by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0800. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Kable Bo Davis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 306-0415; e-mail address: *davis.kable@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov/*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerances

PP 6G7089 EPA has received a pesticide petition from E. I. DuPont de Nemours and Company, DuPont Crop Protection, 1090 Elkton Road, Newark, Delaware 19711, proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish temporary tolerances for residues of chloantraniliprole (or DPX-E2Y45), 3-Bromo-N-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide in or on the raw agricultural commodities: Apple at 0.3 parts per million (ppm), celery at 7.0 ppm, cucumber at 0.09 ppm, head lettuce at 4.0 ppm, leaf lettuce at 7.5 ppm, pear at 0.3 ppm, pepper at 0.5 ppm, spinach at 13.0 ppm, squash at 0.25 ppm, tomato at 0.3 ppm and watermelon at 0.2 ppm.

The analytical procedure for analysis of chloantraniliprole in crop matrices is based on DuPont-13294, ''Method Validation for the Analysis of DPX-E2Y45 in Various Crop Matrices''. Chloantraniliprole is separated from co-extracts by reversed phase liquid chromatography (LC) and is detected by positive ion Atmospheric Pressure Chemical Ionization (APCI) mass spectrometry/mass spectrometry (MS/MS). The Limit of Quantitation (LOQ) is 0.010 mg/kg (ppm) and the Limit of Detection (LOD) is estimated to be 0.003 mg/kg (ppm).

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 5, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–17010 Filed 8–12–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8230–5]

A Framework for Assessing Health Risks of Environmental Exposures to Children

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of a final report titled, ''A Framework for Assessing Health Risks of Environmental Exposures to Children'' (EPA/600/R–05/093F), prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD).

DATES: This document will be available on or about October 13, 2006.

ADDRESSES: The document will be available electronically through the NCEA Web site at *www.epa.gov/ncea.* A limited number of paper copies will be available from the EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone: 1–800–490–9198 or 513–489–8190; facsimile: 513–489–8695. Please provide your name, your mailing address, the title and the EPA number of the requested publication.

FOR FURTHER INFORMATION CONTACT: The Technical Information Staff, National Center for Environmental Assessment/Washington Office (8623D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 202–564–3261; fax: 202–565–0050; e-mail: *nceadc.comment@epa.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this report is to provide an overarching framework for a complete and transparent assessment of exposure of environmental agents to children and resulting potential health risks within the U.S. EPA's risk assessment paradigm. This Framework builds on the Agency's past experience in evaluating risk to children. This Framework lays out a life stage-specific risk assessment process, points to existing published sources for more detailed information on life stage-specific considerations, and includes Web links to specific online publications and relevant Agency science policy papers, guidelines and guidance. This Framework emphasizes the need for risk assessments to take into account potential exposures to environmental agents during preconception and all stages of development. This Framework is not intended to present an Agency guideline, but rather describes the overall structure of and the components considered important for children's health risk assessment.

The report describes an approach that includes problem formulation, analysis, and risk characterization steps, and also builds on Agency experience assessing risk to susceptible populations.

- *Problem Formulation*—Focuses on the life stage-specific nature of the analysis to include scoping and screening level questions for hazard characterization, dose response and exposure assessment.
- *Analysis*—Focuses on a life stage approach to evaluating hazard, dose-response and exposure that is relevant to the scope of the problem identified in problem formulation.
- *Risk Characterization*—Recognizes the need to consider life stage-specific risks and explicitly describes the uncertainties and variability in the database.

It is important to note that within this framework, life stage-specific data gaps are not meant to convey an obligatory change in how uncertainty factor(s) associated with EPA's health risk assessment methods should be judged in a given risk assessment, but rather to consider how life stage-specific data can better characterize the risk to susceptible groups within the population.

The peer review panel report, the public comments, and the response to peer review and public comments will also be available at the same time.

Dated: September 14, 2006.

George Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. E6–16911 Filed 10–12–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

EPA–HQ–OPPT–2006–0808; FRL–8098–3

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 28, 2006 to September 8, 2006, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before November 13, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) no. EPA–HQ–OPPT–2006–0808, by one of the following methods.

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO, EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2006–0767. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
- *Instructions*: Direct your comments to docket ID number EPA–HQ–OPPT–2006–0808. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov Web site is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, 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. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket, EPA Docket Center (EPA/DC). The EPA suffered structural damage due to flooding in June 2006. Although the EPA/DC is continuing operations, there will be temporary changes to the EPA/DC during the clean-up. The EPA/DC Public Reading Room, which was temporarily closed due to flooding, has been relocated in the EPA Headquarters Library, Infoterra Room (Room Number 3334) in the EPA West Building, located at 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. EPA visitors are required to show photographic identification and sign the EPA visitor log. Visitors to the EPA/DC Public Reading Room location will be provided with an EPA/DC badge that must be visible at all times while in the EPA Building and returned to the guard upon departure. In addition, security personnel will escort visitors to and from the new EPA/DC Public Reading Room location. Up-to-date information about the EPA/DC is on the EPA Web site at *http://www.epa.gov/epahome/dockets.htm*.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at the estimate.

vi. Provide specific examples to illustrate your concerns, and suggested alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 28, 2006, to September 8, 2006, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 32 PREMANUFACTURE NOTICES RECEIVED FROM: 08/28/06 TO 09/08/06

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0765	08/25/06	11/22/06	Chemical Supply Chain Specialists	(S) Used as an antioxidant in the spandex and textile industry	(G) Substituted hydroxyl amine
P–06–0766	08/28/06	11/25/06	CBI	(S) Fluorescent brightener for use in cellulosic paper applications	(G) Sodium, bis{(substituted)-(sulfonatocarbocycleamino)-triazine-yl]amino}-sulfonatostilbene
P–06–0767	08/28/06	11/25/06	The Dow Chemical Company	(G) Intermediate	(G) Polymer of fatty acids methyl esters hydroformylation products, hydrogenated, with alkoxylated glycerine
P–06–0768	08/28/06	11/25/06	The Dow Chemical Company	(G) Intermediate	(G) Polymer of fatty acids methyl esters hydroformylation products, hydrogenated, with alkoxylated glycerine
P–06–0769	08/28/06	11/25/06	The Dow Chemical Company	(G) Intermediate	(G) Polymer of fatty acids methyl esters hydroformylation products, hydrogenated, with alkoxylated glycerine
P–06–0770	08/28/06	11/25/06	The Dow Chemical Company	(G) Intermediate	(G) Polymer of fatty acids methyl esters hydroformylation products, hydrogenated, with alkoxylated glycerine
P–06–0771	08/28/06	11/25/06	The Dow Chemical Company	(S) Chemical intermediate	(G) Fatty acids, methyl esters, hydroformylation products
P–06–0772	08/28/06	11/25/06	The Dow Chemical Company	(S) Chemical intermediate	(G) Fatty acids, methyl esters, hydroformylation products
P–06–0773	08/28/06	11/25/06	The Dow Chemical Company	(S) Chemical intermediate	(G) Fatty acids, methyl esters, hydroformylation products
P–06–0774	08/28/06	11/25/06	The Dow Chemical Company	(S) Chemical intermediate	(G) Fatty acids, methyl esters, hydroformylation products
P–06–0775	08/28/06	11/25/06	The Dow Chemical Company	(G) Intermediate	(G) Fatty acids methyl esters hydroformylation products, hydrogenated
P–06–0776	08/28/06	11/25/06	The Dow Chemical Company	(G) Intermediate	(G) Fatty acids methyl esters hydroformylation products, hydrogenated
P–06–0777	08/28/06	11/25/06	The Dow Chemical Company	(G) Intermediate	(G) Fatty acids methyl esters hydroformylation products, hydrogenated
P–06–0778	08/28/06	11/25/06	The Dow Chemical Company	(G) Intermediate	(G) Fatty acids methyl esters hydroformylation products, hydrogenated
P–06–0779	08/28/06	11/25/06	CBI	(G) Ink additive for open, non-dispersive use	(G) Substituted cyanoguanidine polymer
P–06–0780	08/28/06	11/25/06	CBI	(G) Ink additive for open, non-dispersive use	(G) Substituted polyamine
P–06–0781	08/28/06	11/25/06	CBI	(G) Industrial solvent	(G) Substituted disbasic ester
P–06–0782	08/29/06	11/26/06	CBI	(S) Electrical conductor in organic electronic devices	(G) Perfluorinated polysulfonic acid complexed with an organic conjugated polymer
P–06–0783	08/30/06	11/27/06	DIC International (USA) LLC	(G) Polymer additive	(G) Boron-modified mixed carboxylic acids, cobalt salts
P–06–0784	09/05/06	12/03/06	Eastman Chemical Company	(S) Plasticizer	(S) 1,4-benzenedicarboxylic acid, dibutyl ester
P–06–0785	09/05/06	12/03/06	R. T. Vanderbilt Company, Inc.	(S) Antioxidant for lubricants	(S) Molybdenum bis(di-C_{11-14} branched and linear carbamodithioato) di-*u*-oxodioxo-di-,sulfurized
P–06–0786	09/07/06	12/05/06	CBI	(S) Reactive diluent in ultra violet formulations	(G) Alkoxylated pentaerythritol acrylate
P–06–0787	09/06/06	12/04/06	CBI	(G) Corrosion inhibitor, emulsifier	(G) Modified tall-oil
P–06–0788	09/06/06	12/04/06	CBI	(G) Corrosion inhibitor, emulsifier	(G) Modified tall-oil fatty acids
P–06–0789	09/07/06	12/05/06	International Flavors and Frances, Inc.	(S) Raw material for use in Frances for soaps, detergents, cleaners and other household products	(S) 2*h*-indeno[4,5-b] furan, decahydro-2,2,6,6,7,8,8-heptamethyl Indeno[4,3a-b] furan, decahydro-2,2,7,7,8,9,9-heptamethyl-
P–06–0790	09/07/06	12/05/06	CBI	(G) Additive for release coatings.	(G) Siloxanes and silicones, di-alkyl, alkyl 2-[(1-oxo-2-propenyl)oxy]alkoxy

I. 32 PREMANUFACTURE NOTICES RECEIVED FROM: 08/28/06 TO 09/08/06—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0791	09/07/06	12/05/06	CBI	(G) Additive, open, non-dispersive use	(G) Polyamide
P–06–0792	09/07/06	12/05/06	CBI	(G) Additive, open, non-dispersive use	(G) Polyether urethane block copolymer
P–06–0793	09/07/06	12/05/06	Huntsman International LLC	(S) Pesticide dispersant/solvent	(S) morpholine 4-$C_{6–12}$ acyl derivates
P–06–0794	09/07/06	12/05/06	CBC America Corp.	(S) Sealant component	(S) Hexanedioic acid, polymer with 1,3-bis(isocyanatomethyl)benzene, 2,2-dimethyl-1,3-propanediol, 1,6-hexanediol, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 3-methyl-1,5-pentanediol and .alpha.,.alpha.′,.alpha.″-1,2,3-propanetriyltris[.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)]], 2-(1-methylethyl)-3-oxazolidineethanol-blocked
P–06–0801	09/08/06	12/06/06	CBI	(G) Polymerization surfactant	(G) Fluoropolyether derivative
P–06–0802	09/08/06	12/06/06	CBI	(G) Surfactant for polymerization	(G) Fluoropolyether derivative

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 16 NOTICES OF COMMENCEMENT FROM: 08/28/06 TO 09/08/06

Case No.	Received Date	Commencement Notice End Date	Chemical
P–02–0774	08/28/06	07/27/06	(G) Glycenidis, castor-oil-mono-hydrogenated acetates
P–04–0543	08/29/06	08/17/06	(S) 2-cyclopenten-1-one, 3-(3*z*)-3-hexenyl-
P–04–0890	08/29/06	08/10/06	(S) Dodecanedioic acid, polymer with butyl 2-methyl-2-propenoate, hexanedioic acid, 1,6-hexanediol, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 2-hydroxyethyl 2-methyl-2-propenate, 1,1-methylenebix [4isocyanatobenzene], methyl 2-methyl-2-propenoate and 2-methyl-2-propenoic acid
P–05–0576	08/28/06	08/03/06	(S) Silane, trimethoxyphenyl-, hydrolysis products with silica
P–05–0577	08/28/06	08/03/06	(S) Silane, trimethoxypropyl-, hydrolysis products with silica
P–05–0490	06/08/06	05/16/06	(S) Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-[[[(dimethoxymethylsilyl)methyl]amino]carbonyl]-.omega.-[[[[(dimethoxymethylsilyl)methyl]amino]carbonyl]oxy]-
P–05–0652	09/06/06	08/23/06	(G) Cyclohexane, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl-, polymers with hydroxy-terminated unsaturated hydrocarbon chain, 2-hydroxyethyl acrylate-blocked
P–05–0801	08/28/06	08/11/06	(G) Polymer of vegetable oils, aliphatic diols, aliphatic polyols, and aromatic acids.
P–06–0373	08/29/06	08/02/06	(G) Polyether polyurethane
P–06–0388	09/05/06	08/03/06	(G) Perfluoroalkylethylmethacrylate copolymer
P–06–0390	09/05/06	08/03/06	(G) Perfluoroalkyl ethyl methacrylate copolymer
P–06–0404	08/25/06	07/19/06	(G) Terpolymer pibsa
P–06–0417	09/05/06	08/14/06	(G) Amine neutralized phosphoric acid ester
P–06–0517	08/30/06	08/08/06	(S) Neodymium, tris[bis(2-ethylhexyl)phosphato-.kappa.o″,-.kappa.o‴]]-
P–06–0530	08/30/06	08/22/06	(S) 2,5-furandione, polymer with 2-methyl-1-propene, amide imide
P–98–0068	09/06/06	08/30/06	(S) 1-hexadecanol, manufacturer of, distn. lights

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: October 2, 2006.

Eyvone Petty-Callier,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E6–16909 Filed 10–12–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

EPA–HQ–OPPT–2006–0825; FRL–8099–3

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from September 11, 2006 to September 15, 2006, consists of the PMNs and TME both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before November 13, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) no. EPA–HQ–OPPT–2006–0825, by one of the following methods.

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO, EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2006–0767. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
- *Instructions*: Direct your comments to docket ID number EPA–HQ–OPPT–2006–0825. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov Web site is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, 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. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket, EPA Docket Center (EPA/DC). The EPA suffered structural damage due to flooding in June 2006. Although the EPA/DC is continuing operations, there will be temporary changes to the EPA/DC during the clean-up. The EPA/DC Public Reading Room, which was temporarily closed due to flooding, has been relocated in the EPA Headquarters Library, Infoterra Room (Room Number 3334) in the EPA West Building, located at 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. EPA visitors are required to show photographic identification and sign the EPA visitor log. Visitors to the EPA/DC Public Reading Room location will be provided with an EPA/DC badge that must be visible at all times while in the EPA Building and returned to the guard upon departure. In addition, security personnel will escort visitors to and from the new EPA/DC Public Reading Room location. Up-to-date information about the EPA/DC is on the EPA Web site at *http://www.epa.gov/epahome/dockets.htm*.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at the estimate.

vi. Provide specific examples to illustrate your concerns, and suggested alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from September 11, 2006, to September 15, 2006, consists of the PMNs and TME both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TME

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs and TME received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 10 PREMANUFACTURE NOTICES RECEIVED FROM: 09/11/06 TO 09/15/06

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0795	09/11/06	12/09/06	CBI	(G) Lubricant	(G) Isocetyl palmitate
P–06–0796	09/12/06	12/10/06	CBI	(G) Chemical intermediate	(G) Sulfoalkylated alkoxylated polyol, sodium salt
P–06–0797	09/12/06	12/10/06	CBI	(G) processing aid for redox reactions	(G) Sulfoalkylated alkoxylated polyol
P–06–0798	09/12/06	12/10/06	Cytec Surface Specialties Inc.	(S) Resin for paints and coatings	(G) Substituted alkenoic acid, polymer with substituted carbomonocycle, alkenoate, alkenoic acid and substituted polycycle, peroxide-initiated
P–06–0799	09/12/06	12/10/06	J.H. Calo Company, Inc.	(S) Polyester resin for 2 component polyurethane systems	(S) Hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol, hexahydro-1,3-isobenzofurandione and 1,2-propanediol
P–06–0800	09/13/06	12/11/06	Dow Corning Corporation	(G) Used in an industrial emulsion as an additive for industrial paints, renders and coatings	(G) Siloxane, silsesquioxanes
P–06–0803	09/13/06	12/11/06	CBI	(S) Aqueous dispersion of polymer for leather finishing	(G) Oxepanone, polymer with dialkylalkanediol, alkyl-(hydroxyalkyl)-alkanediol, carbocycle, isocyanato-(isocyanatoalkyl)-trialkyl-, carbocycle, alkylenebis[isocyanato-, alkanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, trialkylamine, and hydrazine
P–06–0804	09/15/06	12/13/06	3M Company	(G) Hot melt adhesive	(G) Polyurethane prepolymer

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 09/11/06 TO 09/15/06

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–06–0009	09/14/06	10/28/06	CBI	(G) Industrial manufacture of an organic acid	(G) Organic and processing organism

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: October 2, 2006.

Eyvone Petty-Callier,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E6–16915 Filed 10–12–06; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: *Tuesday, October 17, 2006 at 10 a.m.*

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g. Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personal rules and procedures or matters affecting a particular employee.

DATE AND TIME: *Wednesday, October 18, 2006 at 10 a.m.*

PLACE: 999 E Street, NW., Washington, DC (Ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

Advisory Opinion 2006–27: Prime Choice Entertainment by Cynthia Czuchaj.

Advisory Opinion 2006–28: 59th Republican Ward Executive Committee by Peter J. Wirs, Chairman.
Embezzlement Enforcement Policy.
Management and Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 06–8679 Filed 10–11–06; 9:57 am]

BILLING CODE 6715–01–M

FEDERAL HOUSING FINANCE BOARD

[No. 2006–N–07]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2006–07 third quarter review cycle under the Finance Board's community support requirements regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board on or before November 24, 2006.

ADDRESSES: Bank members selected for the 2006–07 third quarter review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Federal Housing Finance Board, Office of Supervision, Community Investment and Affordable Housing, 1625 Eye Street, NW., Washington, DC 20006, or by electronic mail at *FITZGERALDE@FHFB.GOV.*

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Supervision, Community Investment and Affordable Housing, by telephone at 202/408–2874, by electronic mail at *FITZGERALDE@FHFB.GOV*, or by regular mail at the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. See 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 et seq., and record of lending to first-time homebuyers. See 12 U.S.C. 1430(g)(2). Pursuant to section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirements regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. See 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the November 24, 2006 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before October 27, 2006, each Bank will notify the members in its district that have been selected for the 2006–07 third quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's Web site: *WWW.FHFB.GOV.*

Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2006–07 third quarter community support review cycle:

Member	City	State
Federal Home Loan Bank of Boston—District 1		
Collinsville Savings Society	Canton	Connecticut
The Guilford Savings Bank	Guilford	Connecticut
Northwest Community Bank	Winsted	Connecticut
Bar Harbor Bank and Trust	Bar Harbor	Maine
Calais Federal Savings and Loan Association	Calais	Maine
Camden National Bank	Camden	Maine
Damariscotta Bank & Trust Company	Damariscotta	Maine
Franklin Savings Bank	Farmington	Maine
Katahdin Trust Company	Patten	Maine
TD Banknorth, N.A	Portland	Maine
Rockland Savings and Loan Association	Rockland	Maine
Athol Savings Bank	Athol	Massachusetts
Capital Crossing Bank	Boston	Massachusetts
OneUnited Bank	Boston	Massachusetts
Security Federal Savings Bank	Brockton	Massachusetts
Bank of Canton	Canton	Massachusetts
Clinton Savings Bank	Clinton	Massachusetts
Danvers Savings Bank	Danvers	Massachusetts
Lafayette Federal Savings Bank	Fall River	Massachusetts
Family Federal Savings F.A	Fitchburg	Massachusetts
Florence Savings Bank	Florence	Massachusetts
Colonial Co-operative Bank	Gardner	Massachusetts
Hingham Institution for Savings	Hingham	Massachusetts
Peoples Bank	Holyoke	Massachusetts
Roxbury Highland Co-operative Bank	Jamaica Plain	Massachusetts
Equitable Co-operative Bank	Lynn	Massachusetts
Mansfield Co-operative Bank	Mansfield	Massachusetts
Milford Federal Savings and Loan Association	Milford	Massachusetts
Northampton Cooperative Bank	Northampton	Massachusetts
Hometown Bank, a Cooperative Bank	Oxford	Massachusetts
Colonial Federal Savings Bank	Quincy	Massachusetts
Reading Co-operative Bank	Reading	Massachusetts
South Shore Savings Bank	South Weymouth	Massachusetts
Southbridge Savings Bank	Southbridge	Massachusetts
Mechanics Cooperative Bank	Taunton	Massachusetts
Bow Mills Bank and Trust	Bow	New Hampshire
Citizens Bank New Hampshire	Manchester	New Hampshire
Newport Federal Savings Bank	Newport	Rhode Island
Merchants Bank	Burlington	Vermont
National Bank of Middlebury	Middlebury	Vermont
Union Bank	Morrisville	Vermont
Northfield Savings Bank	Northfield	Vermont
Federal Home Loan Bank of New York—District 2		
Audubon Savings Bank	Audubon	New Jersey
Bogota Savings Bank	Bogota	New Jersey
Peoples Savings Bank	Bown	New Jersey
Century Savings Bank	Bridgeton	New Jersey
Colonial Bank FSB	Bridgeton	New Jersey
Sturdy Savings Bank	Cape May Court House	New Jersey
NVE Bank	Englewood	New Jersey
Kearny Federal Savings Bank	Fairfield	New Jersey
Roma Bank	Hamilton	New Jersey
Glen Rock Savings Bank	Hawthorne	New Jersey
Schuyler Savings Bank	Kearny	New Jersey
Lincoln Park Savings	Lincoln Park	New Jersey
Metuchen Savings Bank	Metuchen	New Jersey
Boiling Springs Savings Bank	Rutherford	New Jersey
Gloucester County Federal Savings Bank	Sewell	New Jersey
Penn Federal Savings Bank	West Orange	New Jersey
Independence Community Bank	Brooklyn	New York
Elmira Savings Bank, FSB	Elmira	New York
Evans National Bank	Hamburg	New York
Cattaraugus County Bank	Little Valley	New York
Chinatown Federal Savings Bank	New York	New York
Abacus Federal Savings Bank	New York	New York
Wallkill Valley FS&LA	Wallkill	New York
Doral Bank	San Juan	Puerto Rico
Oriental Bank & Trust	San Juan	Puerto Rico

Member	City	State
Federal Home Loan Bank of Pittsburgh—District 3		
Altoona First Savings Bank	Altoona	Pennsylvania
Pennsylvania State Bank	Camp Hill	Pennsylvania
Coatesville Savings Bank	Coatesville	Pennsylvania
Slovenian S&LA of Franklin-Conemaugh	Conemaugh	Pennsylvania
First National Community Bank	Dunmore	Pennsylvania
Halifax National Bank	Halifax	Pennsylvania
Peoples National Bank	Hallstead	Pennsylvania
Polonia Bank	Huntingdon Valley	Pennsylvania
Mauch Chunk Trust Company	Jim Thorpe	Pennsylvania
1st Summit Bank	Johnstown	Pennsylvania
Mifflinburg Bank & Trust Company	Mifflinburg	Pennsylvania
Union National Community Bank	Mount Joy	Pennsylvania
The Muncy Bank and Trust Company	Muncy	Pennsylvania
First Penn Bank	Philadelphia	Pennsylvania
United-American Savings Bank	Pittsburgh	Pennsylvania
Eureka Bank	Pittsburgh	Pennsylvania
Slovak Savings Bank	Pittsburgh	Pennsylvania
Iron and Glass Bank	Pittsburgh	Pennsylvania
Scottdale Bank and Trust Company	Scottdale	Pennsylvania
Hamlin Bank and Trust Company	Smethport	Pennsylvania
Northwest Savings Bank	Warren	Pennsylvania
Peoples State Bank of Wyalusing	Wyalusing	Pennsylvania
Leesport Bank	Wyomissing	Pennsylvania
City National Bank of West Virginia	Cross Lanes	West Virginia
Citizens Bank of Morgantown	Morgantown	West Virginia
First National Bank	Ronceverte	West Virginia
Federal Home Loan Bank of Atlanta—District 4		
The Exchange Bank of Alabama	Altoona	Alabama
First Commercial Bank	Birmingham	Alabama
Capital South Bank	Birmingham	Alabama
Central State Bank	Calera	Alabama
The Camden National Bank	Camden	Alabama
Frontier Bank	Chelsea	Alabama
SunSouth Bank	Dothan	Alabama
The Southern Bank Company	Gadsden	Alabama
First National Bank	Hamilton	Alabama
The Headland National Bank	Headland	Alabama
First State Bank	Lineville	Alabama
First Citizens Bank	Luverne	Alabama
First Tuskegee Bank	Montgomery	Alabama
Citizens Bank, Inc	Robertsdale	Alabama
The Slocomb National Bank	Slocomb	Alabama
The Bank of Tuscaloosa	Tuscaloosa	Alabama
First Liberty National Bank	Washington	D. C.
BankAtlantic	Fort Lauderdale	Florida
Natbank, N.A	Hollywood	Florida
FirstBank Florida	Miami	Florida
Eagle National Bank of Miami	Miami	Florida
BankUnited, FSB	Miami Lakes	Florida
Orion Bank	Naples	Florida
Urban Trust Bank	Orlando	Florida
First Federal Bank of North Florida	Palatka	Florida
Bay Bank and Trust	Panama City	Florida
Federal Trust Bank	Sanford	Florida
BankTrust	Santa Rosa Beach	Florida
Capital City Bank	Tallahassee	Florida
Bay Financial Savings Bank, F.S.B	Tampa	Florida
Wauchula State Bank	Wauchula	Florida
Bank of Alapaha	Alapaha	Georgia
Citizens Bank of Americus	Americus	Georgia
The Summit National Bank	Atlanta	Georgia
Georgia Bank and Trust Company of Augusta	Augusta	Georgia
Planters & Citizens Bank	Camilla	Georgia
Newton Federal Bank	Covington	Georgia
First National Bank of Coffee County	Douglas	Georgia
Citizens Bank and Trust Company	Eastman	Georgia
Farmers and Merchants Bank	Eatonton	Georgia
Elberton Federal Savings & Loan Association	Elberton	Georgia
Central Bank of Georgia	Ellaville	Georgia
BankSouth	Greensboro	Georgia

Member	City	State
Crescent Bank & Trust Company	Jasper	Georgia
Pineland State Bank	Metter	Georgia
Exchange Bank	Milledgeville	Georgia
Gateway Bank and Trust	Ringgold	Georgia
The Coastal Bank	Savannah	Georgia
Farmers and Merchants Bank	Statesboro	Georgia
Spivey State Bank	Swainsboro	Georgia
Commercial Bank	Thomasville	Georgia
First Federal Savings and Loan Association	Valdosta	Georgia
Severn Savings Bank, F.S.B	Annapolis	Maryland
Wilmington Trust FSB	Baltimore	Maryland
Saint Casimirs Savings Bank	Baltimore	Maryland
Fraternity Federal S&L Association	Baltimore	Maryland
Hamilton Federal Bank	Baltimore	Maryland
Homewood Federal Savings Bank	Baltimore	Maryland
Advance Bank	Baltimore	Maryland
United Medical Bank	Baltimore	Maryland
Provident Bank of Maryland	Baltimore	Maryland
Presidential Bank, FSB	Bethesda	Maryland
The Peoples Bank	Chestertown	Maryland
The Talbot Bank of Easton	Easton	Maryland
The Peoples Bank of Elkton	Elkton	Maryland
Madison Bohemian Savings Bank	Forest Hills	Maryland
Eastern Savings Bank, FSB	Hunt Valley	Maryland
Hunt Valley	Owings Mills	Maryland
K Bank	Owings Mills	Maryland
Baltimore County Savings Bank, FSB	Perry Hall	Maryland
First Shore FS&L Association	Salisbury	Maryland
American Bank	Silver Spring	Maryland
Sykesville Federal Savings Association	Sykesville	Maryland
AmericasBank	Towson	Maryland
Home Trust Bank	Asheville	North Carolina
High Point Bank & Trust Company	High Point	North Carolina
BB & T of NC	Lumberton	North Carolina
RBC Centura Bank	Rocky Mount	North Carolina
Piedmont Federal Savings & Loan Association	Winston Salem	North Carolina
First Palmetto Savings Bank, FSB	Camden	South Carolina
Spratt Savings and Loan Association	Chester	South Carolina
Plantation Federal Bank	Pawleys Island	South Carolina
Woodruff Federal Savings & Loan Association	Woodruff	South Carolina
Virginia Commerce Bank	Arlington	Virginia
First and Citizens Bank	Monterey	Virginia
Shore Bank	Onley	Virginia
First Federal Savings Bank of Virginia	Petersburg	Virginia
Community Bank	Staunton	Virginia
EVB	Tappahannock	Virginia
Federal Home Loan Bank of Cincinnati—District 5		
Kentucky Home Bank, Inc	Bardstown	Kentucky
Bank of Clarkson	Clarkson	Kentucky
Citizens Federal Savings and Loan Association of Covington	Covington	Kentucky
South Central Bank, FSB	Edmonton	Kentucky
Fredonia Valley Bank	Fredonia	Kentucky
First Southern National Bank	Lancaster	Kentucky
Bank of the Bluegrass & Trust Company	Lexington	Kentucky
First Federal Bank	Lexington	Kentucky
Peoples Security Bank	Louisa	Kentucky
The First Capital Bank of Kentucky	Louisville	Kentucky
First FS&LA of Morehead	Morehead	Kentucky
Traditional Bank, Inc	Mt. Sterling	Kentucky
Commonwealth Bank, F.S.B	Mt. Sterling	Kentucky
Farmers Bank & Trust Company, Inc	Princeton	Kentucky
Farmers National Bank	Walton	Kentucky
Belmont Savings Bank	Bellaire	Ohio
The Citizens National Bank of Bluffton	Bluffton	Ohio
The Brookville Building and Savings Association	Brookville	Ohio
First Federal Community Bank of Bucyrus	Bucyrus	Ohio
New Foundation Loan and Building Company	Cincinnati	Ohio
Warsaw Federal S&LA of Cincinnati	Cincinnati	Ohio
The Franklin Savings and Loan Company	Cincinnati	Ohio
Columbia Savings Bank	Cincinnati	Ohio
Third FS&LA of Cleveland	Cleveland	Ohio
Charter One Bank, N.A	Cleveland	Ohio

Member	City	State
United Midwest Savings Bank	DeGraff	Ohio
Hicksville Building, Loan and Savings Bank	Hicksville	Ohio
Merchants National Bank	Hillsboro	Ohio
NCB, FSB	Hillsboro	Ohio
Oak Hills Banks	Jackson	Ohio
Home Savings Bank	Kent	Ohio
First FS&LA of Lakewood	Lakewood	Ohio
Fairfield Federal S&LA of Lancaster	Lancaster	Ohio
1st National Bank	Lebanon	Ohio
Leesburg Federal Savings Bank	Leesburg	Ohio
The First-Knox Bank of Mount Vernon	Mt. Vernon	Ohio
New Carlisle Federal Savings Bank	New Carlisle	Ohio
The Park National Bank	Newark	Ohio
American Savings Bank, fsb	Portsmouth	Ohio
Home City Federal Savings Bank	Springfield	Ohio
Perpetual Federal Savings Bank	Urbana	Ohio
Liberty Savings Bank, F.S.B	Wilmington	Ohio
North Valley Bank	Zanesville	Ohio
Farmers & Merchants Bank	Adamsville	Tennessee
First South Credit Union	Bartlett	Tennessee
Bank of Crockett	Bells	Tennessee
Decatur County Bank	Decaturville	Tennessee
Chester County Bank	Henderson	Tennessee
The Bank of Jackson	Jackson	Tennessee
Wilson Bank and Trust	Lebanon	Tennessee
First National Bank of Tennessee	Livingston	Tennessee
Trust One Bank	Memphis	Tennessee
Citizens Bank	New Tazewell	Tennessee
Newport Federal Bank	Newport	Tennessee
Citizens National Bank	Sevierville	Tennessee
Federal Home Loan Bank of Indianapolis—District 6		
Independent Federal Credit Union	Anderson	Indiana
Boonville Federal Savings Bank	Boonville	Indiana
Riddell National Bank	Brazil	Indiana
Union Savings & Loan Association	Connersville	Indiana
First Federal Savings Bank	Evansville	Indiana
Pacesetter Bank	Hartford City	Indiana
Kentland Federal Savings and Loan Association	Kentland	Indiana
La Porte Savings Bank	La Porte	Indiana
Logansport Savings Bank, FSB	Logansport	Indiana
Home Bank, SB	Martinsville	Indiana
Peoples Bank SB	Munster	Indiana
Farmers State Bank	New Ross	Indiana
First Bank Richmond, N.A	Richmond	Indiana
Mid-Southern Savings Bank, FSB	Salem	Indiana
Owen County State Bank	Spencer	Indiana
Grant County State Bank	Swayzee	Indiana
First State Bank, Southwest Indiana	Tell City	Indiana
Liberty Savings Bank, FSB	Whiting	Indiana
Commercial Bank	Alma	Michigan
Fidelity Bank	Birmingham	Michigan
Tri-County Bank	Brown City	Michigan
Monarch Community Bank	Coldwater	Michigan
Paramount Bank	Farmington Hills	Michigan
Select Bank	Grand Rapids	Michigan
Peoples State Bank	Hamtramck	Michigan
Union Bank	Lake Odessa	Michigan
Peoples State Bank of Munising	Munising	Michigan
New Buffalo Savings Bank, FSB	New Buffalo	Michigan
Thumb National Bank & Trust	Pigeon	Michigan
Citizens First Savings Bank	Port Huron	Michigan
Edgewater Bank	St. Joseph	Michigan
First National Bank of Three Rivers	Three Rivers	Michigan
First National Bank of Wakefield	Wakefield	Michigan
Federal Home Loan Bank of Chicago—District 7		
First Community Bank and Trust	Beecher	Illinois
First State Bank of Beecher City	Beecher City	Illinois
BankFinancial, F.S.B	Burr Ridge	Illinois
The First National Bank in Carlyle	Carlyle	Illinois
BankChampaign, N.A	Champaign	Illinois

Member	City	State
South Central Bank, N.A	Chicago	Illinois
Oak Bank	Chicago	Illinois
NAB Bank	Chicago	Illinois
North Federal Savings Bank	Chicago	Illinois
Labe Bank	Chicago	Illinois
Community Savings Bank	Chicago	Illinois
Washington Federal Bank for Savings	Chicago	Illinois
Pulaski Savings Bank	Chicago	Illinois
West Town Savings Bank	Cicero	Illinois
Family Federal Savings of Illinois	Cicero	Illinois
The John Warner Bank	Clinton	Illinois
Elizabeth State Bank	Elizabeth	Illinois
Flora Bank & Trust	Flora	Illinois
Community Bank—Wheaton/Glen Ellyn	Glen Ellyn	Illinois
Heritage State Bank	Lawrenceville	Illinois
1st State Bank of Mason City	Mason City	Illinois
Mazon State Bank	Mazon	Illinois
McHenry Savings Bank	McHenry	Illinois
City National Bank	Metropolis	Illinois
First National Bank	Moline	Illinois
Brown County State Bank	Mount Sterling	Illinois
Wabash Savings Bank	Mt. Carmel	Illinois
The Farmers Bank of Pulaski	Mt. Pulaski	Illinois
The Herget National Bank of Pekin	Pekin	Illinois
National Bank of Petersburg	Petersburg	Illinois
Citizens State Bank of Shipman	Shipman	Illinois
Marine Bank	Springfield	Illinois
Town & Country Bank of Springfield	Springfield	Illinois
Tremont Savings Bank	Tremont	Illinois
Banner Banks	Birnamwood	Wisconsin
Community First Bank	Boscobel	Wisconsin
North Shore Bank FSB	Brookfield	Wisconsin
Advantage Community Bank	Dorchester	Wisconsin
PremierBank	Fort Atkinson	Wisconsin
Green Lake State Bank	Green Lake	Wisconsin
PyraMax Bank, F.S.B	Greenfield	Wisconsin
Greenleaf Wayside Bank	Greenleaf	Wisconsin
Hustisford State Bank	Hustisford	Wisconsin
Mid America Bank	Janesville	Wisconsin
Union State Bank	Kewaunee	Wisconsin
Bank of Lake Mills	Lake Mills	Wisconsin
BLC Community Bank	Little Chute	Wisconsin
Rural American Bank—Luck	Luck	Wisconsin
AnchorBank, fsb	Madison	Wisconsin
Home Savings Bank	Madison	Wisconsin
The Peoples State Bank	Mazomanie	Wisconsin
Bremer Bank, National Association	Menomonie	Wisconsin
Middleton Community Bank	Middleton	Wisconsin
First Community Bank	Milton	Wisconsin
Milton Savings Bank	Milton	Wisconsin
West Pointe Bank	Oshkosh	Wisconsin
Wisconsin State Bank	Random Lake	Wisconsin
The Reedsburg Bank	Reedsburg	Wisconsin
Dairy State Bank	Rice Lake	Wisconsin
Community Business Bank	Sauk City	Wisconsin
Baylake Bank	Sturgeon Bay	Wisconsin
Superior Savings Bank	Superior	Wisconsin
Farmers & Merchants Bank	Tomah	Wisconsin
The National Bank of Waupun	Waupun	Wisconsin
Maritime Savings Bank	West Allis	Wisconsin
West Bend Savings Bank	West Bend	Wisconsin
First Citizens State Bank	Whitewater	Wisconsin
Federal Home Loan Bank of Des Moines—District 8		
Peoples State Bank	Albia	Iowa
Community Bank	Alton	Iowa
Bank Iowa	Altoona	Iowa
First National Bank	Ames	Iowa
Farmers & Traders Savings Bank	Bancroft	Iowa
Chelsea Savings Bank	Belle Plaine	Iowa
Boone Bank & Trust Company	Boone	Iowa
Iowa Prairie Bank	Brunsville	Iowa
Lincoln Savings Bank	Cedar Falls	Iowa

Member	City	State
Guaranty Bank & Trust Company	Cedar Rapids	Iowa
Cherokee State Bank	Cherokee	Iowa
First State Bank	Conrad	Iowa
Dubuque Bank & Trust Company	Dubuque	Iowa
First Federal Savings Bank of Iowa	Fort Dodge	Iowa
Mills County Bank N.A	Glenwood	Iowa
Security State Bank	Guttenberg	Iowa
Farmers State Bank	Hawarden	Iowa
First State Bank	Hawarden	Iowa
Bank Iowa, Humboldt	Humboldt	Iowa
State Central Bank	Keokuk	Iowa
Heritage Bank	Marion	Iowa
F & M Bank—Iowa	Marshalltown	Iowa
Sibley State Bank	Sibley	Iowa
MetaBank West Central	Stuart	Iowa
First State Bank	Sumner	Iowa
Farmers Savings Bank & Trust-Vinton	Vinton	Iowa
Webster City Federal Savings Bank	Webster City	Iowa
Community State Bank	West Branch	Iowa
Citizens State Bank	Wyoming	Iowa
Farmers State Bank of Adams	Adams	Minnesota
Bremer Bank, NA	Alexandria	Minnesota
State Bank of Aurora	Aurora	Minnesota
First Federal Savings Bank	Baxter	Minnesota
State Bank of Bellingham	Bellingham	Minnesota
Star Bank	Bertha	Minnesota
Farmers and Merchants State Bank	Blooming Prairie	Minnesota
Highland Bank	Bloomington	Minnesota
First National Bank of Blue Earth	Blue Earth	Minnesota
First National Bank of Deer River	Deer River	Minnesota
The First National Bank of Deerwood	Deerwood	Minnesota
State Bank of Kimball	Kimball	Minnesota
Lake Elmo Bank	Lake Elmo	Minnesota
First National Bank of Le Center	Le Center	Minnesota
First State Bank MN	LeRoy	Minnesota
Community FS&LA	Little Falls	Minnesota
Prairie Sun Bank	Milan	Minnesota
Peoples National Bank of Mora	Mora	Minnesota
Community National Bank	North Branch	Minnesota
Northwoods Bank of Minnesota	Park Rapids	Minnesota
Horizon Bank	Pine City	Minnesota
Prior Lake State Bank	Prior Lake	Minnesota
Minnwest Bank, M.V	Redwood Falls	Minnesota
First Independent Bank	Russell	Minnesota
State Bank of Tower	Tower	Minnesota
Security State Bank of Wanamingo	Wanamingo	Minnesota
Belgrade State Bank	Belgrade	Missouri
Ozark Mountain Bank	Branson	Missouri
O'Bannon Banking Company	Buffalo	Missouri
First National Bank	Camdenton	Missouri
Horizon State Bank	Cameron	Missouri
Canton State Bank	Canton	Missouri
Bank 21	Carrollton	Missouri
State Bank of Missouri	Concordia	Missouri
Secuirty Bank of the Ozarks	Eminence	Missouri
Rockwood Bank	Eureka	Missouri
Allen Bank & Trust Company	Harrisonville	Missouri
Blue Ridge Bank & Trust Company	Independence	Missouri
Jonesburg State Bank	Jonesburg	Missouri
Missouri Bank & Trust Company	Kansas City	Missouri
Kearney Commercial Bank	Kearney	Missouri
BoulevardBank	Neosho	Missouri
Bank of New Madrid	New Madrid	Missouri
Ozark Bank	Ozark	Missouri
Progressive Ozark Bank, FSB	Salem	Missouri
First National Bank of Sarcoxie	Sarcoxie	Missouri
Security Bank & Trust Company	Scott City	Missouri
Community State Bank	Shelbina	Missouri
Community Bank, NA	Summersville	Missouri
Peoples Bank & Trust Company	Troy	Missouri
Bank of Urbana	Urbana	Missouri
The Missouri Bank	Warrenton	Missouri
Security Bank of Pulaski County	Waynesville	Missouri
FMB Bank	Wright City	Missouri

Member	City	State
The First State Bank of North Dakota	Arthur	North Dakota
Security State Bank of North Dakota	Hannaford	North Dakota
The Goose River Bank	Mayville	North Dakota
The First State Bank of Munich	Munich	North Dakota
Liberty State Bank	Powers Lake	North Dakota
Dakota Heritage State Bank	Chancellor	South Dakota
The First Western Bank Custer	Custer	South Dakota
Valley Bank NA	Elk Pointe	South Dakota
Reliabank Dakota	Estelline	South Dakota
Campbell County Bank, Inc	Herreid	South Dakota
Plains Commerce Bank	Hoven	South Dakota
First State Bank of Miller	Miller	South Dakota
CorTrust Bank, National Association	Mitchell	South Dakota
American State Bank	Oldham	South Dakota
American State Bank of Pierre	Pierre	South Dakota
Farmers and Merchants State Bank	Plankinton	South Dakota
First Premier Bank	Sioux Falls	South Dakota
The First Western Bank Sturgis	Sturgis	South Dakota
Commercial State Bank	Wagner	South Dakota
The First Western Bank	Wall	South Dakota
Federal Home Loan Bank of Dallas—District 9		
Elk Horn Bank & Trust Company	Arkadelphia	Arkansas
Merchants and Farmers Bank	Dumas	Arkansas
Planters & Merchants Bank	Gillett	Arkansas
Calhoun County Bank	Hampton	Arkansas
Community First Bank	Harrison	Arkansas
Pulaski Bank & Trust Company	Little Rock	Arkansas
One Bank & Trust, N.A	Little Rock	Arkansas
Farmers Bank & Trust Company	Magnolia	Arkansas
Union Bank and Trust Company	Monticello	Arkansas
Priority Bank	Ozark	Arkansas
United Bank	Springdale	Arkansas
Farmers & Merchants Bank	Stuttgart	Arkansas
Abbeville Building & Loan	Abbeville	Louisiana
United Community Bank	Gonzales	Louisiana
Central Progressive Bank	Lacombe	Louisiana
The Union Bank	Marksville	Louisiana
Iberia Bank	New Iberia	Louisiana
Crescent Bank & Trust	New Orleans	Louisiana
Fidelity Homestead Association	New Orleans	Louisiana
First Financial Bank & Trust	Plaquemine	Louisiana
Citizens Bank & Trust Company	Plaquemine	Louisiana
Community Trust Bank	Ruston	Louisiana
Bank of Zachary	Zachary	Louisiana
Magnolia State Bank	Bay Springs	Mississippi
BankFirst Financial Services	Columbus	Mississippi
State Bank & Trust Company	Greenwood	Mississippi
Grand Bank for Savings, fsb	Hattiesburg	Mississippi
The First, A National Banking Association	Hattiesburg	Mississippi
Trustmark National Bank	Jackson	Mississippi
OmniBank	Jackson	Mississippi
Bank of New Albany	New Albany	Mississippi
Bank of Okolona	Okoloona	Mississippi
First Federal Savings & Loan	Pascagoula	Mississippi
Bank of Yazoo City	Yazoo City	Mississippi
Union Savings Bank	Albuquerque	New Mexico
Western Bank of Clovis	Clovis	New Mexico
Citizens Bank of Las Cruces	Las Cruces	New Mexico
The Bank of Las Vegas	Las Vegas	New Mexico
Century Bank, F.S.B	Santa Fe	New Mexico
IBM Texas Employees Federal Credit Union	Austin	Texas
Franklin Bank, SSB	Austin	Texas
Lamar Bank	Beaumont	Texas
The First National Bank of Beeville	Beeville	Texas
Bonham State Bank	Bonham	Texas
Shelby Savings Bank, ssb	Center	Texas
Chappell Hill Bank	Chappell Hill	Texas
Charter Bank	Corpus Christi	Texas
First Security State Bank	Cranfills Gap	Texas
First National Bank of Crockett	Crockett	Texas
First National Bank in Dalhart	Dalhart	Texas
Inwood National Bank	Dallas	Texas

Member	City	State
Prosperity Bank	El Campo	Texas
First Command Bank	Fort Worth	Texas
Happy State Bank	Happy	Texas
Henderson Federal Savings Bank	Henderson	Texas
Encore Bank	Houston	Texas
State Bank	La Grange	Texas
Spring Hill State Bank	Longview	Texas
Angelina Savings Bank, FSB	Lufkin	Texas
Northeast National Bank	Mesquite	Texas
Guaranty Bond Bank	Mt. Pleasant	Texas
Olympic Savings, S.S.B	Refugio	Texas
First Community Bank San Antonio, NA	San Antonio	Texas
First State Bank	Stratford	Texas
Alliance Bank	Sulphur Springs	Texas
First State Bank Central Texas	Temple	Texas
First Federal Bank Texas	Tyler	Texas
The First National Bank of Weatherford	Weatherford	Texas
Federal Home Loan Bank of Topeka—District 10		
Valley Bank & Trust Company	Brighton	Colorado
Farmers State Bank of Calhan	Calhan	Colorado
Castle Rock Bank	Castle Rock	Colorado
Colorado Capital Bank	Castle Rock	Colorado
FirstBank of Colorado Springs	Colorado Springs	Colorado
First National Bank of Durango	Durango	Colorado
High Plains Bank	Flagler	Colorado
Morgan Federal Bank	Fort Morgan	Colorado
Colorado Federal Savings Bank	Greenwood Village	Colorado
First National Bank in Lamar	Lamar	Colorado
Colorado East Bank & Trust	Lamar	Colorado
The First National Bank of Anthony	Anthony	Kansas
Peoples Exchange Bank	Belleville	Kansas
Guaranty State Bank & Trust Company	Beloit	Kansas
Caldwell State Bank	Caldwell	Kansas
The Elk State Bank	Clyde	Kansas
Citizens Bank NA	Fort Scott	Kansas
Central Bank and Trust Company	Hutchinson	Kansas
Inter-State FS&LA of Kansas City	Kansas City	Kansas
Kanza Bank	Kingman	Kansas
Citizens Savings and Loan Association, fsb	Leavenworth	Kansas
First State Bank	Norton	Kansas
First FS&LA of Olathe	Olathe	Kansas
First Option Bank	Osawatomie	Kansas
Valley State Bank	Roeland Park	Kansas
The Roxbury Bank	Roxbury	Kansas
Thunder Bank	Sylvan Grove	Kansas
The Columbian Bank and Trust Company	Topeka	Kansas
First National Bank of Ainsworth	Ainsworth	Nebraska
Community Bank	Alma	Nebraska
Auburn State Bank	Auburn	Nebraska
Bruning State Bank	Bruning	Nebraska
Butte State Bank	Butte	Nebraska
South Central State Bank	Campbell	Nebraska
First National Bank & Trust Company	Columbus	Nebraska
Cedar Security Bank	Fordyce	Nebraska
City Bank & Trust Company	Lincoln	Nebraska
Security Home Bank	Malmo	Nebraska
Security National Bank of Omaha	Omaha	Nebraska
Pinnacle Bank	Papillion	Nebraska
Horizon Bank	Waverly	Nebraska
First National Bank & Trust Company of Ardmore	Ardmore	Oklahoma
Citizens Security Bank & Trust	Bixby	Oklahoma
Chickasha Bank and Trust Company	Chickasha	Oklahoma
First Bank & Trust Company	Clinton	Oklahoma
First Texoma National Bank	Durant	Oklahoma
The First Bank of Haskell	Haskell	Oklahoma
Republic Bank & Trust	Norman	Oklahoma
First National Bank of Oklahoma	Oklahoma City	Oklahoma
Lakeside State Bank	Oologah	Oklahoma
First American Bank	Purcell	Oklahoma
Sulphur Community Bank	Sulphur	Oklahoma

Member	City	State
Federal Home Loan Bank of San Francisco—District 11		
California National Bank	Beverly Hills	California
Xerox Federal Credit Union	El Segundo	California
First Commerce Bank	Encino	California
Fremont Bank	Fremont	California
Commercial Capital Bank, F.S.B	Irvine	California
American First Credit Union	La Habra	California
International City Bank	Long Beach	California
National Bank of California	Los Angeles	California
Preferred Bank	Los Angeles	California
The Vintage Bank	Napa	California
Oak Valley Community Bank	Oakdale	California
Palm Desert National Bank	Palm Desert	California
Greater Bay Bank, N.A	Palo Alto	California
Malaga Bank, S.S.B	Palos Verdes Estates	California
PFF Bank & Trust	Pomona	California
North Valley Bank	Redding	California
Summit State Bank	Rohnert Park	California
1st Pacific Bank of California	San Diego	California
California Savings Bank	San Francisco	California
Temecula Valley Bank, NA	Temecula	California
Chinatrust Bank (U.S.A.)	Torrance	California
Federal Home Loan Bank of Seattle—District 12		
Northrim Bank	Anchorage	Alaska
Northern Schools Federal Credit Union	Fairbanks	Alaska
BankPacific, Ltd.	Hagatna	Guam
Hawaii State Federal Credit Union	Honolulu	Hawaii
Finance Factors, Limited	Honolulu	Hawaii
Mountain West Bank	Coeur D'Alene	Idaho
The Bank of Commerce	Idaho Falls	Idaho
Ireland Bank	Malad	Idaho
First Federal Savings Bank of Twin Falls	Twin Falls	Idaho
United Banks, N.A	Absarokee	Montana
Pioneer Federal Savings & Loan Association	Dillon	Montana
Pacific Continental Bank	Eugene	Oregon
First Federal	McMinnville	Oregon
Albina Community Bank	Portland	Oregon
Community First Bank	Prineville	Oregon
Bank of American Fork	American Fork	Utah
Home Savings Bank	Salt Lake City	Utah
Trans West Credit Union	Salt Lake City	Utah
Horizon Bank	Bellingham	Washington
Bank of Fairfield	Fairfield	Washington
Timberland Bank	Hoquiam	Washington
Kitsap Bank	Port Orchard	Washington
Valley Bank	Puyallup	Washington
First Savings Bank of Renton	Renton	Washington
Washington First International Bank	Seattle	Washington
HomeStreet Bank	Seattle	Washington
The Bank of Star Valley	Afton	Wyoming
Oregon Trail Bank	Guernsey	Wyoming
Pinnacle Bank—Wyoming	Torrington	Wyoming
First National Bank	Torrington	Wyoming

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before October 27, 2006, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2006–07 third quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2006–07 third quarter review cycle must be delivered to the Finance Board on or before the November 24, 2006 deadline for submission of Community Support Statements.

John P. Kennedy,

General Counsel.

[FR Doc. E6–16732 Filed 10–12–06; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA'') (44 U.S.C. 3501–3520). The Federal Trade Commission (''FTC'' or ''Commission'') is seeking public comments on its proposal to extend through January 31, 2010 the current OMB clearance for information collection requirements contained in its Mail or Telephone Order Merchandise Trade Regulation Rule (''MTOR'' or ''Rule''), 16 CFR part 435. That clearance expires on January 31, 2007.

DATES: Comments must be filed by December 12, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Mail or Telephone Order Merchandise Trade Regulation Rule: FTC File No. R511929,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission, Room H 135 (Annex J), 600 Pennsylvania Ave., NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *paperworkcomment@ftc.gov.* However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.'' [1]

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Joel N. Brewer, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2967.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501–3520, Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

The FTC invites comments on: (1) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including 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. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before December 12, 2006.

The Mail or Telephone Order Merchandise Trade Regulation Rule (''MTOR'' or ''Rule''), 16 CFR part 435, was promulgated in 1975 in response to consumer complaints that many merchants were failing to ship merchandise ordered by mail on time, failing to ship at all, or failing to provide prompt refunds for unshipped merchandise. A second rulemaking proceeding in 1993 demonstrated that the delayed shipment and refund problems of the mail order industry were also being experienced by consumers who ordered merchandise over the telephone. Accordingly, the Commission amended the Rule, effective on March 1, 1994, to include merchandise ordered by telephone, including by telefax or by computer through the use of a modem (*e.g.,* Internet sales), and the Rule was then renamed the ''Mail or Telephone Order Merchandise Rule.''

Generally, the MTOR requires a merchant to: (1) Have a reasonable basis for any express or implied shipment representation made in soliciting the sale; (2) ship within the time period promised and, if no time period is promised, within 30 days; (3) notify the consumer and obtain the consumer's consent to any delay in shipment; and (4) make prompt and full refunds when the consumer exercises a cancellation option or the merchant is unable to meet the Rule's other requirements.

The notice provisions in the Rule require a merchant who is unable to ship within the promised shipment time or 30 days to notify the consumer of a revised date and his or her right to cancel the order and obtain a prompt refund. Delays beyond the revised shipment date also trigger a notification requirement to consumers. When the MTOR requires the merchant to make a refund and the consumer has paid by credit card, the Rule also requires the merchant to notify the consumer either that any charge to the consumer's charge account will be reversed or that the merchant will take no action that will result in a charge.

Burden Statement

Estimated total annual hours burden: 3,083,000 hours (rounded to the nearest thousand).

In its 2003 PRA-related **Federal Register** notices [2] and corresponding submission to OMB, FTC staff estimated that 53,600 established companies each spend an average of 50 hours per year on compliance with the Rule, and that approximately 1,800 new industry entrants spend an average of 230 hours (an industry estimate) for compliance

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

[2] 68 FR 58683 (Oct. 10, 2003); 68 FR 74580 (Dec. 24, 2003).

measures associated with start-up.[3] Thus, the total estimated hours burden was 3,094,000 hours, rounded up to the nearest thousand [(53,600 established companies × 50 hours) + (1,800 new entrants × 230 hours)].

No provisions in the Rule have been amended or changed since staff's prior submission to OMB. Thus, the Rule's disclosure and recordkeeping requirements remain the same. Since then, however, the number of businesses engaged in the sale of merchandise by mail or by telephone has increased. Comparing data from the U.S. Department of Commerce 2002 Statistical Abstract with data from the 2006 Statistical Abstract,[4] between 1999 and 2002 the number of businesses subject to the MTOR grew from 51,800 to 54,500, or an average increase of 675 new businesses a year [(54,500 businesses in 2002 − 51,800 businesses in 1999) ÷ 4 years]. Assuming this growth rate continues, the average number of established businesses during the three-year period for which OMB clearance is sought for the Rule would be 58,550.[5]

Conversely, based on the 2002 and 2006 Statistical Abstract data, FTC staff is reducing its estimate of new businesses per year from 1,800 to 675. Thus, staff estimates that the average number of affected entities during the three-year OMB clearance period will be approximately 59,225 (58,550 established companies + 675 new entrants).

Accordingly, staff estimates total industry hours to comply with the MTOR by then will be 3,083,000 hours [(58,550 established companies × 50 hours) + (675 new entrants × 230 hours)], rounded to the nearest thousand.

This may overstate the total number of hours spent on MTOR compliance. The mail-order industry has been subject to the basic provisions of the Rule since 1976 and the telephone-order industry since 1994. Thus, businesses have had several years (and some have had decades) to integrate compliance systems into their business procedures. Moreover, arguably much of the estimated time burden for disclosure-related compliance would be incurred even absent the Rule. Industry trade associations and individual witnesses have consistently taken the position that compliance with the MTOR is widely regarded by direct marketers as being good business practice. Providing consumers with notice about the status of their orders fosters consumer loyalty and encourages repeat purchases, which are important to direct marketers' success. Accordingly, the Rule's notification requirements would be followed in any event by most merchants to meet consumer expectations regarding timely shipment, notification of delay, and prompt and full refunds. Thus, it appears that much of the time and expense associated with Rule compliance may not constitute ''burden'' under the PRA.[6] Nevertheless, staff continues to conservatively assume that the time devoted to compliance with the Rule by existing and new companies remains unchanged.

Estimated labor costs: $53,829,000 (rounded to the nearest thousand).

FTC staff derived labor costs by applying appropriate hourly cost figures to the burden hours described above. According to the 2002 and 2006 Statistical Abstract, average payroll for ''electronic shipping and mail order houses,'' ''direct selling establishments,'' and ''other direct selling establishments'' rose from $14.41 per hour in 1999 to $15.92 per hour in 2002, an increase of $1.51 per hour over four years ($15.92 per hour in 2002 − $14.41 per hour in 1999), or an average of $0.378 per year ($1.51 increase over four years ÷ 4 years). Assuming average payroll continues to increase an average of $0.378 per hour per year, the average payroll during the three-year period for which OMB clearance is sought for the Rule would be $17.46 per hour.[7] Because the bulk of the burden of complying with the MTOR is borne by clerical personnel, staff believes that the average hourly payroll figure for electronic shipping and mail order houses and direct selling establishments is an appropriate measure of a direct marketer's average labor cost to comply with the Rule. Thus, the total annual labor cost to new and established businesses for MTOR compliance during the three-year period for which OMB approval is sought would be approximately $53,829,000 (3,083,000 hours × $17.46/hr), rounded to the nearest thousand. Relative to direct industry sales, this total is negligible.[8]

Estimated annual non-labor cost burden: $0 or minimal.

The applicable requirements impose minimal start-up costs, as businesses subject to the Rule generally have or obtain necessary equipment for other business purposes, i.e., inventory and order management, and customer relations. For the same reason, staff anticipates printing and copying costs to be minimal, especially given that telephone order merchants have increasingly turned to electronic communications to notify consumers of delay and to provide cancellation options. Staff believes that the above requirements necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of Federal mandates, but that this would be a small portion of and subsumed within the ordinary training that employees receive apart from that associated with the information collected under the Rule.

William Blumenthal,

General Counsel.

[FR Doc. E6–17091 Filed 10–12–06; 8:45 am]

BILLING CODE 6750–01–P

[3] Most of the estimated start-up time relates to the development and installation of computer systems geared to more efficiently handle customer orders.

[4] Comparing Table 1000 ''Retail Trade—Establishments, Employees and Payroll: 1999 and 2000,'' Statistical Abstract of the United States, 122nd edition, 2002, U.S. Department of Commerce, Economics and Statistics Administration, with Table 1015, ''Retail Trade—Establishments, Employees and Payroll: 2000 and 2002,'' Statistical Abstract of the United States, 125th edition, 2006, U.S. Department of Commerce, Economics and Statistics Administration.

[5] As discussed above, the existing OMB clearance for the Rule expires on January 31, 2007 and the FTC is seeking to extend the clearance through January 31, 2010. The average number of established businesses during the three-year clearance period was determined as follows: [(54,500 businesses in 2002 + (675 new entrants per year × 5 years)) + (54,500 businesses in 2002 + (675 new entrants per year) + (675 new entrants per year × 6 years)) + (54,500 businesses in 2002 + (675 new entrants per year × 7 years))] ÷ 3 years.

[6] Staff recognizes that, since the FTC's previous PRA submission to OMB for the Rule, many businesses have upgraded the information management systems they need in order to comply with the Rule and to track orders more effectively. These upgrades, however, were primarily prompted by the industry's need to deal with growing consumer demand for merchandise (resulting, in part, from increased public acceptance of making purchases over the telephone and, more recently, the Internet). Accordingly, most companies now maintain records and provide updated order information of the kind required by the Rule in their ordinary course of business. Under the OMB regulation implementing the PRA, burden is defined to exclude any effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.3(b)(2).

[7] The approximate payroll during the three-year clearance period was determined as follows: [($15.19 payroll in 2002 + ($0.378 average increase per year × 5 years)) + ($15.19 payroll in 2002 + ($0.378 average increase per year × 6 years)) + ($15.19 payroll in 2002 + ($0.378 × 7 years))] ÷ 3 years.

[8] Based on a $9.775 billion average yearly increase in sales for ''electronic shopping and mail-order houses'' from 2000 to 2004 (according to the 2006 Statistical Abstract), staff estimates that total mail or telephone order sales to consumers in the threeyear period for which OMB clearance is sought will average $187.4 billion. Thus, the projected average labor cost for MTOR compliance by existing and new businesses for that period would amount to less than 0.029% of sales.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–43, CMS–R–142, CMS–4040 & 4040–SP, CMS–10210, and CMS–R–284]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Application for Hospital Insurance Benefits for individuals with End Stage Renal Disease; *Use:* 42 CFR 406.13 outlines the requirements for entitlement to Medicare Part A (hospital insurance [HI]) and Part B (supplementary medical insurance [SMI]) for individuals with End Stage Renal Disease (ESRD). 42 CFR 406.7 lists the CMS–43 form, Application for Hospital Insurance Benefits for Individuals with End Stage Renal Disease, as the application to be used by individuals applying for Medicare under the ESRD provisions of the Act. The form CMS–43 elicits the information that the Social Security Administration and the Centers for Medicare & Medicaid Services need to determine entitlement to Medicare based on the ESRD requirements of the law and regulations. *Form Number:* CMS–43 (OMB#: 0938–0800); *Frequency:* Reporting—Once; *Affected Public:* Individuals or households; *Number of Respondents:* 60,000; *Total Annual Responses:* 60,000; *Total Annual Hours:* 25,989.60.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Examination and Treatment for Emergency Medical Conditions and Women in Labor Act (EMTALA) and Supporting Regulations in 42 CFR 482.12, 488.18, 489.20, and 489.24; *Use:* As mandated by Congress, the information collection requirements found in supporting regulations in 42 CFR 482.12, 488.18, 489.20, and 489.24, aim to prevent hospitals from inappropriately transferring individuals with emergency medical conditions. These requirements are supported by two other current statutes. Section 1861(e)(9) of the Act permits the Secretary to impose on hospitals such other requirements as he finds necessary in the interests of the health and safety of individuals who are furnished services in the institution. It is under this authority that the Secretary has obligated hospitals that participate in Medicare to report when they receive patients that have been inappropriately transferred. Under section 1866(b)(2)(A) and (B) of the Social Security Act (the Act), the Secretary may terminate the provider agreement of a hospital that is not complying substantially with the statute and regulations under title XVIII or that no longer substantially meets the provisions of section 1861 of the Act. *Form Number:* CMS–R–142 (OMB#: 0938–0667); *Frequency:* Recordkeeping and Reporting—On occasion; *Affected Public:* Individuals or households, Business or other for-profit, Not-for-profit, State, Local or Tribal Governments, Federal Government; *Number of Respondents:* 5,600; *Total Annual Responses:* 5,600; *Total Annual Hours:* 1.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Enrollment in Supplementary Medical Insurance; *Use:* 42 CFR 407.10 lists the alternative requirements for enrollment in Part B for any individual who is not entitled to hospital insurance under Part A but has attained age 65 and is either a citizen of the United States (U.S.) or an alien lawfully admitted for permanent residence who has lived in the U.S. continually for 5 years. 42 CFR 407.11 lists the CMS–4040 form, Request for Enrollment in Supplementary Medical Insurance, as the application to be used by individuals not eligible for monthly benefits or free Part A. Form CMS–4040 elicits the information that the Social Security Administration and Centers for Medicare & Medicaid Services need to determine entitlement to Part B only. *Form Number:* CMS–4040, 4040–SP (OMB#: 0938–0245); *Frequency:* Reporting—Once; *Affected Public:* Individuals or households; *Number of Respondents:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Hours:* 25,000.

4. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Hospital Reporting Initiative—Hospital Quality Measures (Surgical Care Improvement (SCIP) Measures/Mortality Measures; *Use:* The purpose of this information collection request is to collect data to produce valid, reliable, comparable and salient quality measures to provide a potent stimulus for clinicians and providers to improve the quality of care they provide. The reporting of Surgical Care Improvement (SCIP) measures is currently being collected from hospitals for activities associated with the Quality Improvement Organization (QIO) Program. Section 5001(a) of Public Law 109–171 of the Deficit Reduction Act sets out new requirements under the Reporting Hospital Quality Data for Annual Payment Update program. This program was initially established under section 501(b) of the MMA which offers monetary incentives for hospitals participating in the reporting of quality data. The Act requires that we expand the existing ''starter set'' of 10 quality measures that we have used since 2003. Although, this effort increases the volume of data currently reported into the QIO Clinical Data Warehouse; it however, does not place a substantial data collection burden on hospitals. A substantial percentage of hospitals are voluntarily submitting these SCIP measures currently. In contrast to the SCIP quality measures, no additional data collection from hospitals will be required from the mortality measures. All three mortality measures can be calculated based on Medicare inpatient and outpatient claims data that are already reported to the Medicare program for payment purposes. *Form Number:* CMS–10210 (OMB#: 0938–NEW); *Frequency:* Recordkeeping, Reporting, Third-Party Disclosure—Quarterly; *Affected Public:* Business or other for-profit, Not-for-profit; *Number of Respondents:* 3,700; *Total Annual Responses:* 3,700; *Total Annual Hours:* 587,500.

5. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid Statistical Information System; *Use:* State data are reported by the Federally mandated electronic process, known as Medicaid Statistical Information System

(MSIS). These data are the basis of actuarial forecasts for Medicaid service utilization and costs; of analysis and cost savings estimates required for legislative initiatives relating to Medicaid; and for responding to requests for information from CMS components, the Department, Congress and other customers. *Form Number:* CMS–R–284 (OMB#: 0938–0345); *Frequency:* Quarterly; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 53; *Total Annual Responses:* 212; *Total Annual Hours:* 3,392.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on December 12, 2006.

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—C, Attention: Bonnie L Harkless, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 4, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E6–17035 Filed 10–12–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an existing SOR, ''Record of Individuals Allowed Regular and Special Parking Privileges at the Health Care Financing Administration (HCFA) Building (PRKG), System No. 09–70–3004.'' Notice for this system was published at 65 **Federal Register** (Fed. Reg.) 59193, October 4, 2000. The name of the Agency has been changed from HCFA to the Centers for Medicare & Medicaid Administration (CMS). We will modify the system name to read: ''Record of Individuals Allowed Regular and Special Parking Privileges at the CMS Building (PRKG).'' We propose to assign a new CMS identification number to this system to simplify the obsolete and confusing numbering system originally designed to identify the Bureau, Office, or Center that maintained information in the HCFA systems of records. The new assigned identifying number for this system should read: System No. 09–70–0515.

We propose to modify existing routine use number 1 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charged with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractors and/or consultants. The modified routine use will remain as routine use number 1. We will delete routine use number 2 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the ''prior written consent'' of the data subject.

We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization or because of the impact of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Public Law (Pub. L.) 108–173) provisions and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the system of records is to collect and maintain information on all CMS employees, non-CMS employees, contractors, employees of other Federal agencies, visitors, and others who require parking privileges at CMS complex at Baltimore, Maryland. Information retrieved from this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant or grantee; and, (2) support litigation involving the agency. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. *See* Effective Dates section for comment period.

DATES: *Effective Dates:* CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on *October 5, 2006*. To ensure that all parties have adequate time in which to comment, the modified system, including routine uses, will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Kristina Raitch-Zaruba, Physical Security Specialist, Emergency Resources Management and Response Group, Office of Operations Management, CMS, Room SLL–11–08, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Ms. Zaruba can be reached by telephone at 410–786–0837, or via e-mail at *kristina.raitchzaruba@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for System of Records

Authority for maintenance of this system is given under Title 5 United States Code § 301.

B. Scope of the Data Collected

The system will collect information on all CMS employees, non-CMS employees, contractors, employees of other Federal agencies, visitors, and others who require parking privileges at the CMS complex in Baltimore. The information collected will include, but is not limited to, the name, social security number, parking permit number, telephone number, work location, position, title and grade, supervisor's name and telephone number and background information relating to medical or specific parking needs.

II. Collection and Maintenance of Data in the System

A. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release PRKG information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of PRKG. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from this system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected; *e.g.*, to implement the regulations and directives that established those Federal workers and other authorized personnel will be issued parking permits for the CMS complex.

2. Determines:

a. That the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. That the purpose for which the disclosure is to be made is of sufficient importance to warrant the potential effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. That there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record; and

b. Remove or destroy at the earliest time all patient-identifiable information.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants or grantees who have been engaged by the agency to assist in the performance of a service related to this system and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS function relating to purposes for this system.

CMS occasionally contracts out some of its functions when doing so would contribute to more effective and efficient operations. CMS must be able to give a contractor, consultant or grantee whatever information is necessary for the contractor, consultant or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant or grantee to return or destroy all information at the completion of the contract.

2. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, and occasionally when another party is involved in litigation and CMS' policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent NIST publications; the HHS Automated Information Systems Security Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to modify this system in accordance with the principles and requirements of the Privacy Act and will

collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures (see item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: October 4, 2006.

Charlene Friaaera,

Acting Chief Operating Officer, Centers for Medicare & Medicaid Services.

System No. 09–70–0515

SYSTEM NAME:

''Record of Individuals Allowed Regular and Special Parking Privileges at the CMS Complex (PRKG),'' HHS/CMS/OOM.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and the Office of Operations Management, South Building, Lower Level, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The collected information on all CMS employees and non-CMS employees, contractors, employees of another Federal agency, visitors, and others who require parking privileges at the CMS buildings.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the collected information on all Federal employees at CMS buildings, *i.e.*, will contain name, social security number, parking permit number, telephone number, work location, position, title and grade, supervisor's name and telephone number and background information relating to medical or specific parking needs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of this system is given under Title 5 United States Code § 301.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the system of records is to collect and maintain information on all CMS employees, non-CMS employees, contractors, employees of other Federal agencies, visitors, and others who require parking privileges at the CMS complex at Baltimore, Maryland. Information retrieved from this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant or grantee; and (2) support litigation involving the agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants or grantees who have been engaged by the agency to assist in the performance of a service related to this system and who need to have access to the records in order to perform the activity.

2. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained on paper, computer diskette and on magnetic storage media.

RETRIEVABILITY:

Name and parking permit identification number are used to retrieve the records.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent NIST publications; the HHS Automated Information Systems Security Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

All records are destroyed one year after parking privileges are terminated.

SYSTEM MANAGER AND ADDRESS:

Director, Emergency Resources Management and Response Group, Office of Operations Management, CMS, Room SLL–11–08, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purposes of access, the subject individual should write to the system manager who will require the system name, parking permit number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable) and Social Security number (SSN). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purposes of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are received from the individual requesting parking privileges on CMS Form 182.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6–16951 Filed 10–12–06; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an existing system of records titled, ''Provider Enrollment, Chain, and Ownership System (PECOS),'' System No. 09–70–0532, established at 66 **Federal Register** 51961 (October 11, 2001). PECOS will collect information provided by the applicant related to identity, qualifications, practice locations, ownership, billing agency information, reassignment of benefits, electronic funds transfer, the national provider identifier (NPI), and related organizations. PECOS will also maintain information on business owners, chain home offices and provider/chain associations, managing/directing employees, partners, authorized and delegated representatives, supervising physicians of the supplier, staffing companies, ambulance vehicle information, and/or interpreting physicians and related technicians.

We propose to modify existing routine use number 1 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charged with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractors and/or consultants. The modified routine use will remain as routine use number 1. We will delete routine use number 3 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the ''prior written consent'' of the data subject.

We propose to add a routine use to assist an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects. The proposed routine use will be numbered as routine use number 3. We will broaden the scope of routine uses number 5 and 6, authorizing disclosures to combat fraud and abuse in the Medicare and Medicaid programs to include combating ''waste'' which refers to specific beneficiary/recipient practices that result in unnecessary cost to all federally-funded health benefit programs.

We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization or because of the impact of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Public Law 108–173) provisions and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the SOR is to: (1) Collect information for an applying provider/supplier and record the associations between the applicant and those who have an ownership or control interest in the entity; (2) permit informed enrollment decisions to be made based on past and present business history, any reported exclusions, sanctions and felonious behavior at their location or in multiple contractor jurisdictions; and, (3) ensure that correct payments are made under the Medicare program. Information retrieved from this SOR will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or CMS grantee; (2) assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist an individual or organization for research, evaluation, or epidemiological projects; (5) support litigation involving the Agency; and (5) combat fraud, waste, and abuse in certain health benefits programs. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

DATES: *Effective Dates:* CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on October 5, 2006. To ensure that all parties have adequate time in which to comment, the modified system, including routine uses, will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–04–27, 7500 Security

Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Alisha Banks, Health Insurance Specialist, Division of Provider/Supplier Enrollment, Program Integrity Group, Office of Financial Management, CMS, C3–02–16, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Ms. Banks can be reached by telephone at 410–786–0671, or by e-mail at *alisha.banks@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for System

The Authority for maintenance of the system is given under provisions of sections 1102(a) (Title 42 U.S.C. 1302(a)), 1128 (42 U.S.C. 1320a–7), 1814(a)) (42 U.S.C. 1395f(a)(1), 1815(a) (42 U.S.C. 1395g(a)), 1833(e) (42 U.S.C. 1395I(3)), 1871 (42 U.S.C. 1395hh), and 1886(d)(5)(F), (42 U.S.C. 1395ww(d)(5)(F) of the Social Security Act; 1842(r) (42 U.S.C. 1395u(r)); section 1124(a)(1) (42 U.S.C. 1320a–3(a)(1), and 1124A (42 U.S.C. 1320a–3a), section 4313, as amended, of the BBA of 1997; and section 31001(i) (31 U.S.C. 7701) of the DCIA (Pub. L. 104–134), as amended.

B. Collection and Maintenance of Data in the System

PECOS will collect information provided by an applicant related to identity, qualifications, practice locations, ownership, billing agency information, reassignment of benefits, electronic funds transfer, the NPI and related organizations. PECOS will also maintain information on business owners, chain home offices and provider/chain associations, managing/directing employees, partners, authorized and delegated officials, supervising physicians of the supplier, staffing companies, ambulance vehicle information, and/or interpreting physicians and related technicians.

This system of records will contain the names, social security numbers (SSN), date of birth (DOB), and employer identification numbers (EIN) and NPI's for each disclosing entity, owners, as well as managing/directing employees, with 5 percent or more ownership or control interest. Managing/directing employees include general manager, business managers, administrators, directors, and other individuals who exercise operational or managerial control over the provider/supplier. The system will also contain Medicare identification numbers (*i.e.*, UPIN, OSCAR, PIN and the NPI), demographic data, professional data, past and present business history as well as information regarding any adverse actions such as exclusions, sanctions, and felonious behavior.

II. Agency Policies, Procedures, and Restrictions on the Routine Use

A. The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release PECOS information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of PECOS. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from this system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.*, to collect information for an applying provider/supplier and record the associations between the applicant and those who have an ownership or control interest in the entity.

2. Determines:

a. That the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. That the purpose for which the disclosure is to be made is of sufficient importance to warrant the potential effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. That there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record; and

b. Remove or destroy at the earliest time all patient-identifiable information.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants, or grantees, who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant or grantee whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant or grantee to return or destroy all information at the completion of the contract.

2. To assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds, and/or

c. Evaluate and monitor the quality of home health care and contribute to the accuracy of health insurance operations.

Other Federal or state agencies in their administration of a Federal health program may require PECOS information in order to support

evaluations and monitoring of reimbursement for services provided.

3. To assist an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

The collected data will provide the research, evaluation and epidemiological projects a broader, longitudinal, national perspective of the data. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare patients and the policy that governs the care. CMS understands the concerns about the privacy and confidentiality of the release of data for a research use. Disclosure of data for research and evaluation purposes may involve aggregate data rather than individual-specific data.

4. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, and occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

5. To assist a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual relationship or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud, waste, and abuse.

CMS occasionally contracts out certain of its functions and makes grants when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

6. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

Other agencies may require PECOS information for the purpose of combating fraud, waste, and abuse in such Federally funded programs.

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to modify this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures (see item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: October 4, 2006.

Charlene Frizzera,

Acting Chief Operating Officer, Centers for Medicare & Medicaid Services.

System No. 09–70–0532

SYSTEM NAME:

''Provider Enrollment, Chain, and Ownership System (PECOS), HHS/CMS/OFM''

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data

SYSTEM LOCATION:

The Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–

1850 and South Building, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PECOS will collect information provided by an applicant related to identity, qualifications, practice locations, ownership, billing agency information, reassignment of benefits, electronic funds transfer, the national provider identifier (NPI) and related organizations. PECOS will also maintain information on business owners, chain home offices and provider/chain associations, managing/directing employees, partners, authorized and delegated officials, supervising physicians of the supplier, staffing companies, ambulance vehicle information, and/or interpreting physicians and related technicians.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records will contain the names, social security numbers (SSN), date of birth (DOB), and employer identification numbers (EIN) and NPI's for each disclosing entity, owners, as well as managing/directing employees, with 5 percent or more ownership or control interest. Managing/directing employees include general manager, business managers, administrators, directors, and other individuals who exercise operational or managerial control over the provider/supplier. The system will also contain Medicare identification numbers (*i.e.,* UPIN, OSCAR, PIN and the NPI), demographic data, professional data, past and present business history as well as information regarding any adverse actions such as exclusions, sanctions, and felonious behavior.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Authority for maintenance of the system is given under provisions of sections 1102(a) (Title 42 U.S.C. 1302(a)), 1128 (42 U.S.C. 1320a–7), 1814(a)) (42 U.S.C. 1395f(a)(1), 1815(a) (42 U.S.C. 1395g(a)), 1833(e) (42 U.S.C. 1395I(3)), 1871 (42 U.S.C. 1395hh), and 1886(d)(5)(F), (42 U.S.C. 1395ww(d)(5)(F) of the Social Security Act; 1842(r) (42 U.S.C. 1395u(r)); section 1124(a)(1) (42 U.S.C. 1320a–3(a)(1), and 1124A (42 U.S.C. 1320a–3a), section 4313, as amended, of the BBA of 1997; and section 31001(i) (31 U.S.C. 7701) of the DCIA (Pub. L. 104–134), as amended.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the SOR is to: (1) Collect information for an applying provider/supplier and record the associations between the applicant and those who have an ownership or control interest in the entity; (2) permit informed enrollment decisions to be made based on past and present business history, any reported exclusions, sanctions and felonious behavior at their location or in multiple contractor jurisdictions; and, (3) ensure that correct payments are made under the Medicare program. Information retrieved from this SOR will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or CMS grantee; (2) assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist an individual or organization for research, evaluation, or epidemiological projects; (5) support litigation involving the Agency; and (5) combat fraud, waste, and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants, or grantees, who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

2. To assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds, and/or

c. Evaluate and monitor the quality of home health care and contribute to the accuracy of health insurance operations.

3. To assist an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

4. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

5. To assist a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such program.

6. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on paper and magnetic disk.

RETRIEVABILITY:

Magnetic media records are retrieved by the name of the employees or other authorized individual and/or card key number. Paper records are retrieved alphabetically by name.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such

users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS will retain identifiable data for a total period of 15 years from the date the information was collected.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Provider/Supplier Enrollment, Office of Financial Management, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, SSN, EIN, and for verification purposes, the subject individual's name (woman's maiden name, if applicable).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Information contained in this system is received from the Form(s) CMS 855A, ''Medicare Enrollment Application for Institutional Providers,'' CMS 855B, ''Medicare Enrollment Application for Clinic/Group Practices and Certain Other Providers,'' CMS 855I, ''Medicare Enrollment Application for Physician and Non-Physician Practitioners,'' CMS 855R, ''Medicare Enrollment Application for Reassignment of Medicare Benefits,'' and CMS 855S, ''Medicare Enrollment Application for Durable Medial Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS).''

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6–16954 Filed 10–12–06; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the Privacy Act of 1974, we are proposing to modify or alter an existing SOR, ''Evaluations of the Medicaid Reform Demonstrations (EMRD),'' System No. 09–70–0068, last published at 67 **Federal Register** 2216 (January 16, 2002). CMS is reorganizing its databases because of the impact of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Public Law (Pub. L.) 108–173) provisions and the large volume of information the Agency collects to administer the Medicare program. We propose to assign a new CMS identification number to this system to simplify the obsolete and confusing numbering system originally designed to identify the Bureau, Office, or Center that maintained the system of records. The new assigned identifying number for this system should read: System No. 09–70–0523.

We propose to modify existing routine use number 1 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charged with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractor and/or consultants. The modified routine use will remain as routine use number 1.

We propose to combine routine uses 2 and 3 to assist another Federal or state agency with information to contribute to the accuracy of CMS's proper payment of Medicare benefits, enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds. As they were duplicative of each other.

We will delete routine use number 4, authorizing disclosure to support constituent requests made to a Congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the ''prior written consent'' of the data subject.

We will broaden the scope of routine uses number 6 and 7, authorizing disclosures to combat fraud and abuse in the Medicare and Medicaid programs to include combating ''waste'' which refers to specific beneficiary/recipient practices that result in unnecessary cost to all Federally-funded health benefit programs.

We are modifying the language in the routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization or MMA provisions and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of this modified system is to collect and provide data

necessary to evaluate a series of Medicaid Reform Demonstrations that rely on waivers of section 1115 of the Social Security Act (the Act). This system will allow measurement of the effects of the demonstration on beneficiaries' eligibility, access to care, utilization, health care costs, satisfaction with care, quality of care and health status. The information retrieved from this system of records will also be disclosed to: (1) Support program administration, reporting, and regulator, reimbursement, and policy functions performed within the CMS or by a contractor, consultant, or grantee; (2) assist another Federal or state agency with information to contribute to the accuracy of CMS's proper payment of Medicare benefits, enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (3) support an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects; (4) support litigation involving the agency; and (5) combat fraud, waste, and abuse in a Federally-funded health benefits programs. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the modified or altered routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

DATES: *Effective Date:* CMS filed a modified or altered SOR report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on October 5, 2006. To ensure that all parties have adequate time in which to comment, the modified system will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and the Congress, whichever is later. We may defer implementation of this system or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to the CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, CMS, Mail Stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Paul J. Boben, Division of State Program Research, Research and Evaluation Group, Office of Research, Development and Information, CMS, Mail Stop C3–19–07, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. He can also be reached by telephone at 410–786–6629, or via e-mail at *Paul.Boben@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: This system was last published in the **Federal Register** (FR) at 67 FR 2216 (January 16, 2002). The EMRD SOR provides data necessary to evaluate CMS' Evaluation of the Medicaid Reform Demonstrations, as part of this effort individually identifiable data will be used to analyze the effects of the demonstration on beneficiary eligibility, access to care, utilization, health care costs, satisfaction with care, quality of care, and health status.

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for SOR

Authority for maintenance of the system is given under 42 United States Code (U.S.C.) 1315 § 1115, and 42 U.S.C. 1395ll § 1875(a) of the Social Security Act.

B. Collection and Maintenance of Data in the System

EMRD contains information on demonstration participants and comparison group members and their experiences in accessing health care before, during, and after the demonstration period. Information collected in the EMRD contains, but is not limited to, name, address, phone number, social security number, health insurance claim number, Medicaid identification number, gender, ethnicity, date of birth, employment, health care coverage, diagnostic and health status information, utilization and cost of health care services, and responses to survey or other types of data collection methods

II. Agency Policies, Procedures, and Restrictions on the Routine Use

A. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release EMRD information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of EMRD. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from this system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.*, to collect and provide data necessary to evaluate a series of Medicaid Reform Demonstrations that rely on waivers of section 1115 of the Act. This system will allow measurement of the effects of the demonstration on beneficiaries' eligibility, access to care, utilization, health care costs, satisfaction with care, quality of care and health status.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants, or grantee who have been contracted by the agency to assist in the performance of a service related to this system and who need to have access to the records in order to perform the activity.

We contemplate disclosing this information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant, or grantee whatever information is necessary for the contractor, consultant, or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant, or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant or grantee to return or destroy all information at the completion of the contract.

2. To enable another Federal or state agency to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. Enable such agency to administer a Federal health benefits program, or, as necessary, to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. Assist Federal/state Medicaid programs within the state.

CMS, and other Federal or state and local agencies, all contribute data to the databases included in this system, and (both separately and jointly) have an interest in performing program evaluation, conducting research and maintaining program integrity.

3. To support an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

The EMRD data will provide for research or in support of evaluation projects, a broader, national perspective of the status of Medicare, Medicaid and SCHIP beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare, Medicaid and SCHIP beneficiaries and the policy that governs the care.

4. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, and occasionally when another party is involved in litigation and CMS' policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

5. To support a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual relationship or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud, waste, and abuse.

CMS occasionally contracts out certain of its functions and makes grants when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

6. To support another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

Other agencies may require EMRD information for the purpose of combating fraud, waste, and abuse in such federally-funded programs.

B. Additional Provisions Affecting Routine Use Disclosures: To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, Subparts A and E) 65 FR 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (See 45 CFR 164.512(a)(1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having

access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E–Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified or Altered System of Records on Individual Rights

CMS proposes to modify this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: October 4, 2006.

Charlene Frizzera,

Acting Chief Operating Officer, Centers for Medicare & Medicaid Services.

System No. 09–70–0523

SYSTEM NAME:

''Evaluations of the Medicaid Reform Demonstrations (EMRD),'' HHS/CMS/ORDI

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data

SYSTEM LOCATION:

The Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and at various contractor sites and at CMS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EMRD contains information on demonstration participants and comparison group members and their experiences in access health care before, during, and after the demonstration period.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information collected in the EMRD contains, but is not limited to, name, address, phone number, social security number (SSN), health insurance claim number (HICN), Medicaid identification number, gender, ethnicity, date of birth, employment, health care coverage, diagnostic and health status information, utilization and cost of health care services, and responses to survey or other types of data collection methods.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under 42 United States Code (U.S.C.) 1315 § 1115, and 42 U.S.C. 1395ll § 1875(a) of the Social Security Act.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this modified system is to collect and provide data necessary to evaluate a series of Medicaid Reform Demonstrations that rely on waivers of section 1115 of the Social Security Act (the Act). This system will allow measurement of the effects of the demonstration on beneficiaries' eligibility, access to care, utilization, health care costs, satisfaction with care, quality of care and health status. The information retrieved from this system of records will also be disclosed to: (1) Support program administration, reporting, and regulator, reimbursement, and policy functions performed within the CMS or by a contractor, consultant, or grantee; (2) assist another Federal or state agency with information to contribute to the accuracy of CMS's proper payment of Medicare benefits, enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (3) support an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects; (4) support litigation involving the agency; and (5) combat fraud, waste, and abuse in a Federally-funded health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants, or grantee who have been contracted by the agency to assist in the performance of a service related to this system and who need to have access to the records in order to perform the activity.

2. To enable another Federal or state agency to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. Enable such agency to administer a Federal health benefits program, or, as necessary, to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. Assist Federal/state Medicaid programs within the state.

3. To support an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

4. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

5. To support a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such program.

6. To support another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

B. Additional Provisions Affecting Routine Use Disclosures: To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, Subparts A and E) 65 FR 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (See 45 CFR 164.512(a) (1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of the beneficiary).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on paper or electronic media.

RETRIEVABILITY:

Information can be retrieved using the beneficiary's name, Medicaid identification number, HICN, or SSN.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS will retain information for a total period not to exceed 10 years. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of State Program Research, Research and Evaluation Group, Office of Research, Development and Information, CMS, Mail Stop C3–19–07, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, HICN, address, date of birth, and gender, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and SSN. Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORDS PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the records and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These Procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORDS SOURCE CATEGORIES:

Sources on information contained in this system include: State Medicaid Management Information Systems, managed care organizations, fee-for-service providers, surveys of demonstration participants or providers and comparison group members, medical records, Social Security Administration databases, vital statistics and other relevant data systems.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6–16955 Filed 10–12–06; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0136]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Interstate Shellfish Dealers Certificate

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by November 13, 2006

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Interstate Shellfish Dealers Certificate—(OMB Control Number 0910–0021)—Extension

Under 42 U.S.C. 243, FDA is required to cooperate with and aid State and local authorities in the enforcement of their health regulations and is authorized to assist States in the prevention and suppression of communicable diseases. Under this authority, FDA participates with State regulatory agencies, some foreign nations, and the molluscan shellfish industry in the National Shellfish Sanitation Program (NSSP).

NSSP is a voluntary, cooperative program to promote the safety of molluscan shellfish by providing for the classification and patrol of shellfish growing waters and for the inspection and certification of shellfish processors. Each participating State and foreign nation monitors its molluscan shellfish processors and issues certificates for those that meet the State or foreign shellfish control authority's criteria. Each participating State and nation provides a certificate of its certified shellfish processors to FDA on Form FDA 3038, ''Interstate Shellfish Dealer's Certificate.'' FDA uses this information to publish the ''Interstate Certified Shellfish Shippers List,'' a monthly comprehensive listing of all molluscan shellfish processors certified under the cooperative program. If FDA did not collect the information necessary to compile this list, participating States would not be able to identify and keep out shellfish processed by uncertified processors in other States and foreign nations. Consequently, NSSP would not be able to control the distribution of uncertified and possibly unsafe shellfish in interstate commerce, and its effectiveness would be nullified.

In the **Federal Register** of April 11, 2006 (71 FR 18339), FDA published a 60–day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Form No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Respondent	Total Hours
3038	39	62	2,418	.10	242

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

This estimate is based on FDA's experience and the number of certificates received in the past 3 years.

Dated: October 5, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–16953 Filed 10–12–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Funding Opportunity Number: **HHS–2007–IHS–TSGP–0002**

Tribal Self-Governance Program; Negotiation Cooperative Agreement; New Funding Cycle for Fiscal Year 2007

CFDA Number: 93.210.

Key Dates: Applications Due—November 16, 2006.

Objective Review Committee to Evaluate Applications—December 7–8, 2006.

Anticipation Project Start Date—January 15, 2007.

I. Funding Opportunity Description

The purpose of the program is to award cooperative agreements that provide negotiation resources to Tribes interested in participating in the Tribal Self-Governance Program (TSGP) as authorized by Title V, Tribal Self-Governance Amendments of 2000 of the Indian Self-Determination and Education Assistance Act of Public Law (Pub. L.) 93–638, as amended. There is limited competition under this announcement because the authorizing legislation, Pub. L. 106–260, Title V, restricts eligibility to Tribes that meet specific criteria. (Refer to Section III. (1.) (A.), Eligible Applicants in this announcement.) The TSGP is designed to promote self-determination by allowing Tribes to assume more control of Indian Health Service (IHS) programs and services through compacts negotiated with the IHS. The Negotiation Cooperative Agreement provides Tribes with funds to help cover the expenses involved in preparing for and negotiating with the IHS and assists eligible Indian Tribes to prepare for Compacts and Funding Agreements (FAs) with an effective date of January 15, 2007.

The Negotiation Cooperative Agreement provides resources to assist Indian Tribes to conduct negotiation activities that include but are not limited to:

1. Determine what programs, services, functions, and activities (PSFA's) will be negotiated.

2. Identification of Tribal shares that will be included in the FA.

3. Development of the terms and conditions that will be set forth in a Compact and Funding (FA).

The award of a Negotiation Cooperative Agreement is not required

as a prerequisite to enter the TSGP. Indian Tribes that have completed comparable health planning activities in previous years using Tribal resources but have not received a Tribal self-governance planning award are also eligible to apply.

II. Award Information

Type of Award: Cooperative Agreement.

Estimated Funds Available: The total amount identified for Fiscal Year (FY) 2007 is $240,000 for approximately twelve (12) Tribes to enter the TSGP negotiation process.

Anticipated Number of Awards: The estimated number of awards to be funded is approximately 12.

Project Period: 12 months.

Award Amount: $20,000 per year.

Programmatic Involvement: IHS TSGP funds will be awarded as cooperative agreements and will have substantial programmatic involvement to establish a process through which Tribes can effectively approach the IHS to identify Programs, Services, Functions and Activities (PSFA's) and associated funding that could be incorporated into their programs.

The IHS roles and responsibilities will include:

- Providing a description of PSFA's and associated funding at all levels, including funding formulas and methodologies related to determining Tribal shares.
- Identification of IHS staff that will consult with applicants on methods currently used to manage and deliver health care.
- Provide applicants with statutes, regulations and policies that provide authority for administering IHS programs, including contract support costs criteria for new or expanded programs.

The Grantee roles and responsibilities are essential to the overall success of the project. Therefore the grantee must:

- Determine the PSFA's and associated funding the Tribe may elect to assume.
- Prepare to discuss each PSFA in comparison to the current level of services provided, so that an informed decision can be made on new programs assumption.
- Develop a compact and FA to submit to the Agency Lead Negotiator prior to negotiations.

III. Eligibility Information

1. Eligible Applicants

To be eligible for a negotiation cooperative agreement under this announcement, an applicant must meet all of the following criteria:

A. Be a Federally-recognized Tribe as defined in Title V, Pub. L. 106–260, Tribal Self-Governance Amendments of 2000, of the Indian Self-Determination and Education Assistance Act (the Act), Pub. L. 93–638, as amended. However, Alaska Native Villages or Alaska Native Village Corporations, who are located within the area served by an Alaska Native regional health entity already participating in compact status, are not eligible (Pub. L. 106–260, Title V, Section 12(a)(2)(b)). Those Tribes are represented by a self-governance Tribal consortium compact, within their area, may still be considered to participate in the TSGP.

2. Cost Sharing or Matching Funds

The Self-Governance Negotiation Cooperative Agreement Announcement does not require matching funds or cost sharing to participate in the competitive grant process.

3. Other Requirements

The following documentation is required (if applicable):

A. This program is described at 93.210 in the *Catalog of Federal Domestic Assistance.*

B. Request participation in self-governance by resolution by the governing body of the Indian Tribe. An Indian Tribe that is proposing a cooperative agreement affecting another Indian Tribe must include resolutions from all affected Tribes to be served.

C. Tribal Resolution—A resolution of the Indian Tribe served by the project must accompany the application submission. For Tribal Consortia applying for a Negotiation Cooperative Agreement, individual Tribal Council Resolutions from all individual Tribes whose PSFAs will be compacted must be submitted.

Draft resolutions are acceptable in lieu of an official resolution during the review process. However, an official signed Tribal resolution must be received by the Office of Tribal Self-Governance (OTSG), Attn: Jolene Aguilar, 801 Thompson Avenue, Suite 240, Rockville, MD 20852, before the Objective Review (December 6, 2006). If an official signed resolution is not submitted by December 6, 2006, the application will be considered incomplete and will be returned as unresponsive.

*It is highly recommended that the Tribal resolution be sent by Federal Express for proof of receipt.

D. Demonstrate, for three FY's, financial stability and financial management capability, which is defined as no uncorrected significant and material audit exceptions in the required annual audit of the Indian Tribe's self-determination contracts or self-governance funding agreements with any Federal agency.

E. Grantees are required to submit a current version of the organization's audit report. Audit reports can be lengthy; therefore, the applicants may submit them separately via regular mail by the due date (November 16, 2006). If the grantee determines that the audit reports are not lengthy, the applicants may scan the documents and attach them to the electronic application. Applicants must submit two copies of the audits that reflect three previous fiscal years under separate cover directly to the Office of Tribal Self-Governance, Attn: Kevin C. Quinn, 801 Thompson Avenue, Suite 240, Rockville, MD 20852, referencing the Funding Opportunity Number, HHS–2007–IHS–TSGP–0002, as prescribed by Pub. L. 98–502, the Single Audit Act, as amended (see OMB Circular A–133, revised June 24, 1997, Audits of States, Local Governments, and Non-Profit Organizations). If this documentation is not submitted by the due date, the application will be considered as unresponsive and will not be considered. Applicants must include the grant tracking number assigned to their electronic submission by Grants.gov and the date submitted via Grants.gov in their cover letter transmitting the required audits for the previous three fiscal years.

IV. Application and Submission Information

1. Application package and detailed instructions for this announcement can be found on Grants.gov (*http://www.grants.gov*) or at *http://www.ihs.gov/NonMedicalProgram/gogp/gogp_funding.asp.*

Information regarding the electronic application process may be directed to Michelle G. Bulls, at (301) 443–6528 or via e-mail at *michelle.bulls@ihs.gov.*

2. Content and Form of Application Submission:

A. All applications should:

- Be single spaced.
- Be typewritten.
- Have consecutively numbered pages.
- Use black type not smaller than 12 characters per one inch.
- Be printed on one side only of standard size 8½″ x 11″ paper.
- Contain a narrative that does not exceed 7 typed pages that includes the sections listed below. (The 7 page narrative does not include the work plan, standard forms, Tribal resolution(s), table of contents, budget,

budget justifications, narratives, and/or other appendix items.)

Public Policy Requirements: All Federal-wide public policies apply to IHS cooperative agreements with exception of Lobbying and Discrimination.

3. Submission Dates and Times:

Applications must be submitted on-line by November 16, 2006. Late applications not accepted for processing will be returned to the applicant and will not be considered for funding.

4. Intergovernmental Review:

This funding opportunity is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' State approval is not required.

5. Funding Restrictions:

A. Only one negotiation cooperative agreement will be awarded per applicant.

B. Each negotiation cooperative agreement shall not exceed $20,000. The available funds are inclusive of direct and indirect costs.

C. Division of Grants Operations will not acknowledge receipt of applications.

6. Other Submission Requirements:

The application must comply with the following:

A. Table of Contents

B. Abstract (one page)—Summarizes the project.

C. Application for Federal Assistance (SF–424, Rev. 09/03)

D. Narrative (no more than 7 pages) and should include the following:

(1) Background information on the Tribe.

(2) Proposed scope of work, objectives, and activities that provide a description of what will be accomplished including a one-page Time Frame Chart.

E. A line-item budget and narrative justification.

F. Appendices to include:

(1) Resumes or position descriptions of key staff.

(2) Contractors/Consultants resumes or qualifications and scope of work.

(3) Current Indirect Cost Agreement.

(4) Organizational Chart (Optional)

Electronic Transmission

The preferred method for receipt of applications is electronic submission through Grants.gov. However, should any technical problems arise regarding the submission, please contact our Grants Policy Staff at (301) 443–6528 at least ten days prior to the application deadline. To submit an application electronically, please use the *http://www.Grants.gov* apply site. Download a copy of the application package, on the Grants.gov Web site, complete it offline and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a cooperative agreement application to us.

Please note the following:

- Under the new IHS requirements, paper applications are not the preferred method. However, if you have technical problems submitting your application on-line, and you have contacted the Grants Policy Staff and advised them of the difficulties you are having submitting your application on-line, you may submit a paper application after you have downloaded the application package from Grants.gov, and sent it directly to the Division of Grants Operations, 801 Thompson Avenue, TMP 360, Rockville, MD 20852 by the due date, November 16, 2006.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the deadline date to begin the application process through Grants.gov.
- To use Grants. gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of 10–15 days to complete CCR registration. See below on how to apply.
- You must submit all documents electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in the program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Indian Health Service will retrieve your application from Grants. gov.
- You may access the electronic application for this program on *http://www.Grants.gov.*
- You must search for the downloadable application package by CFDA number.
- To receive an application package, the applicant must provide the Funding Opportunity Number: HHS–2007–IHS–TSGP–0002.

E-mail applications will not be accepted under this announcement.

DUNS Number

Beginning October 1, 2003, applicants were required to have a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Interested parties may wish to obtain their DUNS number by phone to expedite the process.

Applications submitted electronically must also be registered with the Central Contractor Registry (CCR). A DUNS number is required before CCR registration can be completed. Many organizations may already have a DUNS number. Please use the number listed above to investigate whether or not your organization has a DUNS number. Registration with the CCR is free of charge.

Applicants may register by calling 1–888–227–2423. Please review and complete the CCR ''Registration Worksheet'' located in the appendix of the TSGP Negotiation Cooperative Agreement application kit or on *http://www.grants.gov/CCRRegister.*

More detailed information regarding these registration processes can be found at *http://www.grants.gov.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses.

1. Criteria

Demonstration of Previous Planning Activities (30 Points)

Has the Indian Tribe determined the PSFAs to be assumed? Has the Indian Tribe determined it has the administrative infrastructure to support the assumption of the PSFAs? Are the results of what was learned or is being learned during the planning process clearly stated?

Thoroughness of Approach (25 Points)

Is a specific narrative provided regarding the direction the Indian Tribe plans to take in the TSGP? How will the Tribe demonstrate improved health and services? Are proposed time lines for negotiations indicated?

Project Outcome (25 Points)

What beneficial contributions are expected or anticipated for the Tribe? Is information provided on the services that will be assumed? What improvements will be made to manage the health care system? Are Tribal needs discussed in relation to the proposed programmatic alternatives and

outcomes, which will serve the Tribal community?

Administrative Capabilities (20 Points)

Does the Indian Tribe clearly demonstrate knowledge and experience in the operation and management of health programs? Is the internal management and administrative infrastructure of the applicant described?

Appendix Items

- Work plan for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant proposed scope of work (if applicable).
- Indirect Cost Agreement.
- Organizational chart (optional).
- Audits.

2. Review and Selection Process

In addition to the above criteria/requirements, applications are considered according to the following:

A. Application Submission (Application Deadline: November 16, 2006). Applications submitted in advance of or by the deadline and verified by the tracking number will undergo a preliminary review to determine that:

- The applicant and proposed project type is eligible in accordance with this cooperative agreement announcement.
- The application is not a duplication of a previously funded project.
- The application narrative, forms, and materials submitted meet the requirements of the announcement allowing the review panel to undertake an in-depth evaluation; otherwise, it may be returned.

B. Competitive Review of Eligible Applications (Objective Review: December 7–8, 2006). Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed for merit by the Objective Review Committee (ORC) appointed by the IHS to review and make recommendations on these applications. The review will be conducted in accordance with the IHS Objective Review Guidelines. The technical review process ensures selection of quality projects in a national competition for limited funding. Applications will be evaluated and rated on the basis of the evaluation criteria listed in Section V.1. The criteria are used to evaluate the quality of a proposed project, determine the likelihood of success, and assign a numerical score to each application. The scoring of approved applications will assist the IHS in determining which proposals will be funded if the amount of TSGP funding is not sufficient to support all approved applications. Applications recommended for approval, having a score of 60 or above by the ORC are forwarded to the Division of Grants Operations (DGO) for cost analysis and further recommendation. The program official forwards the approval list to the IHS Director for final review and approval. Applications scoring below 60 points will be disapproved.

Note: In making final selections, the IHS Director will consider the ranking factor and the status of the applicant's single audit reports. The comments from the ORC will be advisory only. The IHS Director will make the final decision on awards.

VI. Award Administration Information

1. Award Notices

The Division of Grants Operations (DGO) will not award a cooperative agreement without an approved application that is in conformance with regulatory and policy requirements. When the application is approved for funding, the DGO will prepare a Notice of Award (NOA) with special terms and conditions binding upon the award and refer to all general terms applicable to the award. The NOA, signed by the Grants Management Officer, will serve as the official notification of a cooperative agreement award and will state the amount of Federal funds awarded, the purpose of the cooperative agreement, the terms and conditions of the cooperative agreement award, the effective date of the award, the project period, and the budget period. Any other correspondence announcing to the Project Director that an application was selected is not an authorization to begin performance.

2. Administrative and National Policy Requirements

Cooperative agreements are administered in accordance with the following documents:

- This cooperative agreement announcement.
- Health and Human Services regulations governing Pub. L. 93–638 grants at 42 CFR 36.101 *et seq.*
- 45 CFR Part 92, ''Department of Health and Human Services, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments Including Indian Tribes.''
- Public Health Service Grants Policy Statement.
- Grants Policy Directives.
- Appropriate Cost Principles: OMB Circular A–87, ''State and Local Governments.''
- OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''
- Other Applicable OMB Circulars.

3. Reporting

A. *Progress Report.* Program progress reports are required semi-annually. These reports will include a brief comparison of actual accomplishments to the goals established for the period, reasons for slippage (if applicable), and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. *Financial Status Report.* Semi-annual financial status reports must be submitted within 30 days of the end of the half year. Final financial status reports are due within 90 days of expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

Grantees are responsible and accountable for accurate reporting of the Progress Reports and Financial Status Reports which are generally due semi-annually. Financial Status Reports (SF–269) are due 90 days after each budget period and the final SF–269 must be verified from the grantee records on how the value was derived. Grantees are allowed a reasonable period of time in which to submit financial and performance reports.

Failure to submit required reports within the time allowed may result in suspension or termination of an active cooperative agreement, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) the imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

VII. Agency Contact(s)

1. Questions on the programmatic issues may be directed to: Jolene Aguilar, Program Specialists or Tena Larney, Program Analyst, Office of Tribal Self-Governance, Telephone No.: 301–443–7821, Fax No.: 301–443–1050, E-mail: *Jolene.Aguilar@ihs.gov,* E-mail: *Tena.Larney@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Denise Clark, Grants Management Specialist, Division of Grants Operations, Telephone No.: 301–443–5204, Fax No.: 301–443–9602, E-mail: *Denise.Clark@ihs.gov.*

VIII. Other Information

The Public Health Service (PHS) strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Publ. L. 103–227, the Pro-children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Dated: October 6, 2006.

Charles W. Grim,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 06–8642 Filed 10–12–06; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[Funding Opportunity Number: HHS–2007–IHS–TSGP–0001; CFDA Number: 93.210]

Tribal Self-Governance Program; Planning Cooperative Agreement; New Funding Cycle for Fiscal Year 2007

Key Dates: Applications Due–November 16, 2006.

Objective Review Committee to Evaluate Applications–December 7–8, 2006.

Anticipated Project Start Date–January 15, 2007.

I. Funding Opportunity Description

The purpose of the program is to award cooperative agreements that provide planning resources to Tribes interested in participating in the Tribal Self-Governance Program (TSGP) as authorized by Title V, Tribal Self-Governance Amendments of 2000 of the Indian Self-Determination and Education Assistance Act of Public Law (Pub. L.) 93–638, as amended. There is limited competition under this announcement because the authorizing legislation restricts eligibility to Tribes that meet specific criteria. (Refer to Section III (1.) (A), *Eligible Applicants* in this announcement.) The TSGP is designed to promote self-determination by allowing Tribes to assume more control of Indian Health Service (IHS) programs and services through compacts negotiated with the IHS. The Planning Cooperative Agreement allows a Tribe to gather information to determine the current types of Programs, Services, Functions, and Activities (PSFAs), and related funding available at the Service Unit, Area, and Headquarters levels and provide the opportunity to improve and enhance the healthcare delivery system to better meet the needs of the Tribal community.

II. Award Information

Type of Award: Planning Cooperative Agreement.

Estimated Funds Available: The total amount identified for Fiscal Year (FY) 2007 is $600,000 for approximately twelve (12) Tribes to enter the TSGP planning process.

Anticipated Number of Awards: The estimated number of awards to be funded is approximately 12.

Project period: 12 months.

Award Amount: $50,000 per year.

Programmatic Involvement: TSGP funds will be awarded as cooperative agreements and will have substantial IHS programmatic involvement to establish a basic understanding of programs, Services, Functions and Activities (PSFAs) and associated funding at the Service Unit, Area, and Headquarters levels.

The IHS roles and responsibilities will include:

- Providing a description of PSFA's and associated funding at all levels, including funding formulas and methodologies related to determining Tribal shares.
- Identification of IHS staff who will consult with applicants on methods currently used to manage and deliver health care.
- Provide applicants with statutes, regulations and policies that provide authority for administering IHS programs.

The Applicants roles and responsibilities will include:

- Research and analyze the complex IHS budget, to gain a thorough understanding of funding distribution at all levels to determine which PSFA's the Tribe may elect to assume.
- Establishment of a process by which Tribes can effectively approach the IHS to identify programs and associated funding which could be incorporated into their current programs.
- Determine Tribe's share of each PSFA and compare with their current level of services provided so that an informed decision can be made on new program assumption.

III. Eligibility Information

1. Eligible Applicants

To be eligible for a Planning Cooperative Agreement under this announcement, an applicant must meet all of the following criteria:

A. Be a federally-recognized Tribe as defined in Title V, Pub. L. 106–260, Tribal Self-Governance Amendments of 2000, of the Indian Self-Determination and Education Assistance Act (the Act), Pub. L. 93–638, as amended. However, Alaska Native Villages or Alaska Native Village Corporations, who are located within the area served by an Alaska Native regional health entity already participating in compact status, are not eligible (Pub. L. 106–260, Title V, Section 12(a)(2)(b)).

2. Cost Sharing or Matching Funds

The Tribal Self-Governance Planning Cooperative Agreement Announcement does not require matching funds or cost sharing to participate in the competitive grant process.

3. Other Requirements

The following documentation is required (if applicable):

A. This program is described at 93.210 in the *Catalog of Federal Domestic Assistance.*

B. Tribal Resolution—Submit a Tribal resolution from the governing body authorizing the submission of the application for the Tribal Self-Governance Planning Cooperative Agreement. Tribal Consortia applying for a Tribal Self-Governance Planning Cooperative Agreement, shall submit Tribal Council Resolutions from each Tribe in the consortium. Draft resolutions are acceptable in lieu of an official resolution. However, an official signed Tribal resolution must be received by the Office of Tribal Self-Governance, Attn: Jolene Aguilar, 801, Thompson Avenue, Suite 240, Rockville, MD 20852, by Wednesday, December 6, 2006. If an official signed resolution is not received by December 6, 2006, the application will be considered incomplete and will be returned without consideration.

C. Demonstrate, for three fiscal years, financial stability and financial management capability, which is defined as no uncorrected significant and/or material audit exceptions in the required annual audit of the Indian Tribe's self-determination contracts or self-governance funding agreements with any Federal agency.

D. Applicants are required to submit a current version of the organization's

audit report. Audit reports can be lengthy, therefore, the applicants may submit them separately via regular mail by the due date (November 16, 2006). If the applicant determines that audit reports are not lengthy, the applicants may scan the documents and attach them to the electronic application. Applicants must submit two copies of the audits that reflect three previous fiscal years under separate cover directly to the Office of Tribal Self-Governance, Attn: Kevin C. Quinn, 801 Thompson Avenue, Suite 240, Rockville, MD 20852, referencing the Funding Opportunity Number, HHS–2007–IHS–0001, as prescribed by Pub. L. 98–502, the Single Audit Act, as amended (*see* OMB Circular A–133, revised June 24, 1997, Audits of States, Local Governments, and Non-Profit Organizations), for the three previous fiscal years. If this documentation is not received by the due date (November 16, 2006), the application will be considered as unresponsive and will not be considered.

IV. Application and Submission Information

1. Application package and detailed instructions for this announcement can be found on Grants. gov (*http://www.grants.gov*) or at: *http://www.ihs.gov/NonMedicalPrograms/gogp/gogp_funding.asp*.

Information regarding the electronic application process may be directed to Michelle G. Bulls, at (301) 443–6528 or via e-mail at *michelle.bulls@ihs.gov*.

2. Content and Form of Application Submission

All applications should:

- Be single spaced.
- Be typewritten.
- Have consecutively numbered pages.
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- Be printed on one side only of standard size 8½″ x 11″ paper.
- Contain a narrative that does not exceed 7 typed pages. (The 7 page narrative does not include the work plan, standard forms, Tribal resolution(s), table of contents, budget, budget justification narrative, and/or other related appendix items.)

Public Policy Requirements: All Federal-wide public policies apply to IHS cooperative agreements with exception of Lobbying and Discrimination.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by Thursday, November 16, 2006. Late applications will not be accepted for processing, will be returned to the applicant, and will not be considered for funding.

4. Intergovernmental Review

This funding opportunity is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' State approval is not required.

5. Funding Restrictions

A. Tribes are only eligible to receive one Tribal Self-Governance Planning Cooperative Agreement award.

B. Each planning cooperative agreement shall not exceed $50,000.

C. The available funds are inclusive of direct and indirect costs.

D. Division of Grants Operations will not acknowledge receipt of applications.

E. Only one planning cooperative agreement will be awarded per applicant.

6. Other Submission Requirements

The application must comply with the following:

A. Table of Contents.

B. Abstract (one page)—Summarizes the project.

C. Application for Federal Assistance (SF–424, Rev. 09/03).

D. Narrative (no more than 7 pages) and should include the following:

(1) Background information on the Tribe.

(2) Proposed scope of work, objectives, and activities that provide a description of what will be accomplished including a one-page Time Frame Chart.

E. A line-item budget and narrative justification.

F. Appendices to include:

(1) Resumes or position descriptions of key staff.

(2) Contractors/Consultants resumes or qualifications and scope of work.

(3) Current Indirect Cost Agreement.

(4) Organizational Chart (Optional).

Electronic Transmission—The preferred method for receipt of applications is electronic submission through Grants.gov. You may not e-mail an electronic copy of a cooperative agreement application to us.

Please note the following:

- Under the new IHS requirements, paper applications are not the preferred method. however, if you have technical problems submitting, your application on-line, have contacted the Grants Policy Staff and advised them of the difficulties you are having in submitting your application on-line, have submitted a waiver request, in writing or e-mail and if it is determined by the Grants Policy Staff that the technical difficulties cannot be resolved and approval has been obtained, you may submit a paper application after you have downloaded the application package from Grants.gov. The paper application may be sent directly to the Division of Grants Operations, 801 Thompson Avenue, TMP 360, Rockville, MD 20852 by the due date, November 16, 2006.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the deadline date to begin the application process through Grants.gov as the registration process for Central contractor Registry (CCR) and Grants.gov could take up to *fifteen* working days.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the CCR. See next page on how to apply.
- You must submit all documents electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.

Note: Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by IHS.)

- Your application must comply with any page limitation requirements described in the program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Indian Health Service, DGO will retrieve your application from Grants.gov.
- You may access the electronic application for this program on *http://www.Grants.gov*.
- You must search for the downloadable application package by CFDA number.
- E-mail applications will not be accepted under this announcement.

DUNS Number: Since October 1, 2003, applicants are now required to have a Dun and Bradstreet (DUNS) Number. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Interested parties may wish to obtain their DUNS number by phone to expedite the process.

Applications submitted electronically must also be registered with the CCR. A DUNS number is required before CCR registration can be completed. Many organizations may already have a DUNS number. Please use the number listed above to investigate the whether or not your organization has a DUNS number. Registration with the CCR is free of charge.

Applicants may register by calling 1–888–227–2423. Please review and complete the CCR ''Registration Worksheet'' located on *http://www.Grants.gov/CCRRegister.*

More detailed information regarding these registration processes can be found at *http://www.Grants.gov.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses.

1. Criteria

A. Goals and Objectives of the Project (30 Points)

Are the goals and objectives measurable; are they consistent with the purpose of the program and the needs of the people to be served, and are they achievable as demonstrated by the proposed time frame chart?

B. Methodology (20 Points)

Describe fully and clearly the methodology and activities that will be used to accomplish the goals and objectives of the project.

C. Management of Health Program(s) (10 Points)

Does the applicant propose an improved approach to managing the health program(s) and state/demonstrate how the delivery of quality health services will be maintained under self-governance?

D. Organizational Capabilities and Qualifications (25 Points)

Describe the organizational structure of the Tribe and their ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise and, where applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

E. Budget and Budget Justification (15 Points)

Submit a line-item budget with a narrative justification for all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative.

2. Review and Selection Process

In addition to the above criteria/requirements, applications are considered according to the following:

A. Application Submission (Application Deadline: November 16, 2006).

(1) The Applicant and proposed project type is eligible in accordance with this cooperative agreement announcement.

(2) The applicant has not previously received a Tribal Self-Governance Planning Cooperative Agreement award.

(3) Abstract, narrative, budget, required forms, appendices and other material submitted meet the requirements of the announcement allowing the review panel to undertake an in-depth evaluation.

B. Competitive Review of Eligible Applications (Objective Review: December 7–8, 2006). Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed for merit by the Objective Review Committee (ORC) appointed by the IHS to review and make recommendations on these applications. The review will be conducted in accordance with the IHS Objective Review Guidelines. The technical review process ensures selection of quality projects in a national competition for limited funding. Applications will be evaluated and rated on the basis of the evaluation criteria listed in Section V.1. The criteria are used to evaluate the quality of a proposed project, determine the likelihood of success, and assign a numerical score to each application. The scoring of approved applications will assist the IHS in determining which proposals will be funded if the amount of TSGP funding is not sufficient to support all approved applications. Applications recommended for approval, having a score of 60 or above by the ORC are forwarded to the Division of Grants Operations (DGO) for cost analysis and further recommendation. The program official forwards the recommended approval list to the IHS Director for final review and approval. Applications scoring below 60 points will be disapproved.

Note: In making final selections, the IHS Director will consider the ranking factor and the status of the applicant's three previous years single audit reports. The comments from the ORC will be advisory only. The IHS Director make the final decision on awards.

VI. Award Administration Information

1. Award Notices

The Division of Grants Operations (DGO) will not award a cooperative agreement without an approved application that is in conformance with regulatory and policy requirements. When the application is approved for funding, DGO will prepare a Notice of Award (NOA) with special terms and conditions binding upon the award and refer to all general terms applicable to the award. The NOA, signed by the Grants Management Officer, will serve as the official notification of a cooperative agreement award and will state the amount of Federal funds awarded, the purpose of the cooperative agreement, the terms and conditions of the cooperative agreement award, the effective date of the award, the project period, and the budget period. Any other correspondence announcing to the applicant that an application was selected is not an authorization to begin performance.

2. Administrative and National Policy Requirements

Cooperative agreements are administered in accordance with the following documents:

- This cooperative agreement announcement.
- Health and Human Services regulations governing Pub. L. 93–638 grants at 42 CFR 36.101 *et seq.*
- 45 CFR Part 92, ''Department of Health and Human Services, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments Including Indian Tribes.''
- Public Health Service Grants Policy Statement.
- Grants Policy Directives.
- Appropriate Cost Principles: OMB Circular A–87, ''State and Local Governments.''
- OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''
- Other Applicable OMB Circulars.

3. Reporting

A. *Progress Report.* Program progress reports are required semi-annually. These reports will include a brief comparison of actual accomplishments to the goals established for the period, reasons for slippage (if applicable), and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. *Financial Status Report.* Semi-annual financial status reports must be submitted within 30 days of the end of

the half year. Final financial status reports are due within 90 days of expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

C. All reports shall be submitted to the Grants Management Specialist in DGO.

Grantees are responsible and accountable for accurate reporting of the Progress Reports and Financial Status Reports which are generally due semi-annually. Financial Status Reports (SF–269) are due 90 days after each budget period and the final SF–269 must be verified from the grantee records on how the value was derived. Grantees are allowed a reasonable period of time in which to submit financial and performance reports.

Failure to submit required reports within the time allowed may result in suspension or termination of an active cooperative agreement, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

VII. Agency Contact(s)

1. Questions on the programmatic issues may be directed to: Jolene Aguilar, Program Specialist, Tena Larney, Program Analyst or Office of Tribal Self-Governance, Telephone No.: 301–443–7821; Fax No.: 301–443–1050; E-mail: *jolene.aguilar@ihs.gov;* E-mail *tena.larney@ihs.gov*.

2. Questions on grants management and fiscal matters may be directed to: Denise Clark, Grants Management Specialist, Division of Grants Operations, Telephone No.: 301–443–5204; Fax No.: 301–443–9602; E-mail: *denise.clark@ihs.gov*.

VIII. Other Information

The Public Health Service (PHS) strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Dated: October 6, 2006.

Charles W. Grim, D.D.S., M.H.S.A.

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 06–8643 Filed 10–12–06; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Aggression Prevention Among High-Risk Early Adolescents

SUMMARY: 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 National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval. This proposed information collection was previously published in the **Federal Register** on June 20, 2006, pages 35437–35438, and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Aggression Prevention Among High-Risk Early Adolescents Study.

Type of Information Collection Request: Extension, OMB control number 0925–0523, expiration date 9/30/2006. *Use of Information:* This study will assess the efficacy of an in-school, group-mentoring intervention designed to foster academic engagement and prevent aggressive and deviant behavior among early adolescent (approximately ages 11–12). The primary objectives of the study are to determine if participation in a weekly group-mentoring program during 6th grade significantly impacts adolescents' attitudes and behaviors regarding school engagement and aggression above and beyond educational materials for youth and parents. The findings will provide valuable information concerning: (1) The efficacy of in-school group-mentoring programs for improving youth attitudes, expectations, intent/motivation, and social competence; and (2) the extent to which such improvement increases academic engagement and decreases aggressive and deviant behavior among high-risk youth.

Frequency of Response: 3 times for youth; 1 time for parents. *Affected Public* Individuals or households.

Type of Respondents: Adolescents and parents/guardians. The annual reporting burden is as follows:

Estimated Number of Respondents: 427 early adolescents and 150 parents; *Estimated Number of Responses per Respondent:* 2 for 6th graders, 1 for parents; *Average Burden Hours Per Response:* 1; and *Estimated Total Annual Burden Hours Requested:* 1177. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
6th graders	300	2	1.0	600
7th graders	277	1	1.0	277
Parents/guardian	300	1	1.0	300
Total	877			1177

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Bruce Simons-Morton, Ed.D, 6100 Executive Blvd., Suite 7B13M, Rockville, MD 20852. Telephone 301–493–5674. E-mail: *mortonb@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: October 4, 2006.

Paul Johnson,

NICHD Project Clearance Liaison, National Institutes of Health.

[FR Doc. 06–8653 Filed 10–12–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–25843]

Use of Reports of Marine Casualty in Claims Process by National Pollution Funds Center

AGENCY: Coast Guard, DHS.

ACTION: Notice of interpretation.

SUMMARY: The U.S. Coast Guard is providing a notice of interpretation that the prohibition in 46 U.S.C. 6308 on the use of any part of a report of a Coast Guard Marine Casualty Investigation Report (MCIR) in certain administrative proceedings does not prohibit use of such reports in the process used by the Coast Guard's National Pollution Funds Center (NPFC) for determining whether to pay or deny claims under the Oil Pollution Act of 1990.

DATES: Effective October 13, 2006. Comments and related material must reach the Coast Guard on or before November 13, 2006.

ADDRESSES: You may mail comments and related material by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2006–25843), U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By 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) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for the rulemaking. Comments and material received from the public will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket on the internet at *http://dms.dot.gov.*

Electronic forms of all comments received into any of our dockets can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor unit, etc.) and is open to the public without restriction. You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov/.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice, please contact Benjamin White, U.S. Coast Guard's National Pollution Funds Center (NPFC), telephone 202–493–6863.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Coast Guard investigates and reports on marine casualties pursuant to 46 U.S.C. Chapter 63. Under 46 U.S.C. 6308 no part of a report of a marine casualty investigation ''shall be admissible as evidence or subject to discovery in any civil or administrative proceedings, other than an administrative proceeding initiated by the United States.'' Marine casualties may result in the discharge or substantial threat of discharge of oil to the navigable waters, adjoining shorelines or the exclusive economic zone. The National Pollution Funds Center (NPFC) processes claims against the Oil Spill Liability Trust Fund for oil removal costs and certain damages that result from such discharges or threats under authority of the Oil Pollution Act of 1990 (OPA) (33 U.S.C. 2701 et seq.). The circumstances of a marine casualty will often bear on the entitlement of a claimant to payment of its claim, particularly for vessel owners or operators who may claim a complete defense to their own liability for such costs or damages or entitlement to limit their liability under OPA.

In the past, the NPFC has not considered such reports of marine casualty investigations on the grounds that a broad interpretation of 46 U.S.C. 6308 might proscribe their use in the NPFC's claims processes. However, this resulted, in some instances, in the NPFC having to duplicate the investigative process in order to gather evidence that was included in a Marine Casualty Investigation Report (MCIR). This, in turn, resulted in delays while those duplicative investigative efforts were carried out. Further, in those instances where the claimant sought to make a MCIR a part of the record of its claim, the NPFC's position resulted in the claimant being denied the opportunity to do so or have that report considered by NPFC. In order to avoid duplication of efforts and expedite the claims process, the Coast Guard has recently examined the provisions of 46 U.S.C. 6308 to determine whether Congress, in fact, intended the broad interpretation followed by the NPFC in the past.

The Coast Guard has concluded that the statute in question, 46 U.S.C. 6308, was not meant to prohibit the use by NPFC of all or parts of a MCIR in its claims process under 33 U.S.C. 2713. The plain language of 46 U.S.C. 6308 does not indicate an intent to include the NPFC's claims process, because that process is an internal, informal agency process. The NPFC's claims process is administrative. However, it is not an administrative proceeding as the term is used in 46 U.S.C. 6308, which refers to proceedings subject to rules of evidence and discovery. The statute does not appear to be directed at the Coast Guard's internal use of its MCIRs, or a process as informal as the NPFC's claims process. To interpret the statute otherwise would result in unnecessary duplication of government and claimant investigative resources, a result that was

borne out in practice and was not intended by Congress.

Accordingly, because the NPFC claims procedures under 33 U.S.C. 2713 and the implementing regulations at 33 CFR part 136 are internal, informal administrative processes the use of a MCIR in those processes is not precluded by 46 U.S.C. 6308.

The NPFC may consider and rely on any part of a report of a MCIR in determining whether to pay or deny a claim. While any part of such a MCIR may be considered, it is the enclosures to such a report, such as witness statements, navigation records and vessel logs that will most likely bear on any determination to pay or deny a claim. While such reports may be of use to NPFC in this regard, and may also be submitted by claimants to support their claims, the NPFC is not bound by such reports of investigation. The NPFC may require additional information from claimants in order to support their claims and may, considering the record as a whole, find additional facts or different facts than those determined in such reports of investigation.

Dated: October 10, 2006.

William D. Baumgartner,

Rear Admiral, U.S. Coast Guard, Judge Advocate General.

[FR Doc. E6–17042 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Amendment to Notices of Emergency Declarations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notices of emergency declarations for 44 States and the District of Columbia granted due to the influx of evacuees from areas struck by Hurricane Katrina.

EFFECTIVE DATE: October 1, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident periods for the following emergencies are closed effective October 1, 2005:

Arkansas (FEMA–3215–EM), Texas (FEMA–3216–EM), Tennessee (FEMA–3217–EM), Georgia (FEMA–3218–EM), Oklahoma (FEMA–3219–EM), Florida (FEMA–3220–EM), West Virginia (FEMA–3221–EM), North Carolina (FEMA–3222–EM), Utah (FEMA–3223–EM), Colorado (FEMA–3224–EM), Michigan (FEMA–3225–EM), District of Columbia (FEMA–3226–EM), Washington (FEMA–3227–EM), Oregon (FEMA–3228–EM), New Mexico (FEMA–3229–EM), Illinois (FEMA–3230–EM), Kentucky (FEMA–3231–EM), Missouri (FEMA–3232–EM), South Carolina (FEMA–3233–EM), South Dakota (FEMA–3234–EM), Pennsylvania (FEMA–3235–EM), Kansas (FEMA–3236–EM), Alabama (FEMA–3237–EM), Indiana (FEMA–3238–EM), Iowa (FEMA–3239–EM), Virginia (FEMA–3240–EM), Arizona (FEMA–3241–EM), Minnesota (FEMA–3242–EM), Nevada (FEMA–3243–EM), Idaho (FEMA–3244–EM), Nebraska (FEMA–3245–EM), Connecticut (FEMA–3246–EM), North Dakota (FEMA–3247–EM), California (FEMA–3248–EM), Wisconsin (FEMA–3249–EM), Ohio (FEMA–3250–EM), Maryland (FEMA–3251–EM), Massachusetts (FEMA–3252–EM), Montana (FEMA–3253–EM), Rhode Island (FEMA–3255–EM), Maine (FEMA–3256–EM), New Jersey (FEMA–3257–EM), New Hampshire (FEMA–3258–EM), New York (FEMA–3262–EM), and Delaware (FEMA–3263–EM).

R. David Paulison,

Under Secretary for Federal Emergency Management, and Director of FEMA.

[FR Doc. E6–17027 Filed 10–12–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2006–0002]

RIN 1660-ZA12

Privacy Act of 1974; National Disaster Medical System Medical Professional Credentials System of Records

AGENCY: National Disaster Medical System; Response Division, Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Department of Homeland Security gives notice that the Federal Emergency Management Agency, Response Division, National Disaster Medical System, is establishing a new system of records entitled the ''National Disaster Medical System Medical Professional Credentials System of Records.''

This system of records will enable the National Disaster Medical System to have an efficient, centralized method for collecting medical credentials and verifying continued certification of the credentials of deployable medical personnel.

DATES: The system of records will be effective November 13, 2006, unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by Docket ID FEMA–2006–0002, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments;
- *E-mail: FEMA–RULES@dhs.gov.* Include Docket ID FEMA–2006–0002 in the subject line of the message;
- *Fax:* 202–646–4536 (not a toll-free number); or
- *Mail/Hand Delivery/Courier:* Rules Docket Clerk, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472; Maureen Cooney, Acting Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202.

Instructions: All submissions received must include the agency name and Docket ID (if available) for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Submitted comments may also be inspected at FEMA, Office of Chief Counsel, 500 C Street, SW., Room 835, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Captain Ana Marie Balingit-Wines, Credentialing Program Manager, FEMA/NDMS, 500 C Street, SW., Suite 713, Washington, DC 20472, at 202–646–4248, for credentialing matters; Jean Hardin, Attorney, FEMA Office of Chief Counsel, General Law Division, 500 C Street, SW., Room 713 H, Washington, DC 20472, at 202–646–4059; Hugo Teufel III, Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202–4220, at 571–227–3813.

SUPPLEMENTARY INFORMATION: The National Disaster Medical System (NDMS), authorized by 42 U.S.C. 300hh-11(b), has primary responsibility for providing emergency medical care after a natural or man-made disaster or in the

event of a public health emergency. NDMS functions as a coordinated effort by the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), Department of Health and Human Services, the Department of Defense, and the Department of Veterans Affairs, but is managed by FEMA's Response Division.

NDMS personnel are composed of medical professionals and allied health members [1] who are hired and deployed specifically to provide medical care in the event of an emergency. NDMS members are activated and employed as Federal employees not only to provide health care services, but also health-related social services, family assistance, and coordination with other assisting agencies. NDMS personnel also function as appropriate auxiliary service providers for mortuary and veterinary services to respond to the needs of victims during an emergency. These individuals are assigned to Disaster Medical Assistance Teams (DMATS) or other specialty teams that are placed in various locations throughout the United States.

To facilitate the continued provision of high quality care to both people and animals, NDMS collects the information necessary to make decisions concerning the hiring and retention of these individuals for disaster relief efforts. In addition, NDMS collects information on qualified medical professionals who are System Members of the National Urban Search and Rescue Response System (US&R), which also falls under the responsibility of FEMA's Response Division.

To assess qualifications, NDMS asks applicants to complete the Optional Form (OF) 612 or other standard formats for applications for Federal employment or status. While the employment forms, like the OF 612 (used to gather information necessary for credentialing) are currently submitted in paper format, NDMS has developed electronic data entry forms specifically for credentialing and the forms have been submitted to the Office of Management and Budget (OMB) for approval. Information taken from the completed paper applications is transferred to a database that is maintained by NDMS.

The information that is collected on the OF 612 or other application formats, consists of:

- Name (Last, First, Middle), including any other names known by and when.
- Social Security Number.
- Position Being Applied For.
- Home Address, including street address, City, State, and Zip Code.
- Home Telephone.
- Cell Phone, if applicable.
- Fax number, if applicable.
- E-mail address, if applicable.
- Current Employer Name, if applicable, or place of employment.
- Primary Office Address, including street address, City, State and Zip Code.
- Primary Office Telephone, Fax, or E-mail.
- Place of Birth, City, State, Country other than U.S.
- Citizenship, and if not a citizen, Status and Visa Number.
- Gender.
- Military Service History, if applicable, and copy of DD 214.
- Other Employment History, including name, location, dates, and contact information.
- Other health care facility affiliations.
- Education Background, including names and dates for all certificates and diplomas.
- Specialty(ies), including all certificates or other documentation.
- If certifying Board membership, Board name and address, and most recent date.
- Certification, date of initial certification and most recent certification.
- Examinations passed.
- Licenses—include for all States.
- Drug Enforcement Administration Registration Number, if applicable.
- References, including name, address, phone numbers, and e-mail addresses.
- Other information, such as criminal history, medical malpractice action, or other disciplinary action taken against the applicant, if applicable. (This includes statements from all malpractice insurance carriers, dating back ten years.)

This collected information serves as the basis by which hiring officials can certify the providers' basic qualifications for the jobs to which they are assigned, as well as to determine the clinical privileges [2] designated to specific team members. The verification of credentials ensures that the medical treatment provided is done by qualified, licensed, professionals who meet the industry standard. Credential verification also provides DHS the ability to utilize these employees in the most effective way possible. Similar information on US&R medical professionals is included in the database.

The Privacy Act (5 U.S.C. 552a) embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses and disseminates personally identifiable information. The Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The National Disaster Medical System Medical Professional Credentials File System established by this notice is such a system of records.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses for which such information may be disseminated and the purpose for which the system is maintained. The following description is provided for the National Disaster Medical System Medical Professional Credentials System of Records. In accordance with 5 U.S.C. 552a(r), notification of the creation of this record system has been provided to Congress and to OMB.

DHS/FEMA/NDMS–1

SYSTEM NAME:

National Disaster Medical System Medical Professional Credentials System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The database and paper records for this system of records will be maintained within NDMS offices at FEMA Headquarters, 500 C Street, SW., Suite 713, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records covers the following types of medical professionals and allied health members who apply to the NDMS and US&R:

- Doctors (or physicians).

[1] Allied health professionals/members are employed in those clinical healthcare professions distinct from the medical, dental, and nursing profession. As the name implies, they are all allies in the healthcare team, working together to make the healthcare system function.

[2] Privileges are granted by an institution based on credentials, skill currency, skill proficiency, and resources available within the organization. For example, if an individual was trained in a skill ten years ago but has not practiced that skill recently, the institution would not allow that skill to be performed within its facility without demonstrated refresher training. Privileges are used to ensure providers and institutions are providing quality care.

- Physician's Assistants.
- Dentists.
- Dental Assistants and Hygienists.
- Pharmacists.
- Pharmacy Assistants.
- Nurses—Registered and Licensed Vocational or Licensed Practical Nurses.
- Nurse's Aides.
- Dietitians.
- Psychologists.
- Paramedics and Emergency Medical Technicians.
- Social Workers.
- Therapists.
- Radiology Technicians.
- Respiratory Therapists.
- Medical Technologists.
- Counselors.
- Optometrists and Opticians.
- Veterinarians.

CATEGORIES OF RECORDS IN THE SYSTEM:

FEMA will collect medical credential and qualification information from all medical professionals and allied health members who apply to the NDMS and US&R. The types of information to be maintained in the system of records include:

- Name (Last, First, Middle), including any other names known by and when.
- Social Security number.
- Position Being Applied For.
- Home Address, including street address, City, State, and Zip Code.
- Home Telephone.
- Cell Phone, if applicable.
- Fax number, if applicable.
- E-mail address, if applicable.
- Current Employer Name, if applicable, or place of employment.
- Primary Office Address, including street address, City, State and Zip Code.
- Primary Office Telephone, Fax, or E-mail.
- Place of Birth, City, State, Country other than U.S.
- Citizenship, and if not a citizen, Status and Visa Number.
- Gender.
- Military Service History, if applicable, and copy of DD 214.
- Other Employment History, including name, location, dates, and contact information.
- Other health care facility affiliations.
- Education Background, including names and dates for all certificates and diplomas.
- Specialty(ies), including all certificates or other documentation.
- If certifying Board membership, Board name and address, and most recent date.
- Certification, date of initial certification and most recent certification.
- Examinations passed.
- Licenses—include for all States.
- Drug Enforcement Agency Number.
- References, including name, address, phone numbers and e-mail addresses.
- Other information, such as criminal history, medical malpractice action, or other disciplinary action taken against the applicant, if applicable. (This includes statements from all malpractice insurance carriers, dating back ten years.)

Copies of actual diplomas, transcripts, licenses, or certificates, a signed attestation form and a release of information form will also be requested from the applicants, and, in some cases, certified copies must be sent from the institution or certifying agency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The collection of information is based on the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206, the Homeland Security Act of 2002, Public Law 107–296 (2002), 6 U.S.C. 101, *et seq.*, and the Health Care Quality Improvement Act of 1986, 42 U.S.C. 11101, *et seq.* The NDMS Statute, 42 U.S.C. 300hh–11, is the authority that places NDMS within DHS/FEMA. The National Response Plan, Emergency Support Function #8, ''Public Health and Medical Services Annex'' also delineates NDMS responsibilities for providing health care and coordinating with the Department of Defense, Department of Veterans Affairs, and Department of Health and Human Services in an emergency requiring implementation of the National Response Plan.

PURPOSE(S):

Information is collected on potential and current NDMS medical providers and US&R medical providers for three primary purposes: Hiring decisions; certification/recertification; and privileging.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a (b)(3) as follows:

(A) To a Member of Congress or a Congressional staff member in response to an inquiry from the Congressional office made at the request of the individual to whom the records pertain.

(B) To the Department of Justice (DOJ) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (1) DHS, or (2) any employee of DHS in his/her official capacity, or (3) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee, or (4) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that disclosure is relevant and necessary to the litigation.

(C) To the National Archives and Records Administration (NARA) or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. sections 2904 and 2906.

(D) To an agency, organization, or individual for the purposes of performing authorized audit or oversight operations.

(E) Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil or regulatory—the relevant records may be referred to an appropriate Federal, State, local, or tribal law enforcement authority or other appropriate agency charged with investigating or prosecuting such a violation or enforcing or implementing such law.

(F) To a Federal, State, local and tribal government to help in identifying and meeting health and medical needs of victims in an Incident of National Significance.

(G) To the other Federal agencies with which NDMS coordinates under the National Response Plan to include the Department of Defense, the Department of Veterans Affairs, and the Department of Health and Human Services.

(H) To credentialing entities, governmental or private, that NDMS agrees to work with to verify credential information and facilitate exchange of information for deployment purposes. This includes entities, such as the National Practitioner Databank, which serves as a clearinghouse for any derogatory information on medical professionals, such as revoked licenses or other information that may prevent these NDMS members from legally performing the medical duties for the position that they hold.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Paper records from this system are stored in the FEMA Headquarters Building, NDMS Central Office, at 500

C Street, SW., Suite 713, Washington, DC 20472. The database into which the information is entered is also maintained within the same office space. FEMA Headquarters manages data use at all locations where it will be needed, including all locations where NDMS or US&R members will be deployed. FEMA has a configuration management process that is used to share any necessary information in a consistent and secure manner with all potential users.

Copies of paper applications as well as information maintained electronically are stored in a work area that is locked when it is not staffed. The doors to the work area are kept closed. There is limited access given to persons who have a need to access the information to perform their official duties. FEMA computer based records such as databases or e-mails are stored in database servers secured in a file server room in another location and backed up nightly.

RETRIEVABILITY:

Files and automated data are retrievable by name, social security number, medical profession, geographic area and/or residence of an applicant or existing NDMS or US&R medical professional employee.

SAFEGUARDS:

Data access within DHS/FEMA computer systems is determined by the system administrator staff on a need-to-know basis only. Access is provided to the online system based upon written authorization of the NDMS Chief or his designee, and will result in generation of a unique userID and password. Passwords must be updated on a regular basis based upon internal FEMA administration requirements. All printouts and paper records will be marked as ''For Official Use Only'' (FOUO), and will be maintained within NDMS offices at Headquarters location, 500 C Street, SW., Suite 713, Washington, DC 20472. The offices containing these records are locked, with only authorized personnel having unsupervised access.

Information is shared internally within DHS only as specified herein on a need-to-know basis and only for purposes of credentialing and for oversight of the program.

FEMA limits the sharing of personal information collected as part of the NDMS and US&R medical credentialing process to external agencies on a case-by-case basis. Permission to have the credentialing information is based upon the ''need to know.'' Once the ''need to know'' has been established and verified, the information will be shared. Only those portions of the requested information for which the ''need to know'' has been established will be shared.

RETENTION AND DISPOSAL:

Records in this system will be retained in accordance with a schedule approved by NARA for personnel records. Employee files are retained for a period of 65 years after date of employee's separation from the Agency, based on NARA General Records Schedule (GRS), Sec. 1, 1(b). The retention schedule for application information for eligible applicants who are not hired for any reason is delineated in GRS, Schedule 1, Transmittal No. 12, July 2004, Section 33, part a–t, ''Examining and Certification Records.''

SYSTEM MANAGER(S) AND ADDRESS:

Chief Medical Officer, National Disaster Medical System (NDMS), 500 C Street, SW., Suite 713, Washington, DC 20472.

NOTIFICATION PROCEDURE:

Requests for Privacy Act protected information must conform with DHS regulations found at 6 CFR Part 5 and FEMA's regulations at 44 CFR Part 6. They must be made in writing, and clearly marked as a ''Privacy Act Request'' on the envelope and letter. Inquiries should be addressed to FEMA—Records Management Division, 500 C Street, SW., Washington, DC 20472. Requests may also be sent to: Privacy Act Officer, DHS/FEMA Office of Chief Counsel (OGC), General Law Division, Room 518, 500 C Street, SW., Washington, DC 20472.

RECORD ACCESS PROCEDURES:

Same as the Notification Procedure above.

CONTESTING RECORD PROCEDURE:

Same as the Notification Procedure above. The letter should state clearly and concisely the information contested, the reasons for contesting it, and the proposed amendment to the information that is sought pursuant to DHS Privacy Act regulations at 6 CFR Part 5 and FEMA regulations at 44 CFR Part 6.

RECORD SOURCE CATEGORIES:

- Applicants for NDMS health care related jobs and US&R status requiring specific credentials.
- Current NDMS medical professionals requiring updated credential verification and privileging.
- State and local licensing boards.
- Educational institutions.
- Sources of information on which to base credentialing decisions for NDMS medical professionals—such as the National Practitioner Databank.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: October 2, 2006.

Hugo Teufel III,

Chief Privacy Officer.

[FR Doc. E6–16671 Filed 10–12–06; 8:45 am]

BILLING CODE 4400–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Interagency Alien Witness and Informant Record; Form I–854; OMB No. 1615–0046.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until December 12, 2006.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0046 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate 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;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the

validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection(s).

(2) *Title of the Form/Collection:* Interagency Alien Witness and Informant Record.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–854. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and Households. The information collection is used by law enforcement agencies to bring alien witnesses and informants to the United States in ''S'' nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 125 responses at 4.25 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 531 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, Telephone Number (202) 272–8377.

Dated: October 10, 2006.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E6–17020 Filed 10–12–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5045–N–41]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to John Hicks, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Agriculture:* Ms. Marsha Pruitt, Realty Officer, Department of Agriculture, Reporters Building, 300 7th St., SW., Rm 310B, Washington, DC 20250; (202) 720–4335; *Army:* Ms. Veronica Rines,

Headquarters, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM–ZS, Rm 8536, 2511 Jefferson Davis Hwy., Arlington, VA 22202; (703) 601–2520; *Energy:* Mr. John Watson, Department of Energy, Office of Engineering & Construction Management, ME–90, 1000 Independence Ave., SW., Washington, DC 20585: (202) 586–0072; *GSA:* Mr. John Kelly, Acting Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501–0084; *Interior:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 513–0747; *Navy:* Mr. Warren Meekins, Associate Director, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305; (These are not toll-free numbers).

Dated: October 5, 2006.

Mark R. Johnston,

Acting Deputy Assistant Secretary for Special Needs.

Title V, Federal Surplus Property Program Federal Register Report for 10/13/06

Suitable/Available Properties

Buildings (by State)

California

Trailers 288, 289, 290, 293
Stanford Linear Accelerator Center
Menlo Park Co: San Mateo, CA 94025–
Landholding Agency: Energy
Property Number: 41200630006
Status: Excess
Comment: various sq. ft., presence of asbestos, most recent use—office, need significant repair, off-site use only

Colorado

Bldg. 128
Aspen Ranger District
Pitkin Co: CO 81601–
Landholding Agency: Agriculture
Property Number: 15200630001
Status: Unutilized
Comment: 600 sq. ft. cabin, needs extensive repairs, off-site use only

Indiana

Former SSA
327 W. Marion Street
Elkhart Co: IN 46516–
Landholding Agency: GSA
Property Number: 54200630015
Status: Surplus
Comment: 6636 sq. ft., most recent use—office
GSA Number: 1–GR–IN–05962A

New Mexico

Dwelling #25
Ranger Lane
Cuba Co: Sandoval, NM 87013–
Landholding Agency: GSA
Property Number: 54200630018
Status: Surplus
Comment: 1120 sq. ft., potential hantavirus contamination, off-site use only
GSA Number: 7–A–NM–0590

Infra #30203
Fenton Hill Site
Mora Co: NM 87535–
Landholding Agency: GSA
Property Number: 54200630019
Status: Surplus
Comment: 194 sq. ft., potential hantavirus contamination, off-site use only
GSA Number: 7–A–NM–0591

Washington

Bldg. 87
Yakima Project
1917 Marsh Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200630013
Status: Excess
Comment: 1032 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 88
Yakima Project
1917 Marsh Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200630014
Status: Excess
Comment: 1032 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 127
Yakima Project
1917 Marsh Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200630015
Status: Excess
Comment: 1152 sq. ft., most recent use—office, off-site use only

Bldg. 133
Yakima Project
1917 Marsh Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200630016
Status: Excess
Comment: 1680 sq. ft., most recent use—office, off-site use only

Land (by State)

Arizona

2.0 acres
Tract No. DB–2–77
I–19 off ramp
Tucson Co: AZ
Landholding Agency: Interior
Property Number: 61200630006
Status: Excess
Comment: 2.0 acres, Del Bac Substation Site

California

Former Outer Marker Facility
215 W. 118th Street
Los Angeles Co: CA 90061–
Landholding Agency: GSA
Property Number: 54200630014
Status: Unutilized
Comment: 5200 sq. ft./paved
GSA Number: 9–U–CA–1614

Kentucky

Tract S–2
3301 Leestown Road
Lexington Co: Fayette, KY 40511–
Landholding Agency: GSA
Property Number: 54200630016
Status: Excess
Comment: 40.2 acres/hayfield, potential of sinkholes, potential contamination from adjacent site
GSA Number: 4–J–KY–0622

Utah

3.78 acres
Jordanelle Reservoir
Hwy. 40
Wasatch Co: UT
Landholding Agency: Interior
Property Number: 61200630012
Status: Excess
Comment: steep sloping land

Vermont

Former FAA Middle Marker
Richardson Road
Berlin Corners Co: VT 50053–
Landholding Agency: GSA
Property Number: 54200630021
Status: Excess
Comment: 0.06 acres and 0.4 in easement, extremely small w/electrical closet
GSA Number: 1–U–VT–0477

Suitable/Unavailable Properties

Buildings (by State)

Kentucky

Bldg. 06894
Fort Campbell
Christian Co: KY 42223–
Landholding Agency: Army
Property Number: 21200630070
Status: Unutilized
Comment: 4240 sq. ft., most recent use—vehicle maintenance shop, off-site use only

Bldg. 06895
Fort Campbell
Christian Co: KY 42223–
Landholding Agency: Army
Property Number: 21200630071
Status: Unutilized
Comment: 4725 sq. ft., most recent use—storage, off-site use only

North Carolina

Bldg. 1323
Fort Bragg
Hammond Hills Housing Area
Ft. Bragg Co: NC 28310–
Landholding Agency: Army
Property Number: 21200630072
Status: Unutilized
Comment: 568,876 sq. ft., most recent use—residential, off-site use only

Texas

Bldg. 00738
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200630073
Status: Excess
Comment: 6400 sq. ft., most recent use—storage, off-site use only

Virginia

142.67 acres/7 Bldgs.
Pepermeir Hill Road
U.S. Geological Survey
Corbin Co: VA 22446–
Landholding Agency: GSA
Property Number: 54200630020
Status: Excess
Comment: various sq. ft., most recent use—research/development/calibration lab/test measuring circuit
GSA Number : 4–I–VA–0748

Wisconsin

Bldgs. 02128, 02129
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200630074
Status: Underutilized
Comment: 9000 sq. ft. each, presence of asbestos/lead paint, most recent use—storage

Bldg. 02130
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200630075
Status: Underutilized
Comment: 3600 sq. ft., presence of asbestos/lead paint, most recent use—commissary

Bldgs. 02131, 02133
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200630076
Status: Underutilized
Comment: 9000 sq. ft. each, presence of asbestos/lead paint, most recent use—storage

Bldgs. 02134, 02135
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200630077
Status: Underutilized
Comment: 9000 sq. ft. each, presence of asbestos/lead paint, most recent use—storage

Bldg. 02139
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200630078
Status: Underutilized
Comment: 9360 sq. ft., presence of asbestos/lead paint, most recent use—storage

Bldg. 02150
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200630079
Status: Underutilized
Comment: 8448 sq. ft., presence of asbestos/lead paint, most recent use—storage

Bldg. 02153
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200630080
Status: Underutilized
Comment: 4000 sq. ft., presence of asbestos/lead paint, most recent use—storage

Unsuitable Properties

Buildings (by State)

Alaska

Courthouse Parking Lot
7th Avenue
Anchorage Co: AK
Landholding Agency: GSA
Property Number: 54200630013
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material
GSA Number : 9–G–AK–0798

Arizona

Quarters 102, 103
Lake Mead Nat. Rec.
Bullhead Co: Mohave, AZ 86429–
Landholding Agency: Interior
Property Number: 61200630007
Status: Excess
Reason: Extensive deterioration

Colorado

Tract 04–120
Rocky Mtn. National Park
Estes Park Co: Larimer, CO 80517–
Landholding Agency: Interior
Property Number: 61200630008
Status: Unutilized
Reason: Extensive deterioration

Tract 6–121
McGraw Ranch
Larimer Co: CO 80517–
Landholding Agency: Interior
Property Number: 61200630009
Status: Unutilized
Reason: Extensive deterioration

Indiana

Bldgs. 157, 158
Naval Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200630046
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 161, 164, 167
Naval Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200630047
Status: Unutilized
Reason: Extensive deterioration

Bldg. 173
Naval Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200630048
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2179
Naval Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200630049
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 2501, 2502, 2503
Naval Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200630050
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2715
Naval Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200630051
Status: Unutilized
Reason: Extensive deterioration

Bldg. 159
Navy Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200640002
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 162, 163
Navy Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200640003
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 166, 168
Navy Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200640004
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 171, 172
Navy Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200640005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2193
Navy Support Activity
Crane Co: Martin, IN 47522–
Landholding Agency: Navy
Property Number: 77200640006
Status: Unutilized
Reason: Extensive deterioration

Maryland

Bldg. 193
Naval Surface Warfare
Indian Head Co: MD
Landholding Agency: Navy
Property Number: 77200630034
Status: Excess
Reason: Extensive deterioration

Bldg. 232
Naval Surface Warfare
Indian Head Co: MD –
Landholding Agency: Navy
Property Number: 77200630035
Status: Excess
Reason: Extensive deterioration

Bldgs. 377, 379
Naval Surface Warfare
Indian Head Co: MD –
Landholding Agency: Navy
Property Number: 77200630036
Status: Excess
Reason: Extensive deterioration

Bldgs. 500, 501
Naval Surface Warfare
Indian Head Co: MD –
Landholding Agency: Navy
Property Number: 77200630037
Status: Excess
Reason: Extensive deterioration

Bldg. 648
Naval Surface Warfare
Indian Head Co: MD –
Landholding Agency: Navy

Property Number: 77200630038
Status: Excess
Reason: Extensive deterioration

Bldgs. 883, 885
Naval Surface Warfare
Indian Head Co: MD
Landholding Agency: Navy
Property Number: 77200630039
Status: Excess
Reason: Extensive deterioration

Bldg. 1053
Naval Surface Warfare
Indian Head Co: MD
Landholding Agency: Navy
Property Number: 77200630040
Status: Excess
Reason: Extensive deterioration

Bldg. 1343
Naval Surface Warfare
Indian Head Co: MD
Landholding Agency: Navy
Property Number: 77200630041
Status: Excess
Reason: Extensive deterioration

Bldg. 1932
Naval Surface Warfare
Indian Head Co: MD
Landholding Agency: Navy
Property Number: 77200630042
Status: Excess
Reason: Extensive deterioration

Bldg. 2075
Naval Surface Warfare
Indian Head Co: MD
Landholding Agency: Navy
Property Number: 77200630043
Status: Excess
Reason: Extensive deterioration

New Jersey

NIKE Site PH58
Paulsboro Road
Woolwich Township Co: NJ 08085—
Landholding Agency: GSA
Property Number: 54200630017
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Extensive deterioration
GSA Number : 1–G-NJ–0538

New York

Tract 101–01
Eleanor Roosevelt Natl Historic Site
Hyde Park Co: Dutchess, NY 12578—
Landholding Agency: Interior
Property Number: 61200630010
Status: Excess
Reason: Extensive deterioration

South Carolina

Bldgs. 108–1P, 108–2P
Savannah River Site
Aiken Co: SC 29802—
Landholding Agency: Energy
Property Number: 41200630007
Status: Unutilized
Reason: Secured Area

Bldg. 1148
Naval Weapons Station
Goose Creek Co: Berkeley, SC 29445—
Landholding Agency: Navy
Property Number: 77200630044
Status: Excess
Reason: Extensive deterioration

Tennessee

6 Bldgs.
Navy Support Activity
Millington Co: TN
Location: N26A, 1550, 1550A, 1550C, 1550D, 1550E
Landholding Agency: Navy
Property Number: 77200640001
Status: Excess
Reason: Secured Area

Texas

Bldgs. 11–54, 11–54A
Zone 11
Plantex Plant
Amarillo Co: Carson, TX 79120—
Landholding Agency: Energy
Property Number: 41200630008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 12–002B
Zone 12
Pantex Plant
Amarillo Co: Carson, TX 79120—
Landholding Agency: Energy
Property Number: 41200630009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

4 Bldgs.
12–003, 12-R–003, 12–003L
Zone 12, Pantex Plant
Amarillo Co: Carson, TX 79120—
Landholding Agency: Energy
Property Number: 41200630010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 12–014
Zone 12
Pantex Plant
Amarillo Co: Carson, TX 79120—
Landholding Agency: Energy
Property Number: 41200630011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 12–24E
Zone 12
Pantex Plant
Amarillo Co: Carson, TX 79120—
Landholding Agency: Energy
Property Number: 41200630012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Washington

Bldg. 119
Yakima Project
Yakima Co: WA 98901—
Landholding Agency: Interior
Property Number: 61200630017
Status: Excess
Reason: Extensive deterioration

Bldgs. 128, 129
Yakima Project
Yakima Co: WA 98901—
Landholding Agency: Interior
Property Number: 61200630018
Status: Excess
Reason: Extensive deterioration

Bldg. 1032
Naval Base
Bangor Tower Site
Silverdale Co: WA 98315—
Landholding Agency: Navy
Property Number: 77200630045
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 71
Naval Magazine
Port Hadlock Co: Jefferson, WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640007
Status: Unutilized
Reasons: Secured Area
Extensive deterioration

Bldgs. 82, 83
Naval Magazine
Port Hadlock Co: Jefferson, WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640008
Status: Unutilized
Reasons: Secured Area
Extensive deterioration

Bldgs. 168, 188
Naval Magazine
Port Hadlock Co: Jefferson, WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640009
Status: Unutilized
Reasons: Secured Area Extensive deterioration

Bldg. 729
Naval Magazine
Port Hadlock Co: Jefferson, WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640010
Status: Unutilized
Reasons: Secured Area Extensive deterioration

Bldgs. 910, 921
Naval Magazine
Port Hadlock Co: Jefferson, WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640011
Status: Unutilized
Reasons: Secured Area Extensive deterioration

[FR Doc. E6–16860 Filed 10–12–06; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and marine mammals.

DATES: Written data, comments or requests must be received by November 13, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information

Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Cincinnati Zoo and Botanical Garden, Cincinnati, OH, PRT–130454.

The applicant requests a permit to import one female Sumatran rhinoceros (*Dicerorhinus sumatrensis*) from the Sumatran Rhino Sanctuary, Sumatra, Indonesia for the purpose of enhancement of the species through captive propagation.

Applicant: Robert A. McCleskey, Midland, TX, PRT–130521.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Walter P. Mays, Jr., Zanesfield, OH, PRT–131157.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Patricia A. Winger, Spring, TX, PRT–132159.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Hugh V. Sanderson, Hattiesburg, MS, PRT–131586.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: David J. Merkel, Dripping Spring, TX, PRT–132412.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (Damaliscus pygargus pygargus) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Michael P. Cummings, Midland, TX, PRT–131525.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Martin A. White, Mandan, ND, PRT–132434.

The applicant requests a permit to import the sport-hunted trophies of two male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Shane A. Chancellor, Evansville, IN, PRT–132478.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Sondra G. Chancellor, Evansville, IN, PRT–132481.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Thomas H. Shaffer, Stockton, CA, PRT–132487 MRM.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Gregory E. Schubert, Marietta, GA, PRT–132818.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Loyd D. Keith, Jr., Madison, TN, PRT–133293.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Alfred E. Baldwin, Newport Beach, CA, PRT–130446.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: James R. Bland, III, Carrollton, GA, PRT–130520.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: Bradford T. Black, North Canton, OH, PRT–130727.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: John J. Meldrum, Metamora, MI, PRT–132536.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern

Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: Mark Gutsmiedl, Larson, WI, PRT–132685.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Hartwell N. Riser, Jr., Columbia, LA, PRT–132483.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Dennis R. Leistico, Elk River, MN, PRT–134833.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Norwegian Bay polar bear population in Canada for personal, noncommercial use.

Applicant: Richard H. Gebhard, Laguna Beach, CA, PRT–133772.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Dated: September 22, 2006.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–17026 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Post-Delisting Monitoring Results for the American Peregrine Falcon (Falco peregrinus anatum), 2003

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (''we'' or ''Service'') announces the availability of the results from 2003 monitoring data collected as part of the post-delisting monitoring plan for the American peregrine falcon (*Falco peregrinus anatum*).

ADDRESSES: U.S. Fish and Wildlife Service, 911 NE 11th Ave, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Michael Green, Migratory Birds and State Programs, at the above address, at *michael_green@fws.gov*, or at 503–231–6164 (phone) or 503–231–2019 (fax).

SUPPLEMENTARY INFORMATION: This report, titled ''Monitoring Results for Breeding American Peregrine Falcons (*Falco peregrinus anatum*), 2003,'' is published under the U.S. Fish and Wildlife Service's Biological Technical Publications series as BTP–R1005–2006. The American peregrine falcon was removed from the List of Endangered and Threatened Wildlife and Plants on August 25, 1999, due to its recovery (64 FR 46541). This report presents results from the first of 5 monitoring years, as described in the Service's ''Monitoring Plan for the American Peregrine Falcon, A Species Recovered Under the Endangered Species Act.'' A Notice of Availability for the monitoring plan was published on December 3, 2003 (68 FR 67697).

Background

The American peregrine falcon occurs throughout much of North America, from the subarctic boreal forests of Alaska and Canada south to Mexico. American peregrine falcons nest from central Alaska, central Yukon Territory, and northern Alberta and Saskatchewan, east to the Maritime Provinces, and south (excluding coastal areas north of the Columbia River in Washington and British Columbia) throughout western Canada and the United States to Baja California, Sonora, and the highlands of central Mexico. American peregrine falcons that nest in subarctic areas generally winter in South America. Those that nest at lower latitudes exhibit variable migratory behavior; some do not migrate.

The American peregrine falcon declined precipitously in North America following World War II, a decline attributed largely to organochlorine pesticides, mainly DDT, applied in the United States, Canada, and Mexico. As a result. the American peregrine falcon was listed as endangered on June 2, 1970, under the precursor of the Endangered Species Act (35 FR 16047). Following restrictions on organochlorine pesticides in the United States and Canada, and implementation of various management actions, including the release of approximately 6000 captive-reared falcons, recovery goals were substantially exceeded in some areas. On August 25, 1999, the American peregrine falcon was removed from the List of Endangered and Threatened Wildlife and Plants (64 FR 46541).

Section 4(g)(1) of the Endangered Species Act requires that, in cooperation with the States, we effectively monitor for not less than 5 years the status of all species removed from the List of Endangered and Threatened Wildlife and Plants due to recovery. In keeping with that mandate, we developed a monitoring plan (''Monitoring Plan for the American Peregrine Falcon, A Species Recovered Under the Endangered Species Act'') to guide our monitoring efforts in cooperation with State resource agencies, recovery team members, independent scientists, biostatisticians, and other partners. Our plan calls for monitoring peregrine falcons five times at 3-year intervals beginning in 2003 and ending in 2015. This report presents the results of the first of these monitoring years.

Over 300 individuals contributed their observations at 438 peregrine falcon territories across six monitoring regions in 2003. These included Federal and State agency personnel, members of tribes, non-governmental organizations, volunteers, and many others. Although we monitored only 36 of the targeted 96 territories in the Southwestern monitoring region, sufficient numbers of territories were surveyed in each of the other five monitoring regions to meet the statistical criteria described in the monitoring plan. Our estimates of territory occupancy, nest success, and productivity were above the target values that we set in the monitoring plan for those nesting parameters. Additional data collected by States and others indicate that there were 3,005 nesting pairs of American peregrine falcons in the United States, Canada, and Mexico in 2003, compared to approximately 1,750 pairs at the time of delisting. Additionally, 92 percent of pairs nest on natural substrates in all regions except the Midwestern/Northeastern region, where only 32 percent nest on natural substrates. Our estimates of the nesting parameters and the additional data from across the United States indicate that the peregrine falcon population is secure and vital. The next coordinated nationwide monitoring effort, scheduled for 2006, is underway.

Copies of the 2003 monitoring results may be requested from Michael Green (*see* contact information, above). This report is also available on the Internet at *http://www.fws.gov/endangered/recovery/peregrine/.*

Authority

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

Dated: October 6, 2006.

Chris McKay,

Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. E6–17009 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

Endangered Marine Mammals and Marine Mammals

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
124511	Robert K. Chambers	71 FR 31197; June 1, 2006	September 19, 2006.
125553	James J. Stavola, Jr	71 FR 37602; June 30, 2006	September 19, 2006.
126300	Whiteford C. Blakeney	71 FR 37602; June 30, 2006	September 20, 2006.

Dated: September 29, 2006.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–17016 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species and marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) The application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

ENDANGERED MARINE MAMMALS AND MARINE MAMMALS

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
041309	U.S. Fish and Wildlife Service, Marine Mammals Management.	71 FR 46183; August 9, 2005	September 13, 2006.
125097	Harold Landis	71 FR 35692; June 21, 2006	September 14, 2006.

Dated: September 22, 2006.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–17018 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with marine mammals.

DATES: Written data, comments or requests must be received by November 13, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Kevin T. Klumper, Chehalis, WA, PRT–130149.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Norwegian Bay polar bear population in Canada for personal, noncommercial use.

Applicant: William I. Morgan, Jr., Vacaville, CA, PRT–130438.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Norwegian Bay polar bear population in Canada for personal, noncommercial use.

Dated: September 29, 2006.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–17019 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–058–06–5865–DT]

Notice of Availability of Record of Decision for the Sloan Canyon National Conservation Area Resource Management Plan (RMP) and Final Environmental Impact Statement (FEIS), Nevada

AGENCY: Bureau of Land Management, Interior.

Cooperating Agencies: Nevada Department of Wildlife, Nevada State Historic Preservation Office, Clark County Department of Comprehensive Planning, City of Henderson, City of Boulder City, Las Vegas Paiute Tribe, Paiute Indian Tribe of Utah, Fort Mojave Indian Tribe.

ACTION: Notice of Availability, Record of Decision.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), Bureau of Land Management (BLM) policies, and the Clark County Conservation of Public Land and Natural Resources Act of 2002 [Public Law 107–282], the BLM announces the availability of the Record of Decision (ROD) for the Sloan Canyon National Conservation Area (NCA) RMP located in Clark County, Nevada. The Nevada State Director has approved the RMP ROD, which becomes effective immediately.

ADDRESSES: The RMP ROD and other associated documents or background information may be viewed and downloaded in .PDF format at *http://www.nv.blm.gov/vegas/sloan*. Copies of the Sloan Canyon NCA RMP ROD are available upon request from the Las Vegas Field Office, Bureau of Land Management, 4701 North Torrey Pines Drive, Las Vegas, NV 89130–2301. Reference copies are available for review during regular business hours at the following locations: BLM Nevada State Office, 1340 Financial Blvd, Reno, NV 89502; Paseo Verde Library, 280 S. Green Valley Parkway, Henderson, NV 89012; Boulder City Library, 701 Adams Blvd, Boulder City, NV 89005; North Las Vegas Library, 2300 Civic Center Dr., North Las Vegas, NV 89130; and Summerlin Library, 1771 Inner Circle Drive, Las Vegas, NV 89134.

FOR FURTHER INFORMATION CONTACT: For further information visit the Web site *http://www.nv.blm.gov/vegas/sloan* or contact: Manager, Sloan Canyon NCA, BLM Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130–2301; Telephone (702) 515–5000; and E-mail *Sloan_planning@nv.blm.gov*.

SUPPLEMENTARY INFORMATION: In November 2002 Congress designated the Sloan Canyon NCA to preserve and protect a portion of southern Nevada's Mojave Desert as a permanent asset for future generations. The Clark County Conservation of Public Land and Natural Resources Act of 2002 required the BLM to develop a plan for the appropriate use and management of the Sloan Canyon NCA and the North McCullough Wilderness.

The RMP ROD was developed with broad public and stakeholder participation through a 3-year collaborative planning process. This RMP ROD addresses management on approximately 48,000 acres of public land within the NCA, including the 14,000 acre North McCullough Wilderness. The RMP ROD contains both land use planning decisions and implementing decisions to provide planning structure to facilitate the management of the Sloan Canyon NCA. Major resources and activities addressed in the RMP ROD include: recreation; the North McCullough Wilderness; cultural resources; interpretation; facilities; lands and realty; transportation; vegetation management; and wildlife management.

The approved RMP is essentially the same as Alternative C in the Proposed RMP/Final EIS, published in October 2005. BLM received four protests to the Proposed RMP/EIS. After careful consideration of all points raised in those protests, the BLM Director concluded that the responsible planning team and decision-makers followed all applicable laws, regulations, policies, and pertinent resource considerations in developing the proposed plan. No inconsistencies with State or local plans, policies or programs were identified during the Governor's consistency review of the Proposed RMP/Final EIS. As a result, only minor editorial modifications were made in preparing the RMP/ROD.

Dated: June 28, 2006.

Juan Palma,

Field Manager, Las Vegas Field Office.

[FR Doc. E6–16938 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–300–1020–PH]

Notice of Public Meeting, Idaho Falls District Resource Advisory Council 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: The RAC will next meet in Idaho Falls, Idaho on November 15 and 16, 2006. Day one of the meeting will be an orientation session aimed at training new members. An overview of each of the Idaho Falls District's four field offices will be presented, along with Annual Rangeland Health training (scheduled). The second day will include updates of ongoing issues, including the Challis Field Office Travel Management Plan. The meeting will

also consider proposed fee increases on the Caribou-Targhee National Forest, as provided by the Recreation Enhancement Act. Finally, the RAC will set its quarterly meeting schedule for 2007. Other topics will be scheduled as appropriate. All meetings are open to the public.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in the BLM Idaho Falls District (IFD), which covers eastern Idaho.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below.

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: October 6, 2006.

David Howell,

RAC Coordinator, Public Affairs Specialist.

[FR Doc. E6–17001 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–0777–XZ–241A]

Notice of Meeting, Front Range Resource Advisory Council (Colorado)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

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) Front Range Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held November 15, 2006 from 9:15 a.m. to 4 p.m.

ADDRESSES: Holy Cross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Ken Smith, (719) 269–8500.

SUPPLEMENTARY INFORMATION: The 15 member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in the Royal Gorge Field Office and San Luis Valley, Colorado. Planned agenda topics include: Manager updates on current land management issues; update on the draft Colorado Recreation Strategy Communication Plan and a discussion on the Arkansas River Travel Management Plan. All meetings are open to the public. The public is encouraged to make oral comments to the Councils at 9:30 a.m. or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Summary minutes for the Council Meeting will be maintained in the Royal Gorge Field Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting. Meeting Minutes and agenda (10 days prior to each meeting) are also available at: *www.blm.gov/rac/co/frrac/co_fr.htm*.

Dated: October 6, 2006.

Roy L. Masinton,

Royal Gorge Field Manager.

[FR Doc. E6–17002 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–200–1120–PH]

Notice of November Resource Advisory Council Meeting To Be Held in Twin Falls District, ID

AGENCY: Bureau of Land Management, Interior.

SUMMARY: This notice announces the intent to hold a Resource Advisory Council (RAC) meeting in the Twin Falls District of Idaho on Tuesday, November 28, 2006. The meeting will be held at the Red Lion Canyon Springs Hotel, 1357 Blue Lakes Boulevard, in Twin Falls, Idaho.

SUPPLEMENTARY INFORMATION: The Twin Falls District Resource Advisory Council consists of the standard fifteen members residing throughout south central Idaho. Meeting agenda items will include updates on sub-committee efforts, welcome to new members, continued prioritization of tasks for the upcoming year and more.

FOR FURTHER INFORMATION CONTACT: Sky Buffat, Twin Falls District, Idaho, 400 West F Street, Shoshone, Idaho, 83352, (208) 732–7307.

Dated: October 2, 2006.

Howard Hedrick,

Twin Falls District Manager.

[FR Doc. E6–17008 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–1430–ES; WYW–163849]

Notice of Realty Action; Recreation and Public Purposes Act Classification; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; correction.

SUMMARY: The Bureau of Land Management published a notice in the **Federal Register** of August 23, 2006, concerning the classification for lease or conveyance of three parcels of public land to Sublette County. The notice contained an incorrect legal description.

FOR FURTHER INFORMATION CONTACT: Bill Wadsworth, Realty Specialist, at the address above or at 307–367–5341.

CORRECTION: In the **Federal Register** of August 23, 2006, in FR Doc. E6–13927, on page 49472, in the second column, first paragraph under **SUPPLEMENTARY INFORMATION**, correct the legal description to read:

WYW–163849—Pinedale, WY—Golf Course to be classified for lease/conveyance:

Sixth Principal Meridian, Sublette County, Wyoming

T. 33 N., R. 109 W.,
Sec. 5, SW¼, SW¼SE¼;
Sec. 6, E½SE¼.

The land described contains 280 acres.

Dated: October 3, 2006.

Dennis R. Stenger,

Field Manager.

[FR Doc. E6–16936 Filed 10–12–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 04–16]

T. Young Associates, Inc.; Revocation of Registration; Introduction and Procedural History

On December 17, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to T. Young Associates of Hermitage, Tennessee (Respondent). The Show Cause Order proposed to revoke Respondent's DEA Certificate of Registration, 004395TSY, as a distributor of List I chemicals, and to deny any pending applications for renewal or modification of the registration, on the ground that Respondent's registration is inconsistent with the public interest as that term is defined in 21 U.S.C. § 823(h). *See* 21 U.S.C. § 824(a)(4).

The Show Cause Order alleged in substance that on July 31, 2001, Respondent applied for a modification of its registration as a List I chemical distributor requesting registration to handle and distribute phenylpropanolamine, ephedrine and pseudoephedrine at a new location. *See* Show Cause Order at 2. The Show Cause Order further alleged that Respondent sells primarily ''gray market products'' to convenience stores and gas stations, that Respondent's owner had informed DEA Diversion Investigators (DIs) that List I chemical products amounted to approximately nine percent of his total sales, and that some of the manufacturers of the products sold by Respondent have received warning letters from DEA because the products were found during law enforcement seizures of clandestine laboratories. *See id.* The Show Cause Order further alleged that Tennessee led DEA's southeast region in the number of illicit methamphetamine laboratory seizures, that most illegal methamphetamine is produced locally, and that methamphetamine production continues unabated. *See id.* at 2–3.

The Show Cause Order further alleged that DEA had engaged an expert in the field of retail marketing and statistics who had studied the purchases of List I chemical products by hundreds of Tennessee retailers and concluded that these stores were purchasing these products in amounts that were far in excess of legitimate demand. *See id.* at 4. The Show Cause Order alleged that small illicit laboratories procure the precursor chemicals required to manufacture methamphetamine from non-traditional retailers such as gas stations and small retail markets and that some of these retailers use multiple distributors to mask their acquisition of large amounts of listed chemicals. *See id.*

Respondent, through its counsel, requested a hearing. The matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner, who conducted a hearing in Nashville, Tennessee, on September 28 and 29, 2004. At the hearing, both parties called witnesses to testify and introduced documentary evidence. Following the hearing, but before the record was closed, the Government introduced into evidence the affidavit of its expert witness, Mr. Jonathan Robbin. Respondent then submitted into evidence his own affidavit addressing the issues raised in the Robbin affidavit, as well as several other exhibits. Following the closing of the record, both parties submitted post-hearing briefs.

On October 28, 2005, the ALJ submitted her decision recommending that Respondent's registration be revoked. Neither party filed exceptions. The record was then transmitted to me for final agency action.

Having considered the record as a whole, I hereby issue this decision and final order. I adopt the ALJ's findings of fact and conclusions of law except as expressly noted herein. For the reasons set forth below, I concur with the ALJ's recommendation that Respondent's registration be revoked. I further order that any pending applications for renewal or modification of Respondent's registration be denied.

Findings

Respondent is a corporation whose shares are owned entirely by Mr. Roy T. Young. Respondent is the holder of DEA Certificate of Registration, 004395TSY, which authorizes it to distribute the List I chemicals phenylpropanolamine, ephedrine and pseudoephedrine.[1] Respondent, which is located in Hermitage, Tennessee, sells a variety of general merchandise and nonfood items such as ball caps, sunglasses, cigarette lighters, novelty items and licensed athletic wear to predominately gas stations and convenience stores in eastern and middle Tennessee. Mr. Young testified that Respondent ''did a couple of million dollars a year by the early 2000s.'' Tr. 233. Mr. Young further testified that ephedrine was ''about nine or ten percent of my sales in the chain stores.'' *Id.* at 290. Mr. Young also testified that he had decided not to carry pseudoephedrine although he did sell it ''from time to time'' to certain customers. *Id.* at 240.

Methamphetamine and the Market for List I Chemicals

While both ephedrine and pseudoephedrine have therapeutic uses,[2] they are also precursor chemicals that are regulated by the Controlled Substances Act. *See* 21 U.S.C. 802(34). Moreover, these chemicals are easily extracted from legal and what typically were over-the-counter products [3] and used in the illicit manufacture of methamphetamine, a schedule II controlled substance. *See* 21 CFR 1308.12(d).

Methamphetamine ''is a powerful and addictive central nervous system stimulant.'' *D & S Sales*, 71 FR 37607, 37608 (2006). The illegal manufacture and abuse of methamphetamine pose a grave threat to this country. Methamphetamine abuse has destroyed numerous lives and families and has ravaged communities. Moreover, because of the toxic nature of the chemicals used in producing the drug, illicit methamphetamine laboratories cause serious environmental harms. According to the testimony of DEA Special Agent Guy Hargreaves, Staff Coordinator for the DEA Methamphetamine Program at DEA Headquarters, in 1999 there were 101 explosions and at least 64 fires at clandestine labs throughout the United States. *See* Gov. Exh. 26, at 9. Moreover, the annual cost to government agencies to clean up methamphetamine labs is ''millions of dollars.'' *Id.* at 10.[4]

The problem of methamphetamine abuse is especially serious in Tennessee. According to the record, the number of law enforcement seizures of clandestine laboratories in Tennessee rose from 106 in 1999 to ''over 700 labs'' in 2003. *See* ALJ at 8, Tr. at 14. Moreover, according to a DEA Special Agent, as of September 28, 2004 (the date of the hearing), there

[1] There is no evidence in the record that Respondent had distributed phenylpropanolamine.

[2] According to the affidavit of Mr. Douglas A. Snyder, a Drug Science Officer within the Drug and Chemical Evaluation Section in the Office of Diversion Control, under the Food, Drug and Cosmetic Act's provisions pertaining to over-the-counter (OTC) products, ephedrine is lawfully marketed as a bronchodilator used to treat asthma. Govt. Exh. 27, at 3–4. Pseudoephedrine is lawfully marketed under the Food, Drug and Cosmetic Act's OTC provisions as a decongestant. *See id.* at 4.

[3] In response to the methamphetamine epidemic, many States have enacted legislation making pseudoephedrine a Schedule V drug under State controlled substances acts.

[4] According to the Suspicious Order Task Force, as of 1998 the cost to clean up a small boxed lab site was $30,000. *See* Gov. Exh. 28, at 18.

had been close to 700 seizures in Tennessee already that year.[5] Tr. at 14.

A DEA Special Agent who serves in the Nashville office as a clandestine lab enforcement agent testified that, based on his observations of products found at clandestine lab sites, as well as interviews he had conducted with various defendants, there was a trend of methamphetamine cooks obtaining List I chemicals from ''smaller gas stations and convenience stores.'' *Id.* at 12. According to the Special Agent, he had been told in the interviews that meth. cooks were ''able to buy cases, half cases, and such out the back door of'' convenience stores and gas stations. *Id.* The Special Agent further testified that some meth. cooks drive around to different stores with four or five different addicts who go into several stores in different cities and purchase sub-threshold quantities of List I chemicals.

The Government submitted into evidence the affidavit of Mark J. Rubbins, a Diversion Investigator who was then assigned as Chief of the Domestic Chemical Control Unit, Office of Diversion Control, DEA Headquarters. According to DI Rubbins, DEA has determined that there is both a traditional and non-traditional market for List I chemical products. *See* Gov. Exh. 44, at 5. The traditional market is characterized by a short chain of distribution. In this market, manufacturers either sell directly to large chains of grocery stores (such as Giant and Safeway), pharmacies (such as Rite Aid and CVS), and other larger retailers (such as Wal-Mart), or they sell to large wholesalers (such as Bergen Brunswig and AmeriSource). *See id.* at 5–6. Furthermore, List I chemical products sold in this market are typically of lower strength and lower count sizes such as 30 mg. pseudoephedrine tablets in small, blister pack sizes of six, twelve, twenty-four and sometimes forty-eight count. *See id.* at 5.

In contrast, products sold in the non-traditional market pass through multiple layers of distribution and are sold by such establishments as gas stations, small convenience stores, liquor stores, headshops, beauty parlors, and video stores. *See id.* at 6. Moreover, the products are typically stronger than those found in the traditional market and include 60 mg. pseudoephedrine tablets which are sold in larger package sizes such as 60, 100, or 120 count bottle sizes. DI Rubbins further stated that non-traditional retailers tend to knowingly sell large quantities of List I chemical products to ''smurfers,'' individuals who work for methamphetamine traffickers and attempt to buy out a store's entire stock of List I chemical products by going to the store at different times or on different days. *See id.* at 6–7.

DI Rubbins stated that because of increased DEA enforcement efforts involving pseudoephedrine products, methamphetamine traffickers have increasingly gone back to using combination ephedrine products. *See id.* at 10. DI Rubbins further stated that in 2002, he contacted the major manufacturers of combination ephedrine/guaifenesin products and determined that sales for these products amounted to only one-tenth of the market for legitimate single-entity pseudoephedrine products. *See id.* According to DI Rubbins, the names of products that are popular with methamphetamine traffickers are ''MiniThin'' and ''Mini Twin,'' which each contain 60 mg. pseudoephedrine, and ''Max Brand'' and ''Mini Two Way,'' which are combination ephedrine products. *See id.* at 12. Mr. Rubbins further stated that these brands ''have been disproportionately represented in clandestine lab seizures around the United States involving listed chemical products.'' *Id.* at 13.

The Government also submitted the affidavit of John Uncapher, who was then assigned as a Staff Coordinator with the Domestic Operations Division at DEA Headquarters. Mr. Uncapher's staff was responsible for the DEA Warning Letter program. *See* Gov. Exh. 42, at 3. Under this program, DEA collects information regarding List I chemicals products that have been found at clandestine lab sites and identifies the manufacturers of these products. *See id.* The Government entered into evidence a list of 35 warning letters issued to PDK Laboratories, the manufacturer of Max Brand, a product which Respondent distributes. *See* Gov. Exh. 19. According to this exhibit, between January 5, 1999, and September 26, 2002, approximately 1.67 million pseudoephedrine tablets and 107,250 combination ephedrine tables manufactured by this firm were found in numerous seizures of clandestine laboratories throughout the United States including Tennessee. The Government also introduced into evidence a list of 17 warning letters issued to BDI because their products, which Respondent also distributed, were found during seizures of clandestine laboratories. *See* Gov. Exh. 20.

The Government submitted into evidence the declaration of Jonathan Robbin, an expert in statistical analysis of demographic, economic, geographic and survey data. Based on his study of the latest available United States Economic Census of Retail Trade, Mr. Robbin concluded that ''over 97% of all sales of non-prescription drug products occur in drug stores and pharmacies, supermarkets, large discount merchandisers and electronic shopping and mail order houses.'' Gov. Exh. 70, at 4. Moreover, sales of non-prescription drugs by convenience stores (including both those that sell and do not sell gasoline), ''account for only 2.2% of the overall sales of all convenience stores that handle the line and only 0.7% of the total sales of all convenience stores.'' *Id.*

Mr. Robbin further testified that based on his study of U.S. Government Economic Census Data, information obtained from the National Association of Convenience Stores, and commercially available point of sale transaction data, he constructed a model of the traditional market for retail sales of pseudoephedrine. *See id.* at 5. According to Mr. Robbin, sales of pseudoephedrine account for ''only about 2.6%'' of the sales of health and beauty care products in convenience stores and only ''0.05% of total in-store (non-gasoline) sales.'' *Id.*

Mr. Robbin testified that ''the normal expected retail sale of pseudoephedrine (Hcl) tablets in a convenience store may range between $0 and $40 per month, with an average of $20.60 per month.'' *Id.* at 7. Mr. Robbin also testified that ''the expected sale of ephedrine (Hcl) tablets in a convenience store ranges between $0 and $25, with an average of $12.58.'' *Id.* at 7–8. Mr. Robbin further testified that a monthly retail sale of $40 of ephedrine or $60 of pseudoephedrine would ''occur less than one in 1,000 times in random sampling.'' *Id.* Moreover, a monthly retail sale of $60 of ephedrine or $100 in pseudoephedrine would ''occur about once in a million times in random sampling.'' *Id.*

The Investigation of Respondent

Respondent's initial registered location was 1319 Central Court, Hermitage, Tennessee. On July 19, 2001, Mr. Young wrote a letter to DEA's Nashville office informing it that Respondent had relocated its warehouse to 1320 Central Court, Hermitage, Tennessee, and requesting that DEA issue a registration for the new address. *See* Gov. Exh. 3. According to Mr. Young's testimony, Respondent had leased both the 1319 and 1320 locations

[5] As noted in *Gregg Brothers Wholesale Co., Inc.*, 71 FR 59830 (2006), in 2004, law enforcement agencies seized 939 clandestine labs in Tennessee.

for some period. When Respondent's lease for the 1319 location came up for renewal, Mr. Young decided to terminate it and vacate the premises as he was already leasing the 1320 space and had leased another premises (4706 Lebanon Pike) which he was using for an office and retail store. *See* Tr. 242–43. Mr. Young did not notify DEA, however, until after Respondent moved out of its then registered location. *Id.* at 244–45.

Because DEA's regulations provide that a ''request for modification shall be handled in the same manner as an application for registration,'' 21 CFR 1309.61, on August 7, 2001, two DIs visited Respondent's 1320 Central Court facility to conduct an investigation. ALJ at 15. The DIs inspected the facility and obtained from Respondent lists of both its customers and suppliers. The DIs found that the List I chemical products were securely stored in a locked area of the warehouse. *See id.*

The DIs told Mr. Young that they would conduct an accountability audit. The DIs conducted an inventory of all List I chemical products on hand and obtained Mr. Young's signature on their inventory report. Tr. 39–40. The DIs also told Mr. Young that they needed to know what inventory was on Respondent's delivery trucks. *Id.* at 40. One of the DIs could not recall, however, whether Mr. Young had said there were List I chemical products on the trucks. *Id.* at 41. The DI later testified that Mr. Young had never gotten back to them regarding List I chemicals that may have been on the trucks. *Id.* at 131. In his testimony, Mr. Young confirmed that the DIs had asked him about ''the truck inventory'' and whether there were any ''inventories on the truck.'' *Id.* at 254.

The DIs then requested the invoices necessary to conduct an accountability audit. Mr. Young told the DIs that the records were not kept at the warehouse but were at his office, which was located at 4706 Lebanon Pike.[6] The DIs then went to the office. *Id.* at 37.

The DI proceeded to perform a 30 day accountability audit[7] of three of the products—Ephedrine Plus 60 tablet bottles, Max Brand 60 tablet bottles, and Nyquil two tablet packets. Because there was no beginning inventory, the DIs assigned a value of zero for each of the products. *Id.* at 47. The DIs then examined both the hard copy purchase invoices from Respondent's suppliers and Respondent's hard copy sales records.[8] *Id.* at 51, 147. The audit determined that there were overages in the amount of 3,131 Ephedrine Plus bottles and 600 NyQuil packets. Gov. Exh. 12. The audit also found a shortage of 26 bottles of Max Brand Ephedrine. *Id.*

The ALJ found that ''[t]he investigators did not contact Mr. Young to discuss the audit results'' and noted that ''Mr. Young testified that he was not aware of the audit results until three years after the August 7, 2001 visit.'' ALJ at 17.[9] The ALJ further found that Mr. Young then had his employees go back through his records and recalculate Respondent's sales; the employees found overages. *See id.; see also* Tr. 257–58.

In October 2001, DEA modified Respondent's registration by changing the address of his registered location to 1320 Central Court. The DI testified that he had granted the modification because of the financial hardship Mr. Young was undergoing in maintaining three separate premises. Tr. at 33.

Approximately a year after the on-site inspection, one of the DIs conducted verification visits of three of Respondent's customers. ALJ at 18. The manager at each location verified that the store was a customer of Respondent; each of the managers also told the DI that they used more than one supplier of List I chemicals. *See id.* At two of the stores, the managers told the DI that they were attempting to identify customers who they believed were purchasing List I chemical products for illicit use and report them to law enforcement authorities. *See id.*

On September 19, 2003, Mr. Young requested another modification of the registration to change both the name on the registration and the address of its registered location to 4706 Lebanon Pike. On December 17, 2003, however, the instant Show Cause Order was issued. *See* ALJ at 17.

On February 20, 2004, two DIs and a Special Agent visited Respondent at its Lebanon Pike location to deliver a letter from Howard Davis, the Diversion Program Manager for DEA's Atlanta Field Division. The letter instructed Respondent that he could not store listed chemicals at his new proposed location until DEA approved the change. Gov. Exh. 46. The letter further explained that DEA would not approve any modification until the Order to Show Cause was resolved. *Id.*

During the visit, Mr. Young told one of the DIs that no List I chemicals were being stored at the Lebanon Pike location. However, during the visit, one of the DIs found a display rack containing 24 bottles and 5 packets of ephedrine products on a shelf in the office. ALJ at 17. Because the products were at a non-registered location, the DI immediately seized them. *Id.*

Mr. Young testified that the products were at the Lebanon Pike location because his son had taken them there to photograph them for a brochure to be used in marketing them to Respondent's customers. Tr. 277. Mr. Young testified that after the pictures were taken the products should have been immediately returned to the truck. *Id.* at 278.

As part of DEA's investigation, one of the DIs obtained from Respondent's suppliers copies of invoices documenting its purchases of List I chemical products from January 2003 through July 2004. Tr. at 166–75. According to the invoices from one supplier, CB Distributors, Respondent purchased 5,616 bottles of Rapid Action (60 tablet count), 576 bottles of Rapid Action (48 tablet count), 10,850 packets of Rapid Action (12 tablet count), 3,168 bottles of Mini Two Way (60 tablet count), 576 bottles of Mini Two Way (48 tablet count), 3,456 packets of Mini Two Way (6 tablet count), 15,708 bottles of Max Brand 2-Way (60 tablet count), 17,280 packets of Max Brand 2-Way (6 tablet count), and 1,584 bottles of Twin Tabs (60 tablet count). ALJ at 18.

The Government also introduced two invoices it had received from another of Respondent's suppliers, Sasser Distributing. The invoices show that on July 27, 2004, Respondent purchased 288 bottles of ephedrine products (60 tablet count); the next day, Respondent purchased another 144 bottles of Biotek Ephedrine (48 tablet count), as well as an additional amount of Ephedrine Plus

[6] The DIs further informed Mr. Young that under Federal regulations, records of purchases over certain amounts must be maintained at the registered location. *See* Tr. 37–38. The record contains an invoice documenting a purchase from PDK Laboratories of 720 bottles containing 60 tablets of 2 way ephedrine, a product that contains 25 mg. of ephedrine hydrochloride per tablet. *See* Gov. Exh. 6. Respondent's purchase of this product did not, however, exceed the one kilogram threshold. *See* 21 CFR 1310.04(f)(1); Gov. Exh. 23.

[7] The audit actually covered the period from July 1, 2001, through August 7, 2001. *See* Gov. Exh. 12.

[8] There was a factual dispute as to whether Respondent informed the DIs as to the existence of his computerized records. The ALJ found that ''whatever computerized records Respondent maintained showed only the dollar amount of the sale but not the products sold; this latter information was shown only on hard copy invoices.'' ALJ at 15; *see also* Tr. at 252. Because the accountability audit was based on the quantity and not dollar amount of the products, the dispute is immaterial.

[9] There is, however, conflicting testimony by Mr. Young that when the DIs were through with the audit, ''we sat down and had a short meeting out front, then a reference was made to a large overage in one category'' and I told the DIs ''you can't honestly be over.'' Tr. at 253.

packets (6 tablet count). See Gov. Exhs. 52–53.[10]

As stated above, the Government entered into evidence the affidavit of Jonathan Robbin. According to the affidavit, DEA provided Mr. Robbin with a list of 801 wholesale transactions involving combination ephedrine and pseudoephedrine products made by Respondent to 97 Tennessee convenience stores between January 27, 2003, and November 22, 2004. Gov. Exh. 70, at 12. The affidavit further stated that during this period Respondent sold 17,271 bottles, each containing 60 tablets, and 24,520 packages, each containing six tablets, of combination ephedrine products. *See id.* The bottles held a total of 1,036,260 tablets and the packets held a total of 147,120 tablets. *Id.* Respondent also sold to 31 convenience stores, 1,435 bottles, each containing 60 tablets of Max Brand 30 mg. pseudoephedrine, for a total of 86,100 tablets of pseudoephedrine products. *Id.*

Using this data, Mr. Robbin calculated each store's implied average monthly retail sales and compared that to the normal expected retail sales discussed above.[11] *See id.* at 13. According to Mr. Robbin, only one of the 97 stores was selling near the normal expected sales range at 2.8 times expectation. *Id.* at 15. The next lowest store was selling over 20 times the expected sales range. *Id.* Mr. Robbin explained that in random sampling, sales over 20 times expectation ''could occur only about three times in a billion raised to the fifth power.'' *Id.* Mr. Robbin further explained that ''[t]he probability of an index equal to or greater than 20 is so small as to be near impossibility.'' *Id.* at 16. Finally, Mr. Robbin found that the top 94 stores had indexes over 25, the top 54 stores sold ''over 100 times expectation,'' and the top sixteen sold ''over 300 times expectation.'' *Id.* at 16.

Mr. Robbin explained that ''[s]uch indexes are not possible in the normal commerce of these goods at ordinary convenience stores.'' *Id.* According to Mr. Robbin, because the average convenience store serves 120,000 shoppers per year, if combination ephedrine products were being purchased by customers to treat asthma (the purpose for which the FDA has approved them), three million persons would have to shop at the store in a year to account for sales 25 times the expected amount. *Id.* Mr. Robbin further explained that while it was possible that a single customer could purchase a store's entire monthly inventory, this amount of product would supply the person with enough of the drug to treat an asthmatic condition at recommended doses for two and one-quarter years. *Id.* Mr. Robbin explained that ''[i]t is difficult to imagine * * * what such a shopper would do with all of this material every month except to resell or use it as a precursor chemical in the illicit manufacture of methamphetamine.'' *Id.* at 16–17. Mr. Robbin thus concluded that Respondent ''frequently sells combination ephedrine * * * and single ingredient pseudoephedrine * * * products to these stores in extraordinary excess of normal or traditional demand by ordinary convenience store shoppers.'' *Id.* at 17.

Mr. Young submitted an affidavit challenging the factual basis of Mr. Robbin's findings. According to Mr. Young, he supplied records covering only the 365 day period from September 2003 through August 2004. Resp. Exh. 19, at 1. Mr. Young further stated that ''the total number of stores serviced fluctuate[d] and was not a hard and fast 97 stores as stated by Mr. Robbin.'' *Id.*

Mr. Young also challenged Mr. Robbin's findings as to the monthly expected sales range of combination ephedrine and pseudoephedrine products in convenience stores. Mr. Young asserted that according to the March 28, 2005 edition of Convenience Store News, ''the average c-store sold $5,462 worth of cold and cough remedies in 2003.'' *Id.* Mr. Young also asserted that according to the National Association of Convenience Stores State of the Industry Report for 2003, ''the average c-store sold $2,980 of cough & cold remedies in 2003.'' *Id.* at 2. Mr. Young thus contends that ''[t]hese independent studies show average monthly sales of $250 to $450 per store per month for the c-store industry. This amount is 8 to 14 times greater than what Robin [sic] reports.'' *Id.* Mr. Young further asserted that Respondent's average per store sales of combination ephedrine products ''is within the norms for the sale of these products to convenience stores that we have experienced in the 14 years that we have been in business.'' *Id.* at 4.

In support of his affidavit, Mr. Young also submitted into evidence a spreadsheet showing its List I chemical sales from September 2003 through August 2004. *See* Resp. Exh. 20. According to the spreadsheet, Respondent sold a total of $68,568.11 of List I chemical products to an average of 54 stores per month. *See id.* The spreadsheet also indicates that Respondent's average sale per store, per month, was $105.81, and calculates that the average retail sale per store, per month, was $184.00. *Id.* The spreadsheet also indicates that Respondent's sales of traditional branded products (such as Advil, Aleve, Tylenol, Dayquil and Nyquil that contain pseudoephedrine) amounted to only $1,507 out of the total of $68,568, or approximately two percent of its List I chemical product sales. *Id.*

Discussion

Section 304(a) of the Controlled Substances Act provides that a registration to distribute a List I chemical ''may be suspended or revoked * * * upon a finding that the registrant * * * has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. § 824(a)(4). In making this determination, Congress directed that I consider the following factors:

(1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) compliance by the applicant with applicable Federal, State, and local law;

(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) such other factors as are relevant to and consistent with the public health and safety.

Id. § 823(h).

• These factors are considered in the disjunctive.'' *Joy's Ideas*, 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether a registration should be revoked or an application for a modification of a registration should be denied. *See, e.g., David M. Starr*, 71 FR 39367, 39368 (2006); *Energy Outlet*, 64 FR 14269 (1999). Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DE*A, 419 F.3d 477, 482 (6th Cir. 2005); *Morall* v. *DEA*, 412 F.3d 165, 173–74 (D.C. Cir. 2005). My analysis of the factors in this case compels the conclusion that Respondent's continued registration would be inconsistent with the public interest.

[10] During the August 2001 on-site inspection, the DIs received a supplier list from Mr. Young. Tr. 56. One of the DIs determined that at least two of Respondent's suppliers had received warning letters from DEA. ALJ at 18.

[11] Mr. Robbin's affidavit explains in detail his methodology, including the figure he used for the products' gross margin, to calculate the implied retail sales value of the products.

Factor One—Maintenance of Effective Controls Against Diversion

I acknowledge that Respondent provides effective security against the theft of listed chemicals. Accurate recordkeeping is, however, another important control against diversion. *See* 21 CFR 1309.71(b)(8). As to this system, the record clearly indicates that Respondent does not maintain effective controls against diversion.

The accountability audit found that two of the products sold by Respondent had overages; the other product had a shortage. As the ALJ noted, the DIs used a zero opening inventory for each product because Respondent did not have an inventory. Using a zero opening inventory will result in an over-count if, in fact, a registrant had product on hand on the beginning date of the audit period. I note, however, that Mr. Young testified that he had his employees go back through his records and they too came up with overages. Tr. 257–58.

The DIs also found that there was a shortage of 26 Max Brand 60 tablet bottles. This is especially significant because the audit covered only a short period of time (approximately five weeks). Moreover, if, in fact, Respondent had product on hand on the beginning date of the audit period, assigning an inventory of zero would result in an undercount of the shortage.

I further note the testimony regarding whether there was inventory on the trucks. The ALJ noted that there was ''somewhat inconsistent testimony about whether some List I chemicals were on'' the trucks. *See* ALJ at 22. I am satisfied, however, that the DIs asked Respondent whether there were any List I chemicals on the trucks, *see* Tr. 40 and 254, and the fact remains that Respondent had no readily obtainable records showing the amount of inventory, if any, that was on the trucks. I therefore conclude that Respondent does not maintain effective controls against diversion. This factor thus supports a finding that Respondent's continued registration would be inconsistent with the public interest.

Factor Two—Compliance with Applicable Federal, State, and Local Laws

The record here demonstrates that Respondent committed several violations of Federal law and regulations. First, in July 2001, Respondent moved its List I chemicals from the 1319 Central Court building, which was its registered location, to the 1320 Central Court building, without obtaining approval from DEA. This action violated 21 U.S.C. § 822(e) and 21 CFR 1309.23(a).

The ALJ also found that Respondent violated 21 CFR 1310.04(c), by storing List I chemical records at its Lebanon Pike location, which was not registered. *See* ALJ at 23. The record does not, however, support this finding. While 21 CFR 1310.04(c) requires that records be maintained ''at the regulated person's place of business where the transaction occurred,'' *id.*, the provision applies only to records which must be maintained under 21 CFR 1310.03. The only provision of that section which is pertinent here is the requirement that a regulated person keep a record of ''a regulated transaction.'' *Id.* § 1310.03(a). The regulations establish that the threshold for transactions in combination ephedrine products between wholesale distributors is one kilogram. *Id.* § 1310.04(f)(1)(ii); *see also* Comprehensive Methamphetamine Control Act of 1996, Pub. L. No. 104–237, § 401(f), 110 Stat. 3099, 3110 (1996) (adopting one kilogram threshold for regulated transactions in combination ephedrine products between wholesale distributors).

The record contains only a single invoice conceivably documenting a regulated transaction between Respondent and one of its suppliers, PDK Laboratories, which had occurred at the time of the August 2001 inspection. This invoice indicates that on July 17, 2001, Respondent purchased 720 bottles containing 60 combination ephedrine tablets of 25 mg. ephedrine hydrochloride for a total of 43,200 tablets. *See* Gov. Exh. 6. This amount of product does not, however, exceed the one kilogram threshold because the hydrochloride constitutes approximately 18 percent of the chemical. As the Government's own exhibit demonstrates, the one kilogram threshold was equivalent to 48,826 combination ephedrine hcl tablets each containing 25 mg. ephedrine hcl. *See* Gov. Exh. 23. Because Respondent's purchase was more than 5,000 tablets under this amount, and there is no other evidence indicating that Respondent engaged in additional purchases during the month, the record does not establish that Respondent violated 21 CFR 1310.04(c).

The record does, however, contain evidence establishing an additional violation of DEA regulations. During the February 2004 visit, the DIs found a display rack containing 24 bottles and 5 packets of combination ephedrine products at Respondent's Lebanon Pike store/office. Because Respondent's Lebanon Pike facility was not a registered location, Respondent's storage of the items at this location violated 21 U.S.C. § 822(e) and 21 CFR 1309.23(a). Most remarkably, Respondent committed this second violation after having been served with a Show Cause Order.

Because Respondent committed multiple violations of the CSA's provisions, I conclude that Respondent's record of compliance with Federal law supports a finding that its continued registration would be inconsistent with the public interest.

Factor Three—The Record of Criminal Convictions

The record contains no evidence that Respondent's owner, or any employee, has been convicted of an offense under laws related to either controlled substances or listed chemicals. I thus conclude that this factor supports a finding that Respondent's continued registration would not be inconsistent with the public interest.

Factor Four—Past Experience in Distributing Listed Chemicals

It is undisputed that Respondent has distributed List I chemical products for several years. That experience is, however, characterized by several violations of the CSA, as well as the inability of Respondent to provide an accurate accounting of its products. Moreover, as described under factor five below, there is substantial evidence in the record establishing that Respondent's products have been diverted. Accordingly, this factor supports a finding that Respondent's continued registration would be inconsistent with the public interest.

Factor Five—Other Factors That Are Relevant to and Consistent With Public Health and Safety

The record here establishes—as do numerous agency precedents—that there is a substantial nexus between the sale of certain non-traditional List I chemical products by non-traditional retailers and the diversion of these products into the illicit production of methamphetamine. *See, e.g., John Vanags*, 71 FR 39365, 39366 (2006); *Joey Enterprises,* 710 FR 76866, 76887 (2005); *TNT Distributors,* 70 FR 12729, 12730 (2005). Indeed, as noted recently in *TNT Distributors,* which also involved a Tennessee-based distributor of List I chemicals, ''80 to 90 percent of ephedrine and pseudoephedrine being used [in Tennessee] to manufacture methamphetamine was being obtained from convenience stores.'' 70 FR at 12730.

Likewise in this case, there is undisputed testimony by a DEA Special

Agent establishing that Tennessee-based methamphetamine cooks were purchasing large quantities of List I chemicals from smaller stores such as gas stations and convenience stores. Tr. at 12. Respondent's List I chemical sales were principally made to these types of retail establishments.

Moreover, Respondent's Exhibit 20, which was a compilation of its sales of List I chemical products for the period September 2003 through August 2004, establishes that 98 percent of its sales were of non-traditional products including those of several manufacturers who have received warning letters from this agency because their products have frequently been found during seizures of clandestine methamphetamine labs. Respondent's Exhibit 20 further establishes that during this period, its average sale per store, per month, was $105.81, which would result in an average retail sale per store, per month, of $184.

The ALJ found ''persuasive'' the affidavit of Mr. Robbin, the Government's expert witness who testified about the market for List I chemical products. ALJ at 23. Based on this evidence, the ALJ further concluded that ''Respondent sold quantities of List I chemicals to convenience stores that far exceeded what the stores could reasonably be expected to sell to legitimate consumers.'' *Id.* The ALJ also rejected Mr. Young's assertion in his post-hearing affidavit challenging Mr. Robbin's testimony as to the normal expected sales of combination ephedrine and pseudoephedrine products in convenience stores. *See id.* According to Mr. Young, the average convenience store sold between $250 and $450 per store, per month, an amount that ''is 8 to 14 times greater than what Robin [sic] reports.'' Resp. Exh. 19, at 2.

As the ALJ observed, combination ephedrine products cannot be lawfully marketed over-the-counter as a cold and cough remedy and most of Respondent's sales were of this type of product. *See* ALJ at 23; 21 CFR 341.76. Moreover, products containing pseudoephedrine are only a subset of over-the-counter cold remedies. Respondent has produced no evidence establishing the percentage of over-the-counter cold remedies that include pseudoephedrine. I therefore credit Mr. Robbin's expert testimony as to the normal expected sales ranges of both ephedrine combination and pseudoephedrine products in non-traditional retailers.

Mr. Young also challenged the factual basis for Mr. Robbin's findings that were based on data supplied to the latter by DEA. According to Mr. Robbin's affidavit, the findings that were specific to Respondent were based on ''a list supplied to the DEA by T. Young of 801 wholesale transactions drawn from invoices to 97 convenience stores in Tennessee,'' which covered the period from January 27, 2003, through November 22, 2004. Govt. Exh. 70, at 12. Mr. Robbin further stated that the ''[d]ata given for each transaction included invoice date, store name, a product description and number of units sold.'' *Id.* at 13. Mr. Young asserts, however, that he supplied DEA with ''data from September 2003 thru August 2004,'' that the data ''was for 365 days, not for 665 and the total number of stores serviced fluctuate[d] and was not a hard and fast 97 stores as stated by Mr. Robbin.'' Resp. Exh. 19, at 1.

The ALJ did not address this factual dispute. Mr. Robbin's declaration makes clear that he did not review the actual invoices but rather data provided him by the Government. The Government did not, however, submit into evidence the list of transactions referred to by Mr. Robbin or the documentary evidence upon which the list was based. Moreover, while Mr. Young clearly provided data to DEA regarding Respondent's sales, *see* Resp. Exh. 19, at 1, the Government did not elicit any testimonial evidence from a witness with personal knowledge of how the list was obtained that establishes the scope of the data contained therein and refutes Respondent's contention. Accordingly, while I have credited Mr. Robbin's testimony regarding the expected sales ranges for combination ephedrine products and pseudoephedrine in non-traditional retailers, I do not adopt his findings that were based on Respondent's sales.

Respondent's own evidence nonetheless demonstrates that it sold List I chemical products to non-traditional retailers in quantities that far exceeded legitimate demand and thus supports a finding that its products were diverted. During the period of September 2003 through August 2004, Respondent sold at wholesale prices an average of $ 105.81 to each store, each month. *See* Resp. Exh. 20, at 1. By Respondent's calculation, these List I chemical products produced an average retail sale of $184 per store, per month. *See id.*[12]

Mr. Robbin found as a general matter that the expected retail sales range of ephedrine (Hcl) in a convenience store is ''between $0 and $25, with an average of $12.58.'' Govt. Exh. 70 at 8. Mr. Robbin further found that a monthly retail sale of ''$60 of ephedrine (Hcl) tablets would be expected to occur about once in a million times in random sampling.'' *Id.* By Respondent's own calculation, its customers' average monthly retail sale of ephedrine products was several times this amount. Moreover, this average was based on 54 stores over a twelve month period. It is thus even more improbable (than a one in a million probability) that these sales were to meet legitimate consumer demand for these products. I therefore conclude that a preponderance of the evidence establishes that a substantial portion of Respondent's products were diverted. *See D & S Sales*, 71 FR at 37611 (finding diversion occurred ''[g]iven the near impossibility that * * * sales were the result of legitimate demand''); *Joy's Ideas,* 70 FR at 33198 (finding diversion occurred in the absence of ''a plausible explanation in the record for this deviation from the expected norm'').

That Respondent may have lacked any intent to divert or to sell to customers who were diverting to the illicit manufacture of methamphetamine (*See* Resp. Br. 8) is irrelevant. ''In determining the public interest,'' Congress granted the Attorney General broad discretion to consider any other factor that is ''relevant to and consistent with the public health and safety.'' 21 U.S.C. § 823(h)(5). The statutory text imposes no requirement that the Government prove that a Registrant has acted with any particular *mens rea.* Indeed, the diversion of List I chemicals into the illicit manufacture of methamphetamine poses the same threat to public health and safety[13] whether a registrant sells the products knowing they will be diverted, sells them with a reckless disregard for the diversion, *See D & S Sales,* 71 FR at 37610–12, or sells them being totally unaware that the products were being diverted. *Cf. Joy's Ideas,* 70 FR at 33198 (revoking registration notwithstanding that distributor was ''an unknowing and unintentional contributor to [the] methamphetamine problem.'').[14]

[12] While this figure is an average, it is unlikely that all stores bought right at the average. Some stores bought less, some bought more.

[13] In contrast to the provision pertaining to practitioners, the public interest determination applicable to List I chemical distributors does not limit the Attorney General's discretion to considering only those factors that ''threaten public health and safety.'' *Compare* 21 U.S.C. § 823(h)(5) *with id.* § 823(f)(5) (''such other factors as are relevant to and consistent with public health and safety''). The discussion in the text to the threat caused by the diversion of List I chemicals is used only to demonstrate the point that a registrant's *mens rea* is irrelevant.

[14] Mr. Young asserts that ''[t]he average per store sales of all ephedrine products to our stores is within the norms for the sale of these products to

Respondent points to the testimony of the DI who conducted verification visits of three of Respondent's customers. According to Respondent, this establishes that ''respondent's customers conscientiously keep[] track of the materials sold and report[ ] any excess sales to local police.'' Resp. Br. at 6. The record establishes, however, that the verification visits involved only a small fraction of Respondent's customers and thus this testimony does not refute the finding that its products were diverted.

Respondent further asserts that following Tennessee's enactment of the Meth-Free Tennessee Act of 2005, as well as new laws in Georgia and Kentucky, revoking his registration would be ''an arbitrary overreaching act'' because the new laws restrict the products that can be sold by non-traditional retailers to those in gel-cap or liquid form and he is selling only these products. Resp. Br. 7. DEA is already aware, however, of several studies showing that methamphetamine can be produced from List I chemicals sold as liquid-filled gel caps and liquids. *See* Drug Enforcement Administration, *Microgram Bulletin* 96–97,102 (June 2005) (discussing studies conducted by Washington State Patrol Crime Laboratory and McNeil Consumer and Specialty Pharmaceuticals). Moreover, experience has taught DEA that in the aftermath of every major piece of legislation addressing the illicit manufacture of methamphetamine, traffickers have quickly found ways to circumvent the restrictions.

Moreover, even assuming that Respondent will fully comply with the Tennessee and Kentucky laws, the Georgia statute would apparently not prohibit Respondent from selling combination ephedrine products to non-traditional retailers. *See* Georgia Code § 16–13–30.3 (allowing convenience stores to sell ephedrine products). Respondent would also be able to distribute products to non-traditional retailers in other States which have not imposed similar restrictions. Therefore, I conclude that factor five supports a finding that Respondent's continued registration would be inconsistent with the public interest.

In sum, Respondent has committed several violations of the CSA. *See* 21 U.S.C. § 823(h)(2). Moreover, Respondent has no effective means of accounting for List I chemical products. *Id.* § 823(h)(1). Finally, the record establishes that Respondent sold large amounts of non-traditional products into the non-traditional or ''gray market,'' a market which DEA has repeatedly found to be a substantial source for diversion, and the statistical improbability that these sales were to meet legitimate consumer demand supports a finding that the products were diverted into the illicit manufacture of methamphetamine. *Id.* § 823(h)(5). *See also Joy's Ideas,* 70 FR at 33199; *Branex, Inc.,* 69 FR 8682, 8693 (2004); *Xtreme Enterprises, Inc.,* 67 FR 76195, 76197 (2002). Thus, it is clear that continuing Respondent's registration would be inconsistent with the public interest.

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. § 823(h) & § 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate of Registration, 004395TSY, issued to T. Young Associates, Inc., be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective November 13, 2006.

Dated: September 14, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 06–8193 Filed 10–12–06; 8:45 am]

BILLING CODE 4410–09–P

convenience stores that [his firm has] experienced in the 14 years that we have been in business,'' and that these figures predate the methamphetamine problem. Resp. Ex. 19. at 4. The ALJ did not, however, credit this testimony. Moreover, Respondent did not produce any documentary evidence establishing its sales levels prior to the emergence of the methamphetamine epidemic in Tennessee. Thus, to the extent this testimony was offered to show that Respondent's more recent sales were consistent with the traditional and legitimate demand for List I chemical products and therefore rebut a finding that diversion occurred, I decline to credit it. To the extent the testimony was offered to show that Respondent did not intend that it products be diverted, it is irrelevant.

LEGAL SERVICES CORPORATION

Notice of Intent To Award—Grant Awards for the Provision of Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 2007

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to make FY 2007 Competitive Grant Awards.

SUMMARY: The Legal Services Corporation (LSC) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal services to eligible low-income clients, beginning January 1, 2007.

DATES: All comments and recommendations must be received on or before the close of business on November 13, 2006.

ADDRESSES: Legal Services Corporation—Competitive Grants, Legal Services Corporation; 3333 K Street, NW., Third Floor; Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Reginald Haley, Office of Program Performance, at (202) 295–1545, or *haleyr@lsc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to LSC's announcement of funding availability on April 17, 2006 (71 FR 19758), and Grant Renewal applications due on June 15, 2006, LSC intends to award funds to the following organizations to provide civil legal services in the indicated service areas. Amounts are subject to change.

Service area	Applicant name	Grant amount
	Alabama	
AL–4	Legal Services Alabama, Inc	$5,775,139
MAL	Texas RioGrande Legal Aid, Inc	29,577
	Alaska	
AK–1	Alaska Legal Services Corporation	668,572
NAK–1	Alaska Legal Services Corporation	487,216

Service area	Applicant name	Grant amount
	American Samoa	
AS–1	Uunai Legal Services Clinic	288,907
	Arizona	
AZ–2	DNA-Peoples Legal Services, Inc	485,159
AZ–3	Community Legal Services, Inc	3,501,869
AZ–5	Southern Arizona Legal Aid, Inc	1,688,979
MAZ	Community Legal Services, Inc	133,465
NAZ–5	DNA-Peoples Legal Services, Inc	2,350,835
NAZ–6	Southern Arizona Legal Aid, Inc	574,241
	Arkansas	
AR–6	Legal Aid of Arkansas, Inc	1,345,068
AR–7	Center for Arkansas Legal Services	2,007,828
MAR	Texas RioGrande Legal Aid, Inc	71,052
	California	
CA–1	California Indian Legal Services, Inc	30,541
CA–2	Greater Bakersfield Legal Assistance, Inc	848,477
CA–12	Inland Counties Legal Services, Inc	3,769,963
CA–14	Legal Aid Society of San Diego, Inc	2,636,280
CA–19	Legal Aid Society of Orange County, Inc	3,682,173
CA–26	Central California Legal Services	2,654,548
CA–27	Legal Services of Northern California, Inc	3,280,115
CA–28	Bay Area Legal Aid	3,866,883
CA–29	Legal Aid Foundation of Los Angeles	7,331,409
CA–30	Neighborhood Legal Services of Los Angeles County	4,330,597
CA–31	California Rural Legal Assistance, Inc	4,327,720
MCA	California Rural Legal Assistance, Inc	2,373,025
NCA–1	California Indian Legal Services, Inc	795,926
	Colorado	
CO–6	Colorado Legal Services	3,100,651
MCO	Colorado Legal Services	133,506
NCO–1	Colorado Legal Services	86,518
	Connecticut	
CT–1	Statewide Legal Services of Connecticut, Inc	2,142,898
NCT–1	Pine Tree Legal Assistance, Inc	14,104
	Delaware	
DE–1	Legal Services Corporation of Delaware, Inc	558,913
MDE	Legal Aid Bureau, Inc	22,318
	District of Columbia	
DC–1	Neighborhood Legal Svcs. Program of the Dist. of Col.	910,499
	Florida	
FL–5	Legal Services of Greater Miami, Inc	3,191,485
FL–13	Legal Services of North Florida, Inc	1,310,486
FL–14	Three Rivers Legal Services, Inc	1,614,127
FL–14	Jacksonville Legal Clinic	1,614,127
FL–15	Community Legal Services of Mid-Florida, Inc	2,786,259
FL–16	Bay Area Legal Services, Inc	2,364,153
FL–17	Florida Rural Legal Services, Inc	2,488,921
FL–18	Coast to Coast Legal Aid of South Florida, Inc	1,673,455
MFL	Florida Rural Legal Services, Inc	807,334
	Georgia	
GA–1	Atlanta Legal Aid Society, Inc	2,327,958
GA–2	Georgia Legal Services Program	5,915,647
MGA	Georgia Legal Services Program	352,442

Service area	Applicant name	Grant amount
	Guam	
GU–1	Guam Legal Services Corporation	289,297
	Hawaii	
HI–1	Legal Aid Society of Hawaii	1,188,961
MHI	Legal Aid Society of Hawaii	61,947
NHI–1	Native Hawaiian Legal Corporation	206,365
	Idaho	
ID–1	Idaho Legal Aid Services, Inc	1,068,693
MID	Idaho Legal Aid Services, Inc	168,022
NID–1	Idaho Legal Aid Services, Inc	58,529
	Illinois	
IL–3	Land of Lincoln Legal Assistance Foundation, Inc	2,300,585
IL–6	Legal Assistance Foundation of Metropolitan Chicago	5,842,259
IL–7	Prairie State Legal Services, Inc	2,484,863
MIL	Legal Assistance Foundation of Metropolitan Chicago	224,398
	Indiana	
IN–5	Indiana Legal Services, Inc	4,549,932
MIN	Indiana Legal Services, Inc	102,209
	Iowa	
IA–3	Iowa Legal Aid	2,190,896
MIA	Iowa Legal Aid	33,917
	Kansas	
KS–1	Kansas Legal Services, Inc	2,133,178
MKS	Kansas Legal Services, Inc	10,685
	Kentucky	
KY–2	Legal Aid Society	1,081,710
KY–5	Appalachian Research and Defense Fund of Kentucky	1,872,033
KY–9	Kentucky Legal Aid	1,121,888
KY–10	Legal Aid of the Bluegrass	1,162,706
MKY	Texas RioGrande Legal Aid, Inc	38,258
	Louisiana	
LA–1	Capital Area Legal Services Corporation	1,302,763
LA–10	Acadiana Legal Service Corporation	1,859,650
LA–11	Legal Services of North Louisiana, Inc	1,748,235
LA–12	Southeast Louisiana Legal Services Corporation	2,339,736
MLA	Texas RioGrande Legal Aid, Inc	24,754
	Maine	
ME–1	Pine Tree Legal Assistance, Inc	1,062,174
MMX–1	Pine Tree Legal Assistance, Inc	112,270
NME–1	Pine Tree Legal Assistance, Inc	58,066
	Maryland	
MD–1	Legal Aid Bureau, Inc	3,565,887
MMD	Legal Aid Bureau, Inc	81,729
	Massachusetts	
MA–4	Merrimack Valley Legal Services, Inc	746,060
MA–10	Massachusetts Justice Project, Inc	1,356,011
MA–11	Volunteer Lawyers Project of the Boston Bar Assoc.	1,830,501
MA–12	New Center for Legal Advocacy, Inc	820,496
	Michigan	
MI–9	Legal Services of Northern Michigan, Inc	663,415
MI–12	Legal Services of South Central Michigan	1,183,057

Service area	Applicant name	Grant amount
MI–13	Legal Aid and Defender Association, Inc	3,567,261
MI–14	Legal Services of Eastern Michigan	1,293,370
MI–15	Legal Aid of Western Michigan	1,525,030
MMI	Legal Services of South Central Michigan	541,102
NMI–1	Michigan Indian Legal Services, Inc	148,301
Micronesia		
MP–1	Micronesian Legal Services, Inc	1,482,716
Minnesota		
MN–1	Legal Aid Service of Northeastern Minnesota	392,667
MN–4	Legal Services of Northwest Minnesota Corporation	358,333
MN–5	Southern Minnesota Regional Legal Services, Inc	1,117,284
MN–6	Central Minnesota Legal Services, Inc	1,208,235
MMN	Southern Minnesota Regional Legal Services, Inc	179,855
NMN–1	Anishinabe Legal Services, Inc	215,295
Mississippi		
MS–9	North Mississippi Rural Legal Services, Inc	1,866,236
MS–10	Mississippi Center for Legal Services	2,778,640
MMS	Texas RioGrande Legal Aid, Inc	51,304
NMS–1	Mississippi Center for Legal Services	74,888
Missouri		
MO–3	Legal Aid of Western Missouri	1,596,316
MO–4	Legal Services of Eastern Missouri, Inc	1,762,401
MO–5	Mid-Missouri Legal Services Corporation	351,328
MO–7	Legal Services of Southern Missouri	1,520,824
MMO	Legal Aid of Western Missouri	73,231
Montana		
MT–1	Montana Legal Services Association	1,018,212
MMT	Montana Legal Services Association	49,067
NMT–1	Montana Legal Services Association	143,446
Nebraska		
NE–4	Legal Aid of Nebraska	1,302,953
MNE	Legal Aid of Nebraska	38,008
NNE–1	Legal Aid of Nebraska	29,779
Nevada		
NV–1	Nevada Legal Services, Inc	1,708,021
MNV	Nevada Legal Services, Inc	2,262
NNV–1	Nevada Legal Services, Inc	119,795
New Hampshire		
NH–1	Legal Advice & Referral Center, Inc	644,043
New Jersey		
NJ–8	Essex-Newark Legal Services Project, Inc	977,244
NJ–12	Ocean-Monmouth Legal Services, Inc	598,559
NJ–15	Legal Services of Northwest Jersey	353,140
NJ–16	South Jersey Legal Services, Inc	1,202,191
NJ–17	Central Jersey Legal Services, Inc	981,276
NJ–18	Northeast New Jersey Legal Services Corporation	1,596,898
MNJ	South Jersey Legal Services, Inc	108,470
New Mexico		
NM–1	DNA-Peoples Legal Services, Inc	195,129
NM–5	New Mexico Legal Aid	2,461,456
MNM	New Mexico Legal Aid	78,511
NNM–2	DNA-Peoples Legal Services, Inc	20,467
NNM–4	New Mexico Legal Aid	418,589

Service area	Applicant name	Grant amount
	New York	
NY–7	Nassau/Suffolk Law Services Committee, Inc	1,250,385
NY–9	Legal Services for New York City	13,725,978
NY–20	Legal Services of the Hudson Valley	1,608,390
NY–21	Legal Aid Society of Northeastern New York, Inc	1,208,003
NY–22	Legal Aid Society of Mid-New York, Inc	1,583,403
NY–23	Legal Assistance of Western New York, Inc	1,552,171
NY–24	Neighborhood Legal Services, Inc	1,208,652
MNY	Legal Aid Society of Mid-New York, Inc	248,828
	North Carolina	
NC–5	Legal Aid of North Carolina, Inc	7,489,578
MNC	Legal Aid of North Carolina, Inc	481,791
NNC–1	Legal Aid of North Carolina, Inc	196,616
	North Dakota	
ND–3	Legal Services of North Dakota	506,603
MND	Southern Minnesota Regional Legal Services, Inc	104,196
NND–3	Legal Services of North Dakota	242,675
	Ohio	
OH–5	The Legal Aid Society of Columbus	1,155,179
OH–17	Ohio State Legal Services	1,600,940
OH–18	Legal Aid Society of Greater Cincinnati	1,328,982
OH–20	Community Legal Aid Services, Inc	1,557,028
OH–21	The Legal Aid Society of Cleveland	1,944,834
OH–23	Legal Aid of Western Ohio, Inc	2,300,796
MOH	Legal Aid of Western Ohio, Inc	113,234
	Oklahoma	
OK–3	Legal Aid Services of Oklahoma, Inc	4,028,395
MOK	Legal Aid Services of Oklahoma, Inc	56,251
NOK–1	Oklahoma Indian Legal Services, Inc	737,639
	Oregon	
OR–6	Legal Aid Services of Oregon	2,731,662
MOR	Legal Aid Services of Oregon	500,733
NOR–1	Legal Aid Services of Oregon	166,305
	Pennsylvania	
PA–1	Philadelphia Legal Assistance Center	2,758,960
PA–5	Laurel Legal Services, Inc	685,443
PA–8	Neighborhood Legal Services Association	1,494,099
PA–11	Southwestern Pennsylvania Legal Services, Inc	497,989
PA–23	Legal Aid of Southeastern Pennsylvania	1,013,073
PA–24	North Penn Legal Services, Inc	1,616,081
PA–25	MidPenn Legal Services, Inc	1,977,087
PA–26	Northwestern Legal Services	652,083
MPA	Philadelphia Legal Assistance Center	148,989
	Puerto Rico	
PR–1	Puerto Rico Legal Services, Inc	14,961,511
PR–2	Community Law Office, Inc	310,731
MPR	Puerto Rico Legal Services, Inc	261,359
	Rhode Island	
RI–1	Rhode Island Legal Services, Inc	1,000,775
	South Carolina	
SC–8	The South Carolina Centers for Equal Justice	4,377,752
MSC	The South Carolina Centers for Equal Justice	177,809
MSC	Georgia Legal Services Program	177,809
	South Dakota	
SD–2	East River Legal Services	363,301

Service area	Applicant name	Grant amount
SD–4	Dakota Plains Legal Services, Inc	430,545
MSD	Dakota Plains Legal Services, Inc	3,567
NSD–1	Dakota Plains Legal Services, Inc	841,163
Tennessee		
TN–4	Memphis Area Legal Services, Inc	1,277,916
TN–7	West Tennessee Legal Services, Inc	596,189
TN–9	Legal Aid of East Tennessee	1,952,051
TN–10	Legal Aid Society of Middle TN and the Cumberlands	2,326,420
MTN	Texas RioGrande Legal Aid, Inc	57,016
Texas		
TX–13	Lone Star Legal Aid	8,621,648
TX–14	Legal Aid of NorthWest Texas	6,802,314
TX–15	Texas RioGrande Legal Aid, Inc	9,250,474
MTX	Texas RioGrande Legal Aid, Inc	1,248,655
NTX–1	Texas RioGrande Legal Aid, Inc	28,195
Utah		
UT–1	Utah Legal Services, Inc	1,654,654
MUT	Utah Legal Services, Inc	60,974
NUT–1	Utah Legal Services, Inc	74,116
Vermont		
VT–1	Legal Services Law Line of Vermont, Inc	454,251
Virgin Islands		
VI–1	Legal Services of the Virgin Islands, Inc	290,453
Virginia		
VA–15	Southwest Virginia Legal Aid Society, Inc	737,629
VA–16	Legal Aid Society of Eastern Virginia	1,274,282
VA–17	Virginia Legal Aid Society, Inc	767,854
VA–18	Central Virginia Legal Aid Society, Inc	905,219
VA–19	Blue Ridge Legal Services, Inc	638,688
VA–20	Potomac Legal Aid Society, Inc	994,555
MVA	Central Virginia Legal Aid Society, Inc	141,780
Washington		
WA–1	Northwest Justice Project	4,435,741
MWA	Northwest Justice Project	656,149
NWA–1	Northwest Justice Project	256,635
West Virginia		
WV–5	Legal Aid of West Virginia, Inc	2,592,984
MWV	Legal Aid of West Virginia, Inc	32,861
Wisconsin		
WI–2	Wisconsin Judicare, Inc	831,166
WI–5	Legal Action of Wisconsin, Inc	2,940,559
MWI	Legal Action of Wisconsin, Inc	81,845
NWI–1	Wisconsin Judicare, Inc	139,748
Wyoming		
WY–4	Wyoming Legal Services, Inc	444,290
WY–4	Legal Aid of Wyoming	444,290
MWY	Wyoming Legal Services, Inc	11,184
MWY	Legal Aid of Wyoming	11,184
NWY–1	Wyoming Legal Services, Inc	155,677
NWY–1	Legal Aid of Wyoming	155,677

These grants and contracts will be awarded under the authority conferred on LSC by the Legal Services Corporation Act, as amended (42 U.S.C. 2996e(a)(1)). Awards will be made so that each service area is served,

although none of the listed organizations are guaranteed an award or contract. This public notice is issued pursuant to the LSC Act (42 U.S.C. 2996f(f)), with a request for comments and recommendations concerning the potential grantees within a period of thirty (30) days from the date of publication of this notice. Grants will become effective and grant funds will be distributed on or about January 1, 2007.

Dated: October 5, 2006.

Michael A. Genz,

Director, Office of Program Performance, Legal Services Corporation.

[FR Doc. 06–8654 Filed 10–12–06; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of the Federal Register

Agreements In Force as of December 31, 2005 Between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States

AGENCY: Office of the Federal Register, NARA.

ACTION: Notice of availability of agreements.

SUMMARY: The American Institute in Taiwan has concluded a number of agreements with the Taipei Economic and Cultural Representative Office in the United States (formerly the Coordination Council for North American Affairs) in order to maintain cultural, commercial and other unofficial relations between the American people and the people of Taiwan. The Director of the Federal Register is publishing the list of these agreements on behalf of the American Institute in Taiwan in the public interest.

SUPPLEMENTARY INFORMATION: Cultural, commercial and other unofficial relations between the American people and the people of Taiwan are maintained on a non-governmental basis through the American Institute in Taiwan (AIT), a private nonprofit corporation created under the Taiwan Relations Act (Public Law 96–8; 93 Stat. 14). The Coordination Council for North American Affairs (CCNAA) was established as the nongovernmental Taiwan counterpart to AIT. On October 10, 1995 the CCNAA was renamed the Taipei Economic and Cultural Representative Office in the United States (TECRO).

Under section 12 of the Act, agreements concluded between AIT and TECRO (CCNAA) are transmitted to the Congress, and according to sections 6 and 10(a) of the Act, such agreements have full force and effect under the law of the United States.

The texts of the agreements are available from the American Institute in Taiwan, 1700 North Moore Street, Suite 1700, Arlington, Virginia, 22209. For further information, please telephone (703) 525–8474, or fax (703) 841–1385.

Following is a list of agreements between AIT and TECRO (CCNAA) which were in force as of December 31, 2005.

Dated: October 5, 2006.

Barbara J. Schrage,

Managing Director, American Institute in Taiwan.

Dated: October 10, 2006.

Michael L. White,

Acting Director of the Federal Register.

AIT–TECRO Agreements

In Force as of December 31, 2005

Status of TECRO

The Exchange of Letters concerning the change in the name of the Coordination Council for North American Affairs (CCNAA) to the Taipei Economic and Cultural Representative Office in the United States (TECRO). Signed December 27, 1994 and January 3, 1995. Entered into force January 3, 1995.

Agriculture

1. Guidelines for a cooperative program in the agriculture sciences. Signed January 15 and 28, 1986. Entered into force January 28, 1986.

2. Amendment amending the 1986 guidelines for a cooperative program in the agricultural sciences. Effected by exchange of letters September 1 and 11, 1989. Entered into force September 11, 1989.

3. Cooperative service agreement to facilitate fruit and vegetable inspection through their designated representatives, the United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS) and the Taiwan Provincial Fruit Marketing Cooperative (TPFMC) supervised by the Taiwan Council of Agriculture (COA). Signed April 28, 1993. Entered into force April 28, 1993.

4. Memorandum of agreement concerning sanitary/phytosanitary and agricultural standards. Signed November 4, 1993. Entered into force November 4, 1993.

5. Agreement amending the guidelines for the cooperative program in agricultural sciences. Signed October 30, 2001. Entered into force October 30, 2001.

Aviation

1. Memorandum of agreement concerning the arrangement for certain aeronautical equipment and services relating to civil aviation (NAT–I–845), with annexes. Signed September 24 and October 23, 1981. Entered into force October 23, 1981.

2. Amendment amending the memorandum of agreement concerning aeronautical equipment and services of September 24 and October 23, 1981. Signed September 18 and 23, 1985. Entered into force September 3, 1985.

3. Agreement amending the memorandum of agreement of September 24 and October 23, 1981, concerning aeronautical equipment and services. Signed September 23 and October 17, 1991. Entered into force October 17, 1991.

4. Air transport agreement, with annexes. Signed at Washington March 18, 1998. Entered into force March 18, 1998.

5. Agreement for promotion of aviation safety. Signed June 30, 2003. Entered into force June 30, 2003.

Conservation

1. Memorandum on cooperation in forestry and natural resources conservation. Signed May 23 and July 4, 1991. Entered into force July 4, 1991.

2. Memorandum on cooperation in soil and water conservation under the guidelines for a cooperative program in the agricultural sciences. Signed at Washington October 5, 1992. Entered into force October 5, 1992.

3. Agreement on technical cooperation in conservation of flora and fauna. Signed April 7, 1999. Entered into force April 7, 1999.

4. Memorandum of understanding concerning cooperation in fisheries and aquaculture. Signed July 30, 2002. Entered into force July 30, 2002.

5. Agreement on technical cooperation in forest management and nature conservation. Signed October 24, 2003 and February 27, 2004. Entered into force February 27, 2004.

Consular

1. Agreement regarding passport validity. Effected by exchange of letters of August 26 and November 13, 1998. Entered into force December 10, 1998.

Consumer Product Safety

1. Memorandum of Understanding for cooperation associated with consumer product safety matters. Signed April 29 and July 27, 2004. Entered into force July 27, 2004.

Customs

1. Agreement for technical assistance in customs operations and management, with attachment. Signed May 14 and June 4, 1991. Entered into force June 4, 1991.

2. Agreement on TECRO/AIT carnet for the temporary admission of goods. Signed June 25, 1996. Entered into force June 25, 1996.

3. Agreement regarding mutual assistance between their designated representatives, the United States Customs Administration and the Taiwan Customs Administration. Signed January 17, 2001. Entered into force January 17, 2001.

Education and Culture

1. Agreement amending the agreement for financing certain educational and cultural exchange programs of April 23, 1964. Effected by exchange of letters at Taipei April 14 and June 4, 1979. Entered into force June 4, 1979.

2. Agreement concerning the Taipei American School, with annex. Signed at Taipei February 3, 1983. Entered into force February 3, 1983.

Energy

1. Agreement relating to the establishment of a joint standing committee on civil nuclear cooperation. Signed at Taipei October 3, 1984. Entered into force October 3, 1984.

2. Agreement amending and extending the agreement of October 3, 1984, relating to the establishment of a joint standing committee on civil nuclear cooperation. Signed October 19, 1989. Entered into force October 19, 1989.

3. Agreement abandoning in place in Taiwan the Argonaut Research Reactor loaned to National Tsing Hua University. Signed November 28, 1990.

4. Agreement Amending and Extending the Agreement of October 3, 1984, as amended and extended, relating to the establishment of a joint standing committee on civil nuclear cooperation. Signed October 3, 1994. Entered into force October 3, 1994.

5. Agreement concerning safeguards arrangements for nuclear materials transferred from France to Taiwan. Effected by exchange of letters February 12 and May 13, 1993. Entered into force May 13, 1993.

6. Agreement relating to participation in the USNRC program of severe accident research, with appendix. Signed February 18 and June 24, 1993. Entered into force June 24, 1993, effective January 1, 1993.

7. Agreement regarding participation in the Second USNRC International Piping Integrity Research Group Program, with addendum. Signed at Arlington and Washington February 7 and June 30, 1994. Entered into force June 30, 1994.

8. Memorandum of Agreement for release of an Energy and Power Evaluation Program (ENPEP) computer software package. Signed January 25 and February 27, 1995. Entered into force February 27, 1995.

9. Agreement relating to participation in the USNRC's program of thermal-hydraulic code applications and maintenance. Signed January 5 and June 26, 1998. Entered into force June 26, 1998.

10. Agreement regarding terms and conditions for the acceptance of foreign research reactor spent nuclear fuel at the Department of Energy's Savannah River site. Signed December 28, 1998 and February 25, 1999. Entered into force February 25, 1999.

11. Agreement in the area of probabilistic risk assessment research. Signed July 20 and December 27. Entered into force January 1, 1999.

12. Agreement relating to the participation in the United States Nuclear Regulatory Commission program of severe accident research. Signed May 15, 2003 and August 8, 2003. Entered into force August 8, 2003, effective January 1, 2003.

13. Agreement for technical cooperation in clean coal and advanced power systems technologies. Signed October 31, 2003 and January 20, 2004. Entered into force January 20, 2004.

Environment

1. Agreement for technical cooperation in the field of environmental protection, with implementing arrangement. Signed June 21, 1993. Entered into force June 21, 1993.

2. Agreement extending the agreement of June 21, 1993 for technical cooperation in the field of environmental protection. Effected by exchanges of letters June 30 and July 20 and 30, 1998. Entered into force July 30, 1998, effective June 21, 1998.

3. Agreement extending the agreement for technical cooperation in the field of environmental protection. Signed September 23, 2003. Entered into force September 23, 2003.

Health

1. Guidelines for a cooperative program in the biomedical sciences. Signed May 21, 1984. Entered into force May 21, 1984.

2. Guidelines for a cooperative program in food hygiene. Signed January 15 and 28, 1985. Entered into force January 28, 1985.

3. Agreement amending the 1984 guidelines for a cooperative program in the biomedical sciences, with attachment. Signed April 20, 1989. Entered into force April 20, 1989.

4. Agreement amending the 1984 guidelines for a cooperative program in the biomedical Sciences, as amended, with attachment. Signed August 24, 1989. Entered into force August 24, 1989.

5. Guidelines for a cooperative program in public health and preventive medicine. Signed at Arlington and Washington June 30 and July 19, 1994. Entered into force July 19, 1994.

6. Agreement for technical cooperation in vaccine and immunization-related activities, with implementing arrangement. Signed at Washington October 6 and 7, 1994. Entered into force October 7, 1994.

7. Agreement regarding the mutual exchange of information on medical devices, including quality systems requirements inspectional information. Effected by exchange of letters January 9, 1998. Entered into force January 9, 1998.

Homeland Security

1. Declaration of Principles for governing cooperation, on the basis of reciprocity, including the posting of AIT Representatives at the Port of Kaohsiung, and the posting of TECRO Representatives at certain U.S. seaports. Signed August 18, 2004. Entered into force August 18, 2004.

Intellectual Property

1. Agreement concerning the protection and enforcement of rights in audiovisual works. Effected by exchange of letters at Arlington and Washington June 6 and 27, 1989. Entered into force June 27, 1989.

2. Understanding concerning the protection of intellectual property rights. Signed at Washington June 5, 1992. Entered into force June 5, 1992.

3. Agreement for the protection of copyrights, with appendix. Signed July 16, 1993. Entered into force July 16, 1993.

4. Memorandum of understanding regarding the extension of priority filing rights for patent and trademark applications. Signed April 10, 1996. Entered into force April 10, 1996.

Judicial Assistance

1. Memorandum of understanding on cooperation in the field of criminal investigations and prosecutions. Signed at Taipei October 5, 1992. Entered into force October 5, 1992.

2. Agreement on mutual legal assistance in criminal matters. Signed March 26, 2002. Entered into force March 26, 2002.

Labor

1. Guidelines for a cooperative program in labor affairs. Signed December 6, 1991. Entered into force December 6, 1991.

2. Guidelines for a cooperative program in labor mediation and alternative dispute resolution. Signed April 7, 1995. Entered into force April 7. 1995.

Mapping

1. Agreement concerning mapping, charting, and geodesy cooperation. Signed November 28, 1995. Entered into force November 28, 1995.

Maritime

1. Agreement concerning mutual implementation of the 1974 Convention for the safety of life at sea. Effected by exchange of letters at Arlington and Washington August 17 and September 7, 1982. Entered into force September 7, 1982.

2. Agreement concerning mutual implementation of the 1969 international convention on tonnage measurement. Effected by exchange of letters at Arlington and Washington May 13 and 26, 1983. Entered into force May 26, 1983.

3. Agreement concerning mutual implementation of the protocol of 1978 relating to the 1974 international convention for the safety of life at sea. Effected by exchange of letters at Arlington and Washington January 22 and 31, 1985. Entered into force January 31, 1985.

4. Agreement concerning mutual implementation of the protocol of 1978 relating to the international convention for the prevention of pollution from ships, 1973. Effected by exchange of letters at Arlington and Washington January 22 and 31, 1985. Entered into force January 31, 1985.

5. Agreement concerning mutual implementation of the 1966 international convention on load lines. Effected by exchange of letters at Arlington and Washington March 26 and April 10, 1985. Entered into force April 10, 1985.

6. Agreement concerning the operating environment for ocean carriers. Effected by exchange of letters at Washington and Arlington October 25 and 27, 1989. Entered into force October 27, 1989.

Military

1. Agreement for foreign military sales financing by the authorities on Taiwan. Signed January 4 and July 12, 1999. Entered into force July 12, 1999.

2. Letter of Agreement concerning exchange of research and development information. Signed August 4, 2004. Entered into force August 4, 2004.

3. Master Information Exchange Agreement Information Exchange Annex AF–05–TW–9301 Concerning Nanoscience and Nanotechnology. Signed December 15, 2005. Entered into force December 15, 2005.

Postal

1. Agreement concerning establishment of INTELPOST service. Effected by exchange of letters at Arlington and Washington April 19 and November 26, 1990. Entered into force November 26, 1990.

2. International business reply service agreement, with detailed regulations. Signed at Washington February 7, 1992. Entered into force February 7, 1992.

Privileges and Immunities

1. Agreement on privileges, exemptions and immunities, with addendum. Signed at Washington October 2, Entered into force October 2, 1980.

2. Agreement governing the use and disposal of vehicles imported by the American Institute in Taiwan and its personnel. Signed at Taipei April 21, 1986. Entered into force April 21, 1986.

Scientific & Technical Cooperation

1. Agreement on scientific cooperation. Effected by exchange of letters at Arlington and Washington on September 4, 1980. Entered into force September 4, 1980.

2. Agreement concerning renewal and extension of the 1980 agreement on scientific cooperation. Signed March 10, 1987. Entered into force March 10, 1987.

3. Guidelines for a cooperative program in atmospheric research. Signed May 4, 1987. Entered into force May 4, 1987.

4. Agreement for technical assistance in dam design and construction, with appendices. Signed August 24, 1987. Entered into force August 24, 1987.

5. Agreement for a cooperative program in the sale and exchange of technical, scientific, and engineering information. Signed November 17, 1987. Entered into force November 17, 1987.

6. Agreement for technical cooperation in meteorology and forecast systems development, with implementing arrangements. Signed June 5 and 28, 1990. Entered into force June 28, 1990.

7. Agreement extending the agreement of November 17, 1987, for a cooperative program in the sale and exchange of technical, scientific and engineering information. Signed August 8, 1990. Entered into force August 8, 1990.

8. Cooperative program on Hualien soil-structure interaction experiment. Signed September 28, 1990.

9. Agreement for technical cooperation in geodetic research and use of advanced geodetic technology, with implementing arrangement. Signed January 11 and February 21, 1991. Entered into force February 21, 1991.

10. Cooperative program in highway-related sciences. Signed October 30, 1990 and January 7, 1992. Entered into force January 7, 1992.

11. Agreement amending and extending the agreement of August 24, 1987, for technical assistance in dam design and construction. *Name changed to Agreement for Technical Assistance in Areas of Water Resource Development. Signed May 11 and June 9, 1992. Entered into force June 9, 1992.

12. Agreement for technical cooperation in seismology and earthquake monitoring systems development, with implementing arrangement. Signed July 22 and 24, 1992. Entered into force July 24, 1992.

13. Agreement amending the Agreement of August 24, 1987 for technical assistance in areas of water resource development. Signed August 30 and September 3, 1996. Entered into force September 3, 1996.

14. Agreement concerning joint studies on reservoir sedimentation and sluicing, including computer modeling. Signed February 14 and March 8, 1996. Entered into force March 8, 1996.

15. Guidelines for a cooperative program in physical sciences. Signed January 2 and 10, 1997. Entered into force January 10, 1997.

16. Agreement for scientific and technical cooperation in ocean climate research. Signed February 18, 1997. Entered into force February 18, 1997.

17. Agreement amending the agreement of August 24, 1987 for technical assistance in areas of water resource development. Signed October 14, 1997. Entered into force October 14, 1997.

18. Agreement for technical cooperation in scientific and weather technology systems support. Signed October 22 and November 5, 1997. Entered into force November 5, 1997.

19. Agreement for technical cooperation associated with establishment of advanced operational aviation weather systems. Signed February 10 and 13, 1998. Entered into force February 13, 1998.

20. Agreement for technical cooperation associated with development, launch and operation of a constellation observing system for meteorology, ionosphere and climate. Signed May 29 and June 30, 1999. Entered into force June 30, 1999.

21. Agreement on the International Research Institute for Climate Prediction, with attachments. Signed October 20, 2000 and October 26, 2000. Entered into force October 26, 2000.

22. Agreement for technical cooperation on neutron scattering research. Signed February 8, 2001. Entered into force February 8, 2001.

23. Agreement for technical cooperation in meteorology and forecast systems development. Signed June 12, 2001 and June 20, 2001. Entered into force June 20, 2001.

24. Agreement for cooperation on the tropical rainfall-measuring mission (TRMM). Signed February 6, 2002 and April 2, 2002. Entered into force April 2, 2002.

25. Agreement for joint research on earthquake and bridge engineering. Signed July 24, 2003 and July 8, 2004. Entered into force July 8, 2004.

26. Agreement in the area of probabilistic risk assessment research. Signed October 18 and December 29, 2004. Entered into force December 29, 2004, effective January 1, 2004.

27. Agreement relating to participation in the United States nuclear regulatory program. Signed December 13, 2004. Entered into force December 13, 2004.

28. Agreement for Technical Cooperation associated with Establishment of Advanced Data Assimilation and Modeling Systems. Signed December 20, 2004 and January 12, 2005. Entered into force January 12, 2005.

Security of Information

1. Protection of information agreement. Signed September 15, 1981. Entered into force September 15, 1981.

Taxation

1. Agreement concerning the reciprocal exemption from income tax of income derived from the international operation of ships and aircraft. Effected by exchange of letters at Taipei May 31, 1988. Entered into force May 31, 1988.

2. Agreement for technical assistance in tax administration, with appendices. Signed August 1, 1989. Entered into force August 1, 1989.

Trade

1. Agreement concerning trade matters, with annexes. Effected by exchange of letters at Arlington and Washington October 24, 1979. Entered into force October 24, 1979; effective January 1, 1980.

2. Agreement concerning trade matters. Effected by exchange of letters at Arlington and Washington December 31, 1981. Entered into force December 31, 1981.

3. Agreement concerning measures that the CCNAA will undertake in connection with implementation of the GATT Customs Valuation Code. Effected by exchange of letters at Bethesda and Arlington August 22, 1986. Entered into force August 22, 1986.

4. Agreement concerning the export performance requirement affecting investment in the automotive sector. Effected by exchange of letters at Washington and Arlington October 9, 1986. Entered into force October 9, 1986.

5. Agreement concerning beer, wine and cigarettes. Signed at Washington December 12, 1986. Entered into force December 12, 1986, effective January 1, 1987.

6. Agreement implementing the agreement of December 12, 1986 concerning beer, wine and cigarettes. Effected by exchange of letters at Taipei April 29, 1987. Entered into force April 29, 1987, effective January 1, 1987.

7. Agreement concerning trade in whole turkeys, turkey parts, processed turkey products and whole ducks, with memorandum of understanding. Effected by exchange of letters at Arlington and Washington March 16, 1989. Entered into force March 16, 1989.

8. Agreement concerning the protection of trade in strategic commodities and technical data, with memorandum of understanding. Effected by exchange of letters at Arlington and Washington December 4, 1990 and April 8, 1991. Entered into force April 8, 1991.

9. Administrative arrangement concerning the textile visa system. Effected by exchange of letters at Arlington and Washington April 18 and May 1, 1991. Entered into force May 1, 1991.

10. Agreement regarding new requirements for health warning legends on cigarettes sold in the territory represented by CCNAA. Effected by exchange of letters at Washington and Arlington October 7 and 16, 1991. Entered into force October 16, 1991.

11. Memorandum of understanding concerning a new quota arrangement for cotton and man-made fiber trousers. Signed at Washington December 18, 1992. Entered into force December 18, 1992.

12. Memorandum of understanding on the exchange of information concerning commodity futures and options matters, with appendix. Signed January 11, 1993. Entered into force January 11, 1993.

13. Agreement concerning a framework of principles and procedures for consultations regarding trade and investment, with annex. Signed at Washington September 19, 1994. Entered into force September 19, 1994.

14. Visa arrangement concerning textiles and textile products. Effected by exchange of letters of April 30 and September 3 and 23 1997. Entered into force September 23, 1997.

15. Agreement concerning trade in cotton, wool, man-made fiber, silk blend and other non-cotton vegetable fiber textile products, with attachment. Effected by exchange of letters December 10, 1997. Entered into force December 10, 1997, effective January 1, 1998.

16. Agreed minutes on government procurement issues. Signed December 17, 1997. Entered into force December 17, 1997.

17. Understanding concerning bilateral negotiations on the WTO accession of the separate customs territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) and the United States. Signed February 20, 1998. Entered into force February 20, 1998.

18. Agreement on mutual recognition for equipment subject to electro-magnetic compatibility (EMC) regulations. Signed March 16, 1999. Entered into force March 16, 1999.

19. Agreement concerning the Asia Pacific Economic Cooperation mutual recognition arrangement for conformity assessment of telecommunications equipment (APEC Telecon MRA). Signed March 16, 1999. Entered into force March 16, 1999.

20. Memorandum of understanding on the extension of trade in textile and apparel products. Signed February 9, 2001. Entered into force February 9, 2001.

[FR Doc. 06–8665 Filed 10–12–06; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 52–009–ESP; ASLBP No. 04–823–03–ESP]

Atomic Safety and Licensing Board; Before Administrative Judges: Lawrence G. McDade, Chairman, Nicholas G. Trikouros, Dr. Richard E. Wardwell; In the Matter of System Energy Resources, Inc.; Early Site Permit for Grand Gulf Site; Notice of Hearing

October 6, 2006.

This Atomic Safety and Licensing Board hereby gives notice that it will convene an evidentiary session to receive testimony and exhibits in the ''mandatory hearing'' portion of this proceeding regarding the October 16, 2003, application of System Energy Resources, Inc. (SERI) for a 10 CFR part 52 early site permit (ESP), seeking approval of the site of the existing Grand Gulf Nuclear Station (GGNS) near Port Gibson in Claiborne County, Mississippi, for the possible future construction of a new nuclear power generation facility.[1] This mandatory hearing will concern safety and environmental matters relating to the proposed issuance of the requested ESP, as more fully described below.

A. Matters To Be Considered

As set forth by the Commission in the January 2004 ''Notice of Hearing and Opportunity To Petition for Leave To Intervene Early Site Permit for the Grand Gulf ESP Site'' (69 FR at 2636) and the applicable regulations in 10 CFR 52.21, the matters at issue in this proceeding are whether the application and the record of this proceeding contain sufficient information, and the NRC Staff's review of the application has been adequate to support a finding that: (a) The issuance of this ESP will not be inimical to the common defense and security or to the health and safety of the public (Safety Issue 1); (b) taking into consideration the site criteria contained in 10 CFR part 100, a reactor or reactors having characteristics that fall within the parameters for the site, can be constructed and operated without undue risk to the public health and safety (Safety Issue 2); and (c) in accordance with the requirements of 10 CFR part 51, Subpart A, the ESP should be issued as proposed. Additionally, in accord with the Commission's January 2004 notice, also at issue in this proceeding are: (d) Whether the requirements of Sections 102(2)(A), (C), and (E) of the National Environmental Policy Act of 1969 and 10 CFR part 51, Subpart A, have been complied with in this proceeding; (e) whether the final balance among conflicting factors contained in the record of this proceeding indicate that granting the ESP is the appropriate action to be taken; and (f) whether, after considering reasonable alternatives, the ESP should be issued, denied, or appropriately conditioned to protect environmental values.

B. Date, Time, and Location of Mandatory Hearing

The Board will conduct this mandatory hearing at the specified location and time:

1. *Date:* Tuesday, November 14, 2006.

Time: Beginning at 9 a.m. EST.

Location: ASLBP Hearing Room, Two White Flint North, Third Floor, 11545 Rockville Pike, Rockville, Maryland 20852–2738.

The hearing on these issues will continue day-to-day thereafter until concluded.

Any members of the public who plan to attend the mandatory hearing are advised that security measures will be employed at the entrance to the hearing facility, including searches of hand-carried items such as briefcases or backpacks. The public is further advised that, in accordance with 10 CFR 2.390, portions of the hearing sessions may be closed to the public because the matters at issue may involve the discussion of protected information.

C. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397–4209 or (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

D. Scheduling Information Updates

Any updated/revised scheduling information regarding the evidentiary hearing can be found on the NRC Web site at *http://www.nrc.gov/public-involve/public-meetings/index.cfm* or by calling (800) 368–5642, extension 5036, or (301) 415–5036.

It is so ordered.

Dated: October 6, 2006 at Rockville, Maryland.

For the Atomic Safety and Licensing Board.[2]

Lawrence G. McDade,

Chairman, Administrative Judge.

[FR Doc. E6–16997 Filed 10–12–06; 8:45 am]

BILLING CODE 7590–01–P

[1] *See* 69 FR 2636 (Jan. 16, 2004).

NUCLEAR REGULATORY COMMISSION

[EA–06–241]

In the Matter of All Licensees Who Possess Radioactive Material in Quantities of Concern and All Other Persons Who Obtain Safeguards Information Described Herein; Order Imposing Requirements for the Protection of Certain Safeguards Information (Effective Immediately)

I

The Licensees, identified in Attachment 1 [1] to this Order, hold licenses issued in accordance with the Atomic Energy Act of 1954, by the U.S. Nuclear Regulatory Commission (NRC or Commission) or an Agreement State, authorizing them to possess and transfer items containing radioactive material quantities of concern. The NRC intends to issue security Orders to these licensees in the near future. Orders will be issued to both NRC and Agreement State materials licensees who may transport radioactive material quantities of concern. The Orders will require compliance with specific Additional Security Measures to enhance the security for transport of certain radioactive material quantities of concern. The NRC will issue Orders to both NRC and Agreement State licensees under its authority to protect the common defense and security, which has not been relinquished to the Agreement States. The Commission has determined that these documents will contain Safeguards Information, will not be released to the public, and must be protected from unauthorized disclosure. Therefore, the Commission is imposing the requirements, as set forth in Attachments 2 and 3 to this Order and in Order EA–06–242, so that affected Licensees can receive these documents. This Order also imposes requirements for the protection of Safeguards

[2] Copies of this Notice were sent this date by Internet e-mail transmission to: (1) Counsel for the NRC Staff and (2) Counsel for SERI.

[1] Attachment 1 contains sensitive information and will not be released to the public.

Information in the hands of any person,[2] whether or not a licensee of the Commission, who produces, receives, or acquires Safeguards Information.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information. Section 147 of the Atomic Energy Act of 1954, as amended, grants the Commission explicit authority to ''* * * issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information * * *'' This authority extends to information concerning transfer of special nuclear material, source material, and byproduct material. Licensees and all persons who produce, receive, or acquire Safeguards Information must ensure proper handling and protection of Safeguards Information to avoid unauthorized disclosure in accordance with the specific requirements for the protection of Safeguards Information contained in Attachments 2 and 3 to this Order. The Commission hereby provides notice that it intends to treat violations of the requirements contained in Attachments 2 and 3 to this Order applicable to the handling and unauthorized disclosure of Safeguards Information as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States. Access to Safeguards Information is limited to those persons who have established the need-to-know the information, are considered to be trustworthy and reliable, and meet the requirements of Order EA–06–242. A need-to-know means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment. Licensees and all other persons who obtain Safeguards Information must ensure that they develop, maintain and implement strict policies and procedures for the proper handling of Safeguards Information to prevent unauthorized disclosure, in accordance with the requirements in Attachments 2 and 3 to this Order. All licensees must ensure that all contractors whose employees may have access to Safeguards Information either adhere to the licensee's policies and procedures on Safeguards Information or develop, maintain and implement their own acceptable policies and procedures. The licensees remain responsible for the conduct of their contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachments 2 and 3 to this Order must address, at a minimum, the following: the general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; correspondence containing Safeguards Information; access to Safeguards Information; preparation, marking, reproduction and destruction of documents; external transmission of documents; use of automatic data processing systems; removal of the Safeguards Information category; the need-to-know the information; and background checks to determine access to the information.

In order to provide assurance that the licensees are implementing prudent measures to achieve a consistent level of protection to prohibit the unauthorized disclosure of Safeguards Information, all licensees who hold licenses issued by the U.S. Nuclear Regulatory Commission or an Agreement State authorizing them to possess and who may transport items containing radioactive material quantities of concern shall implement the requirements identified in Attachments 2 and 3 to this Order. The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachments 2 and 3 to this Order for handling of Safeguards Information in conjunction with current NRC license requirements or previous NRC Orders. Additional measures set forth in Attachments 2 and 3 to this Order should be incorporated into the licensee's current program for Safeguards Information. In addition, pursuant to 10 CFR Part 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 147, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Part 30, 10 CFR Part 32, 10 CFR Part 35, and 10 CFR Part 70, It is hereby ordered, effective immediately, that all licensees identified in Attachment 1 to this order and all other persons who produce, receive, or acquire the additional security measures identified above (whether draft or final) or any related safeguards information shall comply with the requirements of Attachments 2 and 3 to this order.

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the licensee.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that

[2] Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department, except that the Department shall be considered a person with respect to those facilities of the Department specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 4th day of October 2006.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Office of Federal and State Materials and Environmental Management Programs.

Attachment 1—List of Applicable Materials Licensees

Redacted

Attachment 2—Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI–M)

Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI–M)

General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are safeguards information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the safeguards information for reactors and fuel cycle facilities that require a higher level of protection, the term ''Safeguards Information-Modified Handling'' (SGI–M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI–M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI–M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees would fall under this requirement if they possess facility SGI–M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection. (See more under Conditions for Access)

State or local police units who have access to SGI–M are also subject to these requirements. However, these organizations are deemed to have adequate information protection systems. The conditions for transfer of information to a third party, *i.e.*, need-to-know, would still apply to the police organization as would sanctions for unlawful disclosure. Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of these requirements.

Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, ''whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act.'' Furthermore, willful violation of any regulation or order governing safeguards information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. *See sections 147b. and 223 of the Act.*

Conditions for Access

Access to SGI–M beyond the initial recipients of the order will be governed by the background check requirements imposed by the order. Access to SGI–M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee's company, *e.g.*, a parent company, may be considered as employees of the licensee for access purposes.

Need-To-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI–M that a proposed recipient's access to SGI–M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient should be made aware that the information is SGI–M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

Occupational Groups

Dissemination of SGI–M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

A. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;

B. member of a duly authorized committee of the Congress;

C. The Governor of a State or his designated representative;

D. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;

E. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies; or

F. A person to whom disclosure is ordered pursuant to Section 2.744(e) of Part 2 of part 10 of the Code of Federal Regulations.

G. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (A) through (G) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (A) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to these individuals. If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI–M, they are not authorized to receive SGI–M.

Information Considered for Safeguards Information Designation

Information deemed SGI–M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction.

SGI–M identifies safeguards information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the health and safety of the public or common defense and security.

The overall measure for consideration of SGI–M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

Protection While in Use

While in use, SGI–M shall be under the control of an authorized individual. This requirement is satisfied if the SGI–M is attended by an authorized individual even though the information is in fact not constantly being used. SGI–M, therefore, within alarm stations, continuously manned guard posts or ready rooms need not be locked in file drawers or storage containers.

Under certain conditions the general control exercised over security zones or areas would be considered to meet this requirement. The primary consideration is limiting access to those who have a need-to-know. Some examples would be:

Alarm stations, guard posts and guard ready rooms;

Engineering or drafting areas if visitors are escorted and information is not clearly visible;

Plant maintenance areas if access is restricted and information is not clearly visible;

Administrative offices (*e.g.*, central records or purchasing) if visitors are escorted and information is not clearly visible;

Protection While in Storage

While unattended, SGI–M shall be stored in a locked file drawer or container. Knowledge of lock combinations or access to keys protecting SGI–M shall be limited to a minimum number of personnel for operating purposes who have a ''need-to-know'' and are otherwise authorized access to SGI–M in accordance with these requirements. Access to lock combinations or keys shall be strictly controlled so as to prevent disclosure to an unauthorized individual.

Transportation of Documents and Other Matter

Documents containing SGI–M when transmitted outside an authorized place of use or storage shall be enclosed in two sealed envelopes or wrappers. The inner envelope or wrapper shall contain the name and address of the intended recipient, and be marked on both sides, top and bottom with the words ''Safeguards Information—Modified Handling.'' The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and must not bear any markings or indication that the document contains SGI–M.

SGI–M may be transported by any commercial delivery company that provides nationwide overnight service with computer tracking features, U.S. first class, registered, express, or certified mail, or by any individual authorized access pursuant to these requirements.

Within a facility, SGI–M may be transmitted using a single opague envelope. It may also be transmitted within a facility without single or double wrapping, provided adequate measures are taken to protect the material against unauthorized disclosure. Individuals transporting SGI–M should retain the documents in their personal possession at all times or ensure that the information is appropriately wrapped and also secured to preclude compromise by an unauthorized individual.

Preparation and Marking of Documents

While the NRC is the sole authority for determining what specific information may be designated as ''SGI–M,'' originators of documents are responsible for determining whether those documents contain such information. Each document or other matter that contains SGI–M shall be marked ''Safeguards Information—Modified Handling'' in a conspicuous manner on the top and bottom of the first page to indicate the presence of protected information. The first page of the document must also contain (i) the name, title, and organization of the individual authorized to make a SGI–M determination, and who has determined that the document contains SGI–M, (ii) the date the document was originated or the determination made, (iii) an indication that the document contains SGI–M, and (iv) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. Each additional page shall be marked in a conspicuous fashion at the top and bottom with letters denoting ''Safeguards Information—Modified Handling.''

In additional to the ''Safeguards Information—Modified Handling'' markings at the top and bottom of each page, transmittal letters or memoranda which do not in themselves contain SGI–M shall be marked to indicate that attachments or enclosures contain SGI–M but that the transmittal does not (*e.g.*, ''When separated from SGI–M enclosure(s), this document is decontrolled'').

In addition to the information required on the face of the document, each item of correspondence that contains SGI–M shall, by marking or other means, clearly indicate which portions (*e.g.*, paragraphs, pages, or appendices) contain SGI–M and which do not. Portion marking is not required for physical security and safeguards contingency plans.

All documents or other matter containing SGI–M in use or storage shall be marked in accordance with these requirements. A specific exception is provided for documents in the possession of contractors and agents of licensees that were produced more than one year prior to the effective date of the order. Such documents need not be marked unless they are removed from file drawers or containers. The same exception applies to old documents stored away from the facility in central files or corporation headquarters.

Since information protection procedures employed by state and local police forces are deemed to meet NRC requirements, documents in the possession of these agencies need not be marked as set forth in this document.

Removal From SGI–M Category

Documents containing SGI–M shall be removed from the SGI–M category (decontrolled) only after the NRC determines that the information no longer meets the criteria of SGI–M. Licensees have the authority to make determinations that specific documents which they created no longer contain SGI–M information and may be decontrolled. Consideration must be exercised to ensure that any document decontrolled shall not disclose SGI–M in some other form or be combined with other unprotected information to disclose SGI–M.

The authority to determine that a document may be decontrolled may be exercised only by, or with the permission of, the individual (or office) who made the original determination. The document shall indicate the name and organization of the individual removing the document from the SGI–M category and the date of the removal. Other persons who have the document in their possession should be notified of the decontrolling of the document.

Reproduction of Matter Containing SGI–M

SGI–M may be reproduced to the minimum extent necessary consistent with need without permission of the originator. Newer digital copiers which scan and retain images of documents represent a potential security concern. If the copier is retaining SGI–M information in memory, the copier cannot be connected to a network. It should also be placed in a location that is cleared and controlled for the authorized processing of SGI–M information. Different copiers have different capabilities, including some which come with features that allow the memory to be erased. Each copier would have to be examined from a physical security perspective.

Use of Automatic Data Processing (ADP) Systems

SGI–M may be processed or produced on an ADP system provided that the system is assigned to the licensee's or contractor's facility and requires the use of an entry code/password for access to stored information. Licensees are encouraged to process this information in a computing environment that has adequate computer security controls in place to prevent unauthorized access to the information. An ADP system is defined here as a data processing system having the capability of long term storage of SGI–M. Word processors such as typewriters are not subject to the requirements as long as they do not transmit information off-site. (**Note:** If SGI–M is produced on a typewriter, the ribbon must be removed and stored in the same manner as other SGI–M information or media.) The basic objective of these restrictions is to prevent access and retrieval of stored SGI–M by unauthorized individuals, particularly from remote terminals. Specific files containing SGI–M will be password-protected to preclude access by an unauthorized individual. The National Institute of Standards and Technology (NIST) maintains a listing of all validated encryption systems at *http://csrc.nist.gov/cryptval/140–1/1401val.htm.* SGI–M files may be transmitted over a network if the file is encrypted. In such cases, the licensee will select a commercially available encryption system that NIST has validated as conforming to Federal Information Processing Standards (FIPS). SGI–M files shall be properly labeled as ''Safeguards Information—Modified Handling'' and saved to removable media and stored in a locked file drawer or cabinet.

Telecommunications

SGI–M may not be transmitted by unprotected telecommunications circuits

except under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communications in order to report, summon assistance for, or respond to a security event (or an event that has potential security significance).

This restriction applies to telephone, telegraph, teletype, facsimile circuits, and to radio. Routine telephone or radio transmission between site security personnel, or between the site and local police, should be limited to message formats or codes that do not disclose facility security features or response procedures. Similarly, call-ins during transport should not disclose information useful to a potential adversary. Infrequent or non-repetitive telephone conversations regarding a physical security plan or program are permitted provided that the discussion is general in nature.

Individuals should use care when discussing SGI–M at meetings or in the presence of others to ensure that the conversation is not overheard by persons not authorized access. Transcripts, tapes or minutes of meetings or hearings that contain SGI–M shall be marked and protected in accordance with these requirements.

Destruction

Documents containing SGI–M should be destroyed when no longer needed. They may be destroyed by tearing into small pieces, burning, shredding or any other method that precludes reconstruction by means available to the public at large. Piece sizes one half inch or smaller composed of several pages or documents and thoroughly mixed would be considered completely destroyed.

Attachment 3—Trustworthiness and Reliability Requirements for Individuals Handling Safeguards Information

Trustworthiness and Reliability Requirements for Individuals Handling Safeguards Information

In order to ensure the safe handling, use, and control of information designated as Safeguards Information, each licensee shall control and limit access to the information to only those individuals who have established the need-to-know the information, and are considered to be trustworthy and reliable. Licensees shall document the basis for concluding that there is reasonable assurance that individuals granted access to Safeguards Information are trustworthy and reliable, and do not constitute an unreasonable risk for malevolent use of the information.

The Licensee shall comply with the requirements of this attachment:

1. The trustworthiness and reliability of an individual shall be determined based on a background investigation:

(a) The background investigation shall address at least the past three (3) years, and, at a minimum, include verification of employment, education, and personal references. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (i.e., seeking references not supplied by the individual).

(b) If an individual's employment has been less than the required three (3) year period, educational references may be used in lieu of employment history.

The licensee's background investigation requirements may be satisfied for an individual that has an active Federal security clearance.

2. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years after the individual's employment ends.

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NUCLEAR REGULATORY COMMISSION

[EA–06–242]

In the Matter of All Licensees Identified in Attachment 1 to Order EA–06–241 and All Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein; Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information (Effective Immediately)

I

The Licensees identified in Attachment 1 [1] to Order EA–06–241 hold licenses issued in accordance with the Atomic Energy Act (AEA) of 1954, as amended, by the U.S. Nuclear Regulatory Commission (NRC or Commission) or Agreement States, authorizing them to engage in an activity subject to regulation by the Commission or Agreement States. On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information (SGI).[2] The NRC's implementation of this requirement cannot await the completion of the SGI rulemaking, which is underway, because the EPAct fingerprinting and criminal history records check requirements for access to SGI were immediately effective upon enactment of the EPAct. Although the EPAct permits the Commission by rule to except certain categories of individuals from the fingerprinting requirement, which the Commission has done (*see* 10 CFR Part 73.59, 71 FR 33,989 (June 13, 2006)), it is unlikely that licensee employees or others are excepted from the fingerprinting requirement by the ''fingerprinting relief'' rule. Individuals relieved from fingerprinting and criminal history records checks under the relief rule include Federal, State, and local officials and law enforcement personnel; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees, and representatives of the International Atomic Energy Agency (IAEA) or certain foreign government organizations. In addition, individuals who have a favorably-decided U.S. Government criminal history records check within the last five (5) years, or individuals who have active Federal security clearances (provided in either case that they make available the appropriate documentation), have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again. Therefore, in accordance with Section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements for access to SGI, as set forth by this Order, so that affected licensees can obtain and grant access to SGI. This Order also imposes requirements for access to SGI by any person, from any person,[3] whether or not a Licensee, Applicant, or Certificate Holder of the Commission or Agreement States.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of SGI. Section 147 of the AEA grants the Commission explicit authority to issue such Orders as necessary to prohibit the unauthorized disclosure of SGI. Furthermore, Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and an FBI identification and a criminal history records check of each individual who seeks access to SGI. In addition, no person may have access to SGI unless

[1] Attachment 1 to Order EA–06–241 contains sensitive information and will not be released to the public.

[2] Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

[3] Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department of Energy specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

the person has an established need-to-know the information and satisfies the trustworthy and reliability requirements described in Attachment 3 to Order EA–06–241.

In order to provide assurance that the Licensees identified in Attachment 1 to Order EA–06–241 are implementing appropriate measures to comply with the fingerprinting and criminal history records check requirements for access to SGI, all Licensees identified in Attachment 1 to Order EA–06–241 shall implement the requirements of this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 147, 149, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Parts 30 and 73, *it is hereby ordered, effective immediately, that all licensees identified in attachment 1 to order EA–06–241 and all other Persons who seek or obtain access to safeguards information, as described above, shall comply with the requirements set forth in this order.*

A. 1. No person may have access to SGI unless that person has a need-to-know the SGI, has been fingerprinted or who has a favorably-decided FBI identification and criminal history records check, and satisfies all other applicable requirements for access to SGI. Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 (71 FR 33989 (June 13, 2006)), or who has a favorably-decided U.S. Government criminal history records check within the last five (5) years, or who has an active Federal security clearance, provided in the latter two cases that the appropriate documentation is made available to the Licensee's NRC-approved reviewing official.

2. No person may have access to any SGI if the NRC has determined, based on fingerprinting and an FBI identification and criminal history records check, that the person may not have access to SGI.

B. No person may provide SGI to any other person except in accordance with Condition III.A. above. Prior to providing SGI to any person, a copy of this Order shall be provided to that person.

C. All Licensees identified in Attachment 1 to Order EA–06–241 shall comply with the following requirements:

1. The Licensee shall, within twenty (20) days of the date of this Order, establish and maintain a fingerprinting program that meets the requirements of Attachment 1 to this Order.

2. The Licensee shall, within twenty (20) days of the date of this Order, submit the fingerprints of one (1) individual who (a) the Licensee nominates as the ''reviewing official'' for determining access to SGI by other individuals, and (b) has an established need-to-know the information and has been determined to be trustworthy and reliable in accordance with the requirements described in Attachment 3 to Order EA–06–241. The NRC will determine whether this individual (or any subsequent reviewing official) may have access to SGI and, therefore, will be permitted to serve as the Licensee's reviewing official.[4] The Licensee may, at the same time or later, submit the fingerprints of other individuals to whom the Licensee seeks to grant access to SGI. Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 1 of this Order.

3. The Licensee shall, in writing, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in this Order, including Attachment 1 to this Order, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

Licensee responses to C.1., C.2., and C.3. above shall be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee responses shall be marked as ''Security-Related Information—Withhold Under 10 CFR 2.390.''

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the Licensee.

[4] The NRC's determination of this individual's access to SGI in accordance with the process described in Enclosure 5 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified above in Section III shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions as specified above in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 4th day of October 2006.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Office of Federal and State Materials and Environmental Management Programs.

Attachment 1—Requirements for Fingerprinting and Criminal History Records Checks of Individuals When Licensee's Reviewing Official is Determining Access to Safeguards Information

General Requirements

Licensees shall comply with the requirements of this attachment.

A. 1. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to Safeguards Information (SGI). The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in the subject Order and this attachment are satisfied.

2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' section of this attachment.

3. Fingerprints need not be taken if an employed individual (*e.g.*, a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR Part 73.59, has a favorably-decided U.S. Government criminal history records check within the last five (5) years, or has an active Federal security clearance. Written confirmation from the Agency/employer which granted the Federal security clearance or reviewed the criminal history records check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to SGI associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthy and reliability requirements included in Attachment 3 to this Order, in making a determination whether to grant access to SGI to individuals who have a need-to-know the SGI.

6. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for access to SGI.

7. The Licensee shall document the basis for its determination whether to grant access to SGI.

B. The Licensee shall notify the NRC of any desired change in reviewing officials. The NRC will determine whether the individual nominated as the new reviewing official may have access to SGI based on a previously-obtained or new criminal history check and, therefore, will be permitted to serve as the Licensee's reviewing official.

Prohibitions

A Licensee shall not base a final determination to deny an individual access to SGI solely on the basis of information received from the FBI involving: An arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR Part 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T–6E46, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking access to Safeguards Information, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–5877, or by e-mail to *forms@nrc.gov*. Practicable alternative formats are set forth in 10 CFR Part 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to ''U.S. NRC.'' [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415–7404]. Combined payment for multiple applications is acceptable. The application fee (currently $27) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

Right to Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification.

If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (*i.e.*, law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR Part 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an

individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The Licensee may make a final SGI access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the Licensee shall provide the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to Safeguards Information. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of access to SGI (whether access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

[FR Doc. E6–16996 Filed 10–12–06; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium for Single-Employer Plans; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in October 2006. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in November 2006. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the fourth quarter (October through December) of 2006.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. Pursuant to the Pension Protection Act of 2006, for premium payment years beginning in 2006 or 2007, the required interest rate is the ''applicable percentage'' (currently 85 percent) of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). Thus, the required interest rate to be used in determining variable-rate premiums for premium payment years beginning in October 2006 is 5.06 percent (*i.e.*, 85 percent of the 5.95 percent composite corporate bond rate for September 2006 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between November 2005 and October 2006.

For premium payment years beginning in:	The required interest rate is:
November 2005	4.83
December 2005	4.91
January 2006	4.86
February 2006	4.80
March 2006	4.87
April 2006	5.01
May 2006	5.25
June 2006	5.35
July 2006	5.36
August 2006	5.36
September 2006	5.19
October 2006	5.06

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-Employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the fourth quarter (October through December) of 2006, as announced by the IRS, is 8 percent.

The following table lists the late payment interest rates for premiums and

employer liability for the specified time periods:

From—	Through—	Interest rate (percent)
4/1/00	3/31/01	9
4/1/01	6/30/01	8
7/1/01	12/31/01	7
1/1/02	12/31/02	6
1/1/03	9/30/03	5
10/1/03	3/31/04	4
4/1/04	6/30/04	5
7/1/04	9/30/04	4
10/1/04	3/31/05	5
4/1/05	9/30/05	6
10/1/05	6/30/06	7
7/1/06	12/31/06	8

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the fourth quarter (October through December) of 2006 (*i.e.*, the rate reported for September 15, 2006) is 8.25 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Interest rate (percent)
7/1/00	3/31/01	9.50
4/1/01	6/30/01	8.50
7/1/01	9/30/01	7.00
10/1/01	12/31/01	6.50
1/1/02	12/31/02	4.75
1/1/03	9/30/03	4.25
10/1/03	9/30/04	4.00
10/1/04	12/31/04	4.50
1/1/05	3/31/05	5.25
4/1/05	6/30/05	5.50
7/1/05	9/30/05	6.00
10/1/05	12/31/05	6.50
1/1/06	3/31/06	7.25
4/1/06	6/30/06	7.50
7/1/06	9/30/06	8.00
10/1/06	12/31/06	8.25

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in November 2006 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 5th day of October 2006.

James C. Gerber,

Acting Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E6–16957 Filed 10–12–06; 8:45 am]

BILLING CODE 7709–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54570); File No. SR–FICC–2006–12]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Financial Responsibility, Operational Capability, Insolvency, and Ceasing To Act

October 4, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 15, 2006, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on September 22, 2006, amended the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by FICC. 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 proposed rule change would amend FICC's Government Securities Division's (''GSD'') and Mortgage Backed Securities Division's (''MBSD'') rules relating to members'' or applicants' financial responsibility, operational capability, and insolvency and FICC ceasing to act for members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Cease To Act and Insolvency Rules

In order to achieve greater legal and administrative consistency and efficiency, FICC proposes to harmonize GSD's rules governing when FICC will cease to act for a member in a noninsolvency situation[3] and in an insolvency situation[4] with the rules of FICC's affiliate, the National Securities Clearing Corporation (''NSCC'').[5]

Under the proposed rule change, GSD Rule 21 would be renamed ''Restriction on Access to Services,'' would address noninsolvency situations, and would be structured similar to NSCC Rule 46. While new Rule 21 would be triggered by essentially the same criteria that are contained in the current GSD rule,[6] the new rule would expand the remedies that FICC could exercise beyond only ''ceasing to act'' or ''ceasing to accept data'' on behalf of the member. Specifically, FICC, after notifying and providing an opportunity to request a hearing to the member, would be able to suspend, prohibit, or limit a member's access to one or more of FICC's services.

GSD Rule 22, which covers situations when a member becomes insolvent, would remain in its current form except that its close-out provisions would be amended and would be moved to a new Rule 22A. Rule 22A would set forth the procedures that FICC would follow when it ceases to act for a member

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by FICC.

[3] GSD Rule 21.

[4] GSD Rule 22.

[5] The text of the proposed rules can be found on FICC's Web site at <*http://ficc.com/gov/gov.docs.jsp?NS-query=#rf*>.

[6] Such triggers include the member failing to perform its obligations to FICC and FICC's determination that the member is in or is approaching financial difficulty.

pursuant to Rules 21 and 22. Under new Rule 22A, FICC would initiate the close-out process with respect to a member for which it has ceased to act for any reason permitted by its rules.[7] In addition, the term ''Cut-Off Time'' for noninsolvency situations would be added to Rule 22A. Although this term is similar to the ''Time of Insolvency'' term currently used in Rule 22, a key difference between the terms is that members will be notified in advance of the ''Cut-Off Time.''

The proposed rule change also makes technical changes to conform existing references to Rules 21 and 22 throughout FICC's rules to the proposed rule changes described above.[8]

2. General Continuance Standards

FICC proposes to add new Rule 3, Section 5 to GSD's rules and new Article III, Rule 1, Section 18 to MBSD's rules, similar to NSCC Rule 15, that would enable FICC, when it deems necessary or advisable, to assure itself of a member's or an applicant's financial responsibility and operational capability. To assure itself, FICC could, but would not be limited to: Restricting or modifying the member's use of any or all of FICC's services; requiring additional reporting by the member of its financial or operational condition; increasing the member's clearing fund collateral; altering the proportions of cash, eligible netting securities, and letters of credit contributing to the member's required clearing fund deposits; and prohibiting the member from withdrawing excess clearing fund deposits.[9]

Because the proposed rule change would give FICC the general authority to require additional clearing fund collateral when FICC is seeking additional assurances from a member or applicant, the provisions in GSD's current Rule 4 that require the posting of additional collateral for specific circumstances would be deleted.

3. Technical Amendments

FICC proposes to make several technical amendments to GSD's and MBSD's rules. The terms ''Board'' and ''Board of Directors'' would be redefined to include a committee of FICC's Board of Directors that is acting under delegated authority of the Board. Accordingly, references to specific board committees throughout both divisions' rules would be replaced simply by the term ''Board,'' which would include any such board committees.

FICC believes that the proposed rule change is consistent with the requirements of the Section 17A of the Act[10] and the rules and regulations thereunder because it would enhance FICC's rules governing cease-to-act and insolvency situations and would strengthen FICC's ability to seek additional assurances from its members and as a result should help FICC safeguard funds and securities in its custody or control.

B. Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not solicited or received written comments relating to the proposed rule change. FICC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–FICC–2006–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–FICC–2006–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at FICC's principal office and on FICC's Web site at <*http://ficc.com/gov/gov.docs.jsp?NS-query=#rf*>. 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 submission should refer to File No. SR–FICC–2006–12 and should be submitted on or before November 3, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16950 Filed 10–12–06; 8:45 am]

BILLING CODE 8011–01–P

[7] Currently, the close-out process applies only when FICC deems a member insolvent.

[8] *See* Rules 1, 3A, 4, 6A, 14 and pending Rule 22A.

[9] These proposed actions are similar to those that FICC has proposed to undertake with respect to a member undergoing a wind-down in a rule filing pending with the Commission. SR–FICC–2006–06.

[10] 15 U.S.C. 78q–1.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–545771; File No. SR–ISE–2006–56]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Relating to Customer Fees for Certain Complex Orders

October 4, 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 September 20, 2006, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') 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 ISE filed Amendment No. 1 to the proposal on October 4, 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 its Schedule of Fees to adopt a customer fee for certain Complex Orders. The text of the proposed rule change is available on ISE's Web site (*http://www.iseoptions.com*), at the principal office of ISE, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 revises the text of the ISE's Schedule of Fees to: (1) Explain when an order takes liquidity from the ISE's complex order book; and (2) clarify that the proposed fee applies solely to Complex Orders that trade with other Complex Orders, and not to Complex Orders that trade with customer orders in the regular order book.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend ISE's Schedule of Fees to adopt a customer fee for certain Complex Orders.[4] The Exchange currently waives transaction fees for customers, except for customer transactions in Premium Products.[5] The Exchange has noted an increase in volume in certain customer order transactions in Complex Orders. According to the ISE, customers that use highly developed trading systems are quickly able to hit the bid or lift an offer, thereby taking liquidity, *i.e.,* interacting with Complex Orders resident on the complex order book. The Exchange thus proposes to charge an execution and comparison fee of $0.15 and $0.03 per contract, respectively, for customer orders that take liquidity to put them on a more equal footing with broker-dealer orders that are currently subject to this fee.

As with all Complex Order fees, only the largest leg of a Complex Order will be charged this fee if that leg is also taking liquidity away. The Exchange will not charge customers for Complex Orders if they are the liquidity provider, *i.e.,* they are first on the complex order book. The Exchange will determine which side of a complex order is the liquidity taker and which is the liquidity provider based on the order time. The order that arrived first on the complex order book is the liquidity provider. This fee will only apply to customer Complex Orders that trade with other Complex Orders. If a Complex Order legs into the regular market, customer orders in the regular market that interact with the Complex Order will not be charged with fee, nor will a fee be charged to the Complex Order legging in.

ISE believes that the proposed fee is objective in that it is based on the behavior of market participants and the type of orders submitted. As noted above, since the behavior of these customers is similar to the behavior of a broker-dealer, the ISE believes that it is fair for the Exchange to charge for these customer orders the same fees as those charged for broker-dealer orders.

2. Statutory Basis

The Exchange believes that the basis for the proposal under the Act is the requirement under Section 6(b)(4) of the Act[6] that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

[4] Complex Orders are defined in ISE Rule 722(a).

[5] Premium Products are defined in the Schedule of Fees as the products enumerated therein.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not 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, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any 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 it reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change; or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2006–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

[6] 15 U.S.C. 78f(b)(4).

All submissions should refer to File Number SR–ISE–2006–56. 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 ISE. 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–2006–56 and should be submitted on or before November 3, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 06–8646 Filed 10–12–06; 8:45am]

BILLING CODE 8011–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54569; File No. SR–NYSEArca–2006–64]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Trading Shares of the PowerShares DB G10 Currency Harvest Fund Pursuant to Unlisted Trading Privileges

October 4, 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 September 21, 2006, NYSE Arca, Inc. (''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'' or the ''Corporation''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to trade shares (''Shares'') of the PowerShares DB G10 Currency Harvest Fund (the ''Trust'' or ''Fund'') pursuant to unlisted trading privileges (''UTP'') under Commentary .02 to NYSE Arca Equities Rule 8.200.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, 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

Pursuant to Commentary .02 to NYSE Arca Equities Rule 8.200, the Exchange may approve for listing and trading trust issued receipts (''TIRs'') investing in shares or securities (''Investment Shares'') that hold investments in any combination of futures contracts, options on futures contracts, forward contracts, commodities, swaps or high credit quality short-term fixed income securities or other securities.[3] The Commission previously approved a proposal to list and trade the Shares of the Fund[4] by the American Stock Exchange LLC (the ''Amex'').[5] The Exchange proposes to trade pursuant to UTP the Shares of the Fund pursuant to Commentary .02 to NYSE Arca Equities Rule 8.200.

The Shares represent beneficial ownership interests in the Fund's net assets, consisting solely of the common units of beneficial interests of the DB G10 Currency Harvest Master Fund (the ''Master Fund''). The Master Fund is a statutory trust created under Delaware law whose investment portfolio will consist primarily of futures contracts on the currencies comprising the Deutsche Bank G10 Currency Future Harvest Index—Excess Return™ (the ''DBCHI'' or ''Index'') and will include cash and U.S Treasury securities for margin purposes and other high credit quality short-term fixed income securities. Both the Fund and the Master Fund will be commodity pools operated by DB Commodity Services LLC (the ''Managing Owner'').[6]

The investment objective of the Fund and the Master Fund is to reflect the performance of the Index, over time, less the expenses of the operation of the Fund and the Master Fund. The Fund will pursue its investment objective by investing substantially all of its assets in the Master Fund. Each Share will correlate with a Master Fund share issued by the Master Fund and held by the Fund. The Master Fund will pursue its investment objective by taking long futures positions in the three (3) Index Currencies associated with the highest interest rates and short futures positions in the three (3) Index Currencies associated with the lowest interest rates[7] and will adjust its holdings

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In April 2006, the Commission approved Commentary .02 to NYSE Arca Equities Rule 8.200, which sets forth the rules related to listing and trading criteria for Investment Shares, and approved trading pursuant to UTP the shares of the DB Commodity Index Tracking Fund. *See* Securities Exchange Act Release No. 53736 (April 27, 2006), 71 FR 26582 (May 5, 2006) (SR–PCX–2006–22).

[4] The Fund and Master Fund were previously named the DB Currency Index Value Fund and DB Currency Index Value Master Fund, respectively. Telephone conversation between Michael Cavalier, Associate General Counsel, NYSE, and Ronesha A. Butler, Special Counsel, Division of Market Regulation (''Division''), Commission, on October 4, 2006.

[5] *See* Securities Exchange Act Release No. 54450 (September 14, 2006) (SR–Amex–2006–44) (the ''Amex Order''). *See also* Securities Exchange Act Release No. 54351 (August 23, 2006), 71 FR 51245, as corrected by 71 FR 53492 (September 11, 2006) (SR–Amex–2006–44).

[6] The Managing Owner is registered as a commodity pool operator (the ''CPO'') and commodity trading advisor (the ''CTA'') with the Commodity Futures Trading Commission (''CFTC'') and is a member of the National Futures Association (''NFA''). The Managing Owner will serve as the CPO and CTA of the Fund and the Master Fund.

[7] The use of long and short positions in the construction of the Index causes the Index to rise as a result of any upward price movement of Index Currencies expected to gain relative to the U.S. Dollar and to rise as a result of any downward price movement of Index Currencies expected to lose relative to the U.S. Dollar.

quarterly as the Index is adjusted. In addition, the Master Fund will also hold cash and U.S. Treasury securities for deposit with futures commission merchants as margin and other high credit quality short-term fixed income securities. The Fund is not managed on a discretionary basis but instead seeks to track the Index pursuant to established rules and procedures. For more information, see the Amex Order.

The Index, at any time, is comprised of six (6) currencies from The Group Ten (''G10'') countries,[8] each of which is traded on the Chicago Mercantile Exchange (the ''CME''). The notional amounts of each index currency included in the Index (''Index Currency'') are based on the Index closing level as of the period in which the Index is re-weighted.[9] The Index closing level reflects an arithmetic weighted average of the change in the futures positions on the Index Currencies' exchange rates against the U.S. dollar since March 12, 1993. On such date, the Index closing level was $100. The sponsor of the Index is Deutsche Bank AG London (''DB London'' or the ''Index Sponsor'').

(a) *The Shares.* A description of the operation of the Fund and the creation and redemption process for the Shares is set forth in the Amex Order. To summarize, issuances of Shares will be made only in one or more blocks of 200,000 Shares or multiples thereof (''Basket Aggregation'' or ''Basket''). The Fund will issue and redeem the Shares on a continuous basis, by or through participants that have entered into participant agreements (each, an ''Authorized Participant'') [10] with the Managing Owner.

Baskets will be issued in exchange for an amount of cash equal to the NAV per Share times 200,000 Shares (''Basket Amount''). The Basket Amount will be determined on each business day by The Bank of New York (''Administrator'').[11] Authorized Participants that wish to purchase a Basket must transfer the Basket Amount to the Administrator (the ''Cash Deposit Amount''). Baskets are then separable upon issuance into the Shares that will be traded on NYSE Arca MarketPlace on a UTP basis.[12]

The Shares will not be individually redeemable but will only be redeemable in Baskets. To redeem, an Authorized Participant will be required to accumulate enough Shares to constitute a Basket (*i.e.*, 200,000 shares). Authorized Participants that wish to redeem a Basket will receive cash in exchange for each Basket surrendered in an amount equal to the NAV per Basket (the ''Cash Redemption Amount''). Upon the surrender of the Shares and payment of applicable redemption transaction fee, taxes or charges, the Administrator will deliver to the redeeming Authorized Participant the Cash Redemption Amount. The operation of the Fund and creation and redemption process is described in more detail in the Amex Order.

After 4 p.m. Eastern time (''ET'') each business day, the Administrator will determine the NAV [13] for the Fund, utilizing the current settlement value of the particular long and short exchange-traded futures contracts on the Index Currencies. The calculation methodology for the NAV is described in more detail in the Amex Order.

After 4 p.m. ET each business day, the Administrator, Amex and Managing Owner will disseminate the NAV for the Shares and the Basket Amount (for orders placed during the day). The Basket Amount and the NAV are communicated by the Administrator to all Authorized Participants via facsimile or electronic mail message and will be available on the Fund's Web site at *http://www.dbfunds.db.com*.[14] The Exchange will provide a hyperlink to the Fund's Web site on its Web site at *http://www.nysearca.com*.

(b) *Availability of Information About the Index, the Underlying Futures Contracts and the Shares.* In order to provide updated information relating to the Fund for use by investors, professionals and persons wishing to create or redeem the Shares, the Amex will disseminate through the facilities of the CT an updated Indicative Fund Value (the ''IFV''). The IFV will be disseminated on a per Share basis every 15 seconds from 9:30 a.m. to 4:15 p.m. ET. The IFV will be calculated based on the cash required for creations and redemptions (*i.e.*, NAV x 200,000) adjusted to reflect the price changes of the Index Currencies through investments held by the Master Fund, *i.e.*, futures contracts and options on futures and/or forwards.[15]

The IFV will not reflect price changes to the price of an underlying currency between the close of trading of the futures contract at the relevant futures exchange and 4:15 p.m. ET. While the Shares will trade on the NYSE Arca Marketplace from 9:30 a.m. to 4:15 p.m. ET, regular trading hours for each of the Index Currencies on the CME is 8:20 a.m. to 3 p.m. (ET), though electronic trading of exchange traded foreign currency products on computerized trading systems (*e.g.*, GLOBEX® at CME) takes place on a nearly 24-hour basis. Therefore, the value of a Share may be influenced by non-concurrent trading hours between the NYSE Arca Marketplace and the various futures exchanges on which the futures contracts based on the Index Currencies are traded.

While the market for futures trading for each of the Index Currencies is open, the IFV can be expected to closely approximate the value per Share of the Basket Amount. However, during trading hours when the futures contracts have ceased trading, spreads and resulting premiums or discounts may widen, and therefore, increase the

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[8] The G10 currencies are the United States Dollar, the Euro, the Japanese Yen, the Canadian Dollar, the Swiss Franc, the British Pound, the Australian Dollar, the New Zealand Dollar, the Norwegian Krone and the Swedish Krona (the ''Eligible Index Currencies'').

[9] The Index Sponsor reviews and re-weights the Index on a quarterly basis. For more information, *see* the Amex Order, *supra* note 5.

[10] An ''Authorized Participant'' is a person, who at the time of submitting to the trustee an order to create or redeem one or more Baskets: (i) Is a registered broker-dealer; (ii) is a Depository Trust Company Participant; and (iii) has in effect a valid Participant Agreement.

[11] At or about 4 p.m. Eastern time (''ET'') each business day, the Administrator will determine the Basket Amount for orders placed by Authorized Participants received before 1 p.m. ET that day. Thus, although Authorized Participants place orders to purchase Shares throughout the trading day until 1 p.m. ET, the actual Basket Amount is determined at 4 p.m. ET or thereafter. On each business day, the Administrator will make available immediately prior to 9:30 a.m. ET, the most recent Basket Amount for the creation of a Basket. According to the Amex Order, the Amex will disseminate every 15 seconds throughout the trading day, via the facilities of the Consolidated Tape (''CT''), an amount representing on a per Share basis, the current value of the Basket Amount.

[12] Shares are separate and distinct from the shares of the Master Fund. The Exchange expects that the number of outstanding Shares will increase and decrease from time to time as a result of creations and redemptions of Baskets.

[13] The NAV for the Fund is the total assets of the Master Fund less total liabilities of the Master Fund. The NAV is calculated by including any unrealized profit or loss on futures contracts and any other credit or debit accruing to the Master Fund but unpaid or not received by the Master Fund. The NAV is then used to compute all fees (including the management and administrative fees) that are calculated from the value of Master Fund assets. The Administrator will calculate the NAV per Share by dividing the NAV by the number of Shares outstanding.

[14] According to the Amex Order, Amex has represented that the NAV for the Fund will be made available to all market participants at the same time. If the NAV is not disseminated to all market participants at the same time, the Amex will halt trading in the Shares. However, if the Fund temporarily does not disseminate the NAV to all market participants at the same time, the Amex has agreed to immediately contact the Commission staff to discuss measures that may be appropriate under the circumstances.

[15] On each business day, the Administrator will make available immediately prior to 9:30 a.m. ET via the facilities of the CT the most recent Basket Amount for the creation of a Basket.

difference between the price of the Shares and the NAV of the Shares. IFV on a per Share basis should not be viewed as a real time update of the NAV, which is calculated only once a day.

DB London, as the Index Sponsor, will publish the value of the Index at least once every fifteen (15) seconds throughout each trading day on the CT, Bloomberg, Reuters, and on its Web site at *http://index.db.com* and on the Fund's Web site at *http://www.dbfunds.db.com*. The closing Index level will similarly be provided by DB London and the Fund. In addition, any adjustments or changes to the Index will also be provided by DB London and the Fund on their respective Web sites.[16]

The daily settlement prices for the foreign currency futures contracts comprising the Index and held by the Master Fund are publicly available on the Internet Web sites of the futures exchanges trading the particular contracts, as well as automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. In addition, the Exchange will provide a hyperlink on its Internet Web site to the Fund's Internet Web site. All of the foreign currency futures contracts in which the Master Fund currently expects to invest are traded on the CME, although currency futures contracts on the eligible Index Currencies also trade on other futures exchanges in the United States and the Master Fund may invest in such contracts.[17]

In addition, various data vendors and news publications publish futures prices and data. Futures quotes and last sale information for the Index Currencies are widely disseminated through a variety of major market data vendors worldwide,[18] including Bloomberg and Reuters. In addition, complete real-time data for such futures is available by subscription from Reuters and Bloomberg. The specific contract specifications for the futures contracts are also available from the CME on its Web site, as well as other financial informational sources.

The Web site for the Fund is *http://www.dbfunds.db.com*, to which the Exchange will hyperlink at *http://www.nysearca.com*. The Web site for the Fund, which is publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the mid-point of the bid-ask price in relation to the NAV as of the time the NAV is calculated (the ''Bid-Ask Price'');[19] (c) the calculation of the premium or discount of such price against such NAV; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (e) the prospectus; and (f) other applicable quantitative information. The Amex will make available on its Web site the daily trading volume of the Shares. Quotations for and last sale information regarding the Shares will be disseminated via the CTA/CQS.

Investors may obtain, on a 24-hour basis, currency pricing information from various financial information service providers. Current currency spot prices are also generally available with bid/ask spreads from foreign exchange dealers. Complete real-time data for futures and options prices traded on the CME and the Philadelphia Stock Exchange (''Phlx'') are also available by subscription from information service providers. CME and Phlx also provide delayed futures and options information on current and past trading sessions and market news free of charge on their respective Web sites. There are a variety of other public Web sites that provide information on currency, such as Bloomberg (*http://www.bloomberg.com/markets/currencies/eurafr_currencies.html*), which regularly reports current foreign currency pricing for a fee. Other service providers include CBS Market Watch (*http://marketwatch.com/tools.stockresearch/globalmarkets*) and Yahoo! Finance (*http://finance.yahoo.com/currency*). Many of these sites offer price quotations drawn from other published sources, and as the information is supplied free of charge, it generally is subject to time delays.

As noted above, the Administrator calculates the NAV of the Fund once each trading day and disseminates such NAV to all market participants at the same time.[20] In addition, the Administrator causes to be made available on a daily basis the Cash Deposit Amount to be deposited in connection with the issuance of the Shares in Baskets. Other investors can also request such information directly from the Administrator.

(c) *UTP Trading Criteria.* The Exchange represents that it will cease trading the Shares if: (a) the listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12 or a halt because the IFV or the value of the Index is no longer available at least every 15 seconds; or (b) the listing market delists the Shares. Additionally, the Exchange may cease trading the Shares if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(d) *Trading Rules.* The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 9:30 a.m. until 4:15 p.m. ET. The Exchange has appropriate rules to facilitate transactions in the Shares during this trading session. The minimum trading increment for Shares on the Exchange will be $0.01.

The trading of the Shares will be subject to Commentary .02(e)(1)–(4) to NYSE Arca Equities Rule 8.200, which sets forth certain restrictions on ETP Holders acting as registered Market Makers in TIRs that invest in Investment Shares to facilitate surveillance.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the underlying futures contracts; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker''

[16] According to the Amex Order, the Sponsor has in place procedures to prevent the improper sharing of information between different affiliates and departments. Specifically, an information barrier exists between the personnel within DB London that calculate and reconstitute the Index and other personnel of the Sponsor, including but not limited to the Managing Owner, sales and trading, external or internal fund managers, and bank personnel who are involved in hedging the bank's exposure to instruments linked to the Index, in order to prevent the improper sharing of information relating to the recomposition of the Index.

[17] Other futures exchanges may include, for example, the New York Board of Trade and other futures exchanges which have a comprehensive surveillance sharing agreement with the Exchange or is an Intermarket Surveillance Group (''ISG'') member.

[18] Telephone conversation between Michael Cavalier, Associate General Counsel, NYSE, and Ronesha A. Butler, Special Counsel, Division, Commission, on October 4, 2006.

[19] The Bid-Ask Price of Shares is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

[20] *See supra* note 14.

rule [21] or by the halt or suspension of trading of the underlying futures contracts. See ''UTP Trading Criteria'' above for specific instances when the Exchange will cease trading the Shares.

Shares will be deemed ''Eligible Listed Securities,'' as defined in NYSE Arca Equities Rule 7.55, for purposes of the Intermarket Trading System (''ITS'') Plan and therefore will be subject to the trade through provisions of NYSE Arca Equities Rule 7.56, which require that ETP Holders avoid initiating trade-throughs for ITS securities.

Unless exemptive or no-action relief is available, the Shares will be subject to the short sale rule, Rule 10a–1 under the Act.[22] If exemptive or no-action relief is provided, the Exchange will issue a notice detailing the terms of the exemption or relief.

(e) *Surveillance*. The Exchange intends to utilize its existing surveillance procedures applicable to derivative products to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares and to deter and detect violations of Exchange rules.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

Further, trading in the Shares will be subject to Commentary .02(e)(1)–(4) to NYSE Arca Equities Rule 8.200, which sets forth certain restrictions on ETP Holders acting as registered Market Makers in TIRs that invest in Investment Shares to facilitate surveillance. Commentary .02(e)(1) to NYSE Arca Equities Rule 8.200 requires that the ETP Holder acting as a registered Market Maker in the Shares provide the Exchange with information relating to its trading in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives. In addition, Commentary .02(e)(1) to NYSE Arca Equities Rule 8.200 prohibits the ETP Holder acting as a registered Market Maker in the Shares from being affiliated with a market maker in the underlying physical asset or commodity, related futures or options on futures or any other related derivative unless adequate information barriers are in place, as provided in NYSE Arca Equities Rule 7.26. Commentary .02(e)(2)–(3) to NYSE Arca Equities Rule 8.200 requires that Market Makers handling the Shares provide the Exchange with all the necessary information relating to their trading in the underlying physical assets or commodities, related futures contracts and options thereon or any other derivative. Commentary .02(e)(4) to NYSE Arca Equities Rule 8.200 prohibits the ETP Holder acting as a registered Market Maker in the Shares from using any material nonpublic information received from any person associated with an ETP Holder or employee of such person regarding trading by such person or employee in the underlying physical asset or commodity, related futures or options on futures or any other related derivative (including the Shares).

The Exchange is able to obtain information regarding trading in the Shares and the underlying futures contracts via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG, including the CME.[23] In addition, to the extent that the Master Fund invests in foreign currency futures contracts traded on futures exchanges other than CME, the Exchange must have a comprehensive surveillance sharing agreement with that futures exchange or the futures exchange must be an ISG member.

(f) *Information Bulletin*. Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a),[24] which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IFV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (5) trading information.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund (by delivery of the Basket Amount) will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of futures contracts.

The Information Bulletin will also disclose that the NAV for the Shares will be calculated after 4 p.m. ET each trading day and that information about the Shares and the Index will be publicly available on the Fund Web site to which the Exchange will hyperlink from its Web site.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Section 6(b)(5),[26] in particular, because it is designed to prevent fraudulent and manipulative act and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest.

In addition, the Exchange believes that the proposal is consistent with Rule

[21] *See* NYSE Arca Equities Rule 7.12.

[22] According to the Amex Order, the Fund expects to seek relief, in the near future, from the Commission in connection with the trading of the Shares from the operation of the short sale rule, Rule 10a–1 under the Act. If granted, the Shares would be exempt from Rule 10a–1 under the Act permitting sales without regard to the ''tick'' requirements of Rule 10a–1 under the Act.

[23] For a list of the current members and affiliate members of ISG, *see http://www.isgportal.com*.

[24] The Exchange recently amended NYSE Arca Equities Rule 9.2(a) (''Diligence as to Accounts'') to provide that ETP Holders, before recommending a transaction, must have reasonable grounds to believe that the recommendation is suitable for the customer based on any facts disclosed by the customer as to his other security holdings and as to his financial situation and needs. Further, the proposed rule amendment provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holders shall make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that they believe would be useful to make a recommendation. *See* Securities Exchange Act Release No. 54045 (June 26, 2006), 71 FR 37971 (July 3, 2006) (SR-PCX–2005–115).

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

12f–5 under the Act [27] because it deems the Shares to be equity securities, thus rendering the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–NYSEArca–2006–64 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–NYSEArca–2006–64. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2006–64 and should be submitted on or before November 3, 2006.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[28] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[29] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,[30] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[31] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[32] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. NYSEArca rules deem the Shares to be equity securities, thus trading in the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[33] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In support of the proposed rule change, the Exchange has made the following representations:

1. The Exchange has appropriate rules to facilitate transactions in this type of security in all trading sessions.

2. The Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange.

3. The Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

4. The Exchange will require its ETP Holders to deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction and will note this prospectus delivery requirement in the Information Bulletin.

5. The Exchange will cease trading the Shares of a Fund if: (a) the listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12 or a halt because the IOPV or the value of the applicable Underlying Index is no longer available; or (b) the listing market delists the Shares.

This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted above, the Commission previously found that the listing and trading of these Shares on the Amex is consistent with the Act.[34] The Commission presently is not aware of any issue that would cause it to revisit that earlier finding or preclude the trading of these funds on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposed rule change should benefit investors by creating, without undue delay, additional competition in the market for these Shares.

[27] 17 CFR 240.12f–5.

[28] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78*l*(f).

[31] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[32] 17 CFR 240.12f–5.

[33] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[34] *See* Amex Order, *supra* note 4.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEArca–2006–64), is hereby approved on an accelerated basis.[35]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[36]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–16952 Filed 10–12–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54572; File No. SR–OCC–2006–12]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to an Escrow Program Fee To Be Charged to Escrow Banks

October 4, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 12, 2006, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by OCC. 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 proposed rule change would amend OCC's Schedule of Fees by adding a $200 escrow fee to be charged to OCC-approved banks.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend OCC's Schedule of Fees by adding a $200 escrow fee to be charged to OCC-approved banks.

As background, OCC's escrow deposit program allows a custodian bank that has entered into an escrow agreement with OCC (''escrow bank'') to make deposits of eligible collateral on behalf of its customers with respect to stock option contracts and index option contracts carried in short positions and to rollover and withdraw such deposits by submitting electronic instructions to OCC through OCC's escrow deposit system.[3] Escrow deposits are pledged to both the customer's clearing member and to OCC in order to satisfy the customer's obligation to deposit customer level margin at the clearing member and in order to satisfy the clearing member's obligation to deposit clearing level margin at OCC with respect to a specified short position in stock or index options.[4] Under OCC's form of escrow agreement, an escrow bank is obligated to hold the deposited collateral subject to the lien of OCC and the clearing member until such liens are released.

In 2005, the escrow deposit system was integrated into OCC's clearing system, which enabled escrow banks to access the escrow system through the internet. Before the integration, escrow banks were required to lease or buy a personal computer that was configured by OCC to provide secure access to the escrow deposit system. Banks that elected the lease alternative are charged a $200.00 monthly fee of which $150.00 is an equipment leasing fee and $50.00 is an access fee.[5] Banks that (i) Elected the purchase alternative or (ii) became escrow banks after the systems integration are charged only the $50 access fee, which is intended to cover the costs associated with administering the escrow deposit program. Costs to administer the program include: (1) Legal costs related to addressing the contractual aspects of the program; (2) audit costs related to ensuring compliance with the external audit reporting requirements of the program; and (3) staff costs related to servicing program users (*i.e.*, escrow banks and clearing members).

In connection with reviewing different back-up solutions to Internet access, OCC also examined its costs to administer the escrow program and concluded that the costs greatly exceed the $50.00 per month access fee. Accordingly, OCC has determined to charge all escrow banks a $200.00 per month escrow program fee, which would be reflected in OCC's Schedule of Fees. The proposed program fee will allow OCC to partially offset its escrow program administration costs but will not affect the overwhelming majority of escrow banks which already pay $200.00 per month in aggregate escrow deposit program fees.

OCC believes that the proposed change is consistent with Section 17A of the Act[6] and the rules thereunder because it amends OCC's Schedule of Fees to include a reasonable fee to be charged to escrow banks that utilize OCC's escrow deposit system to partially offset OCC's cost to administer the escrow program. The proposed rule change is not inconsistent with the existing rules of OCC including any other rules proposed to be amended.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

OCC has not solicited or received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] Escrow banks also use the escrow deposit system to receive and review OCC and relevant clearing member responses and to access reports.

[4] Escrow deposits may include: (i) the underlying securities for any stock option contract; (ii) cash, short-term U.S. Government securities, and/or common stocks for any index call option contract; and (iii) cash and/or short-term U.S. Government securities for stock or index put options.

[5] OCC has continued to charge current escrow banks with leased equipment the $200.00 per month total fee as they have retained such equipment as a back-up to Internet access to the escrow system. However, a different back-up solution is being implemented for all escrow banks, which is rendering the leased equipment obsolete for purposes of accessing the escrow system.

[6] 15 U.S.C. 78q–1.

(ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–OCC–2006–12 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–OCC–2006–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jsp*. 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 submission should refer to File No. SR–OCC–2006–12 and should be submitted on or before November 3, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16948 Filed 10–12–06; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 5565]

Arms Control and Nonproliferation Advisory Board (ACNAB) Meeting Notice

Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app 2 § 10(a)(2), the Department of State announces a meeting of the Arms Control and Nonproliferation Advisory Board (ACNAB) to take place on November 6, 2006, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app 2 § 10(d) and 5 U.S.C. 552b (c)(1), it has been determined that this Board meeting will be closed to the public in the interest of national defense and foreign policy because the Board will be reviewing and discussing matters classified in accordance with Executive Order 12958.

The purpose of the ACNAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament and international security, and related aspects of public diplomacy. The agenda for this meeting includes classified discussions related to the Board's on-going studies on current U.S. policy and issues regarding the National Strategy to Combat Weapons of Mass Destruction, Counter-Terrorism, and Space Policy.

For more information, contact Matthew Zartman, Deputy Executive Director of the Arms Control and Nonproliferation Advisory Board, Department of State, Washington, DC 20520, telephone: (202) 736–4244.

Dated: September 29, 2006.

George W. Look,

Executive Director of the Arms Control and Nonproliferation Advisory Board, Department of State.

[FR Doc. E6–17022 Filed 10–12–06; 8:45 am]

BILLING CODE 4710–27–P

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending September 29, 2006

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq*.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2006–25982.

Date Filed: September 28, 2006.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 19, 2006.

Description: Application of Avior Airlines, C.A. requesting a foreign air carrier permit in order to engage in scheduled foreign air transportation of persons, property and mail between Venezuela and the United States.

Renee V. Wright

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–16993 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2004–16944]

Operating Limitations at Chicago O'Hare International Airport; Notice of Order

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Order.

SUMMARY: On September 22, 2006, the FAA issued an order to show cause, which solicited written views on modifying the August 2004 Order temporarily limiting scheduled operations at O'Hare International Airport (O'Hare) to allow carriers to trade and transfer scheduled arrivals for consideration for the remaining duration of the Order. The FAA is

issuing a final modification to the Order based on the proposal.

FOR FURTHER INFORMATION CONTACT: Komal Jain, Office of the Chief Counsel, Regulations Division, AGC–240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073.

SUPPLEMENTARY INFORMATION:

Order To Show Cause

Under the August 2004 Order, as amended, (the Order), the FAA may modify or withdraw any provision in the Order on its own or on application by any air carrier for good cause shown. On September 22, 2006, the FAA issued an order to show cause (71 FR 56213, September 26, 2006), which solicited written views on modifying the Order temporarily limiting scheduled operations at Chicago O'Hare International Airport (O'Hare). The order to show cause proposed to eliminate the August 2004 Order's prohibition on trading or transferring Arrival Authorizations during the duration of the order.

The August 2004 Order made effective a series of schedule adjustments that the air carriers individually agreed to during a scheduling reduction meeting convened under 49 U.S.C. 41722. These agreements, in general, resulted in a voluntary O'Hare peak-hour arrival rate of eighty-eight scheduled flights, with the exception of the 8 p.m. hour—the final peak hour of the day—when the rate would not exceed ninety-eight scheduled arrivals. The Order followed a period during which O'Hare operated without any regulatory constraint on the number of aircraft operations, and O'Hare experienced significant congestion-related delay. The Order took effect November 1, 2004, and was subsequently extended three times. It terminates at 9 p.m., Central Time, October 28, 2006.

The Order was intended to establish a short-term regime limiting O'Hare flights while the FAA developed a longer-term solution through a rulemaking. The FAA is allowing the Order to terminate an October 28 because the FAA has adopted a final rule regulating arrivals rights at O'Hare. That rule, the August 29, 2006, Final Rule, Congestion and Delay Reduction at Chicago O'Hare International Airport, becomes effective on October 29, 2006 (Final Rule). 71 FR 51382.

The FAA has decided to amend the Order as proposed, with one change. We have decided to specify in the Order that transactions permitted by this modification to the August 2004 Order must be completed prior to the October 28, 2006 expiration of this Order and that the air carrier acquiring the arrival must commit to commencing operations resulting from the sale, lease, trade or transfer no later than January 27, 2007. We had proposed such operations begin no later than December 31, 2006 in the order to show cause and received no objection to that proposal. However, the FAA recognizes that placing the restriction in the Order could arguably permit the Order to continue after it has expired. As discussed below, a carrier acquiring an Arrival Authorization will be required to commit to the FAA that it will conduct operations using the arrival authorization no later than January 27, 2007. Additionally, we are amending the Final Rule to specify that initial allocations under the rule require operations to commence no later than January 27.

We have expanded the contemplated time period to commence operations because the agency does not require a carrier to actually begin operations under the Final Rule until 90 days after it has acquired an Arrival Authorization by lottery or sale. This requirement is based on a recognition that some reasonable period of time must be provided to begin actually providing scheduled service. The proposed December 31 date is inconsistent with the FAA's assessment of the time necessary to begin operations articulated in the Final Rule. Although leases are not covered by a start-up waiver in the Final Rule, the short-term nature of the amended Order supports the same consideration.

The FAA also reviewed the August 2004 Order in regard to new entrants and other air carriers initiating scheduled service to O'Hare while this Order remains in effect. The FAA recognizes that carriers not currently serving the airport have a number of actions to complete prior to actual operation at an airport. In addition to obtaining operating authorizations at a capacity-constrained airport, such a carrier must obtain access to facilities, gates and terminal space; must establish check-in and baggage procedures, aircraft ground handling operations, and station staffing; develop flight schedules; and begin offering services to the public. The Order does not specify the steps an air carrier must accomplish prior to actually being granted authority to conduct scheduled arrivals during the peak hours. The FAA expects that new entrant/limited incumbent carriers requesting scheduled arrivals to ''initiate'' scheduled services under the Order must demonstrate an actual intention to conduct services at O'Hare even if the actual operation does not commence by the expiration of the Order. At a minimum, prior to the expiration of the Order, an air carrier must demonstrate that it is offering scheduled services to the public in the United States in accordance with applicable Department of Transportation and FAA rules and may be required by the FAA to provide evidence of additional actions it is taking to start operations. An air carrier must begin actual scheduled flight operations utilizing the assigned Arrival Authorizations no later than January 27, 2007, or they will be withdrawn.

Discussion of Written Submissions: Proposed Allowance of Trades and Transfers for Consideration

The order to show cause specifically requested written views on the FAA's tentative decision to eliminate, for the remainder of the Order, the prohibition on trading or transferring (buying, selling, or leasing) arrival authorizations for consideration. The FAA reached this tentative decision because it recognized that the limitation on trades and transfers under the Order could hamper the efficient transition from the Order to the Final Rule.

Five respondents filed written views on the FAA's proposed modification of the Order. The respondents included two air carriers (American Airlines and United Air Lines), one air carrier organization (The Regional Airline Association (RAA)), the City of Chicago, and Independence Air. American also filed a motion to leave to file and answer in response to Independence Air, which we grant. None of the respondents opposed the modification of the Order. American Airlines, RAA and the City of Chicago expressed full support, favoring a free and open secondary market for scheduled arrivals at O'Hare.

For the reasons set forth in the show-cause order, and in light of the commenters' support for the proposal, the FAA is amending the Order as proposed to allow trades and transfers of Arrival Authorizations. Two commenters—United Air Lines and Independence Air—have asked us to clarify or amend our proposal in some respects. We discuss their requests next.

Discussion of Written Submissions: United's Requests for Clarification and Technical Amendments

United Air Lines sought clarification with respect to leases entered into during the effective period of the Order. First, as requested by United Air Lines, the FAA confirms that a lease entered

into between two air carriers prior to the termination of the Order on October 28 can extend into the future during the effective period of the Final Rule. Under this modification to the Order, two parties can enter into a long-term lease agreement as long as the terms of the lease have been approved by the FAA. When approving a lease arrangement, the FAA will require the written consent of each party as to the specific authorization(s) at issue, the scheduled arrival time, the frequency, and the start and end dates of the lease. Similar information must be provided for sales or other uneven trades or transfers. Under this amendment to the Order, the FAA will approve a sale, lease, or trade involving consideration if the transaction is completed prior to expiration of the Order on October 28, and the air carrier acquiring the allocation commits to commencing operations resulting from the trade or transfer no later than January 27, 2007.

United Air Lines also asked the FAA to clarify that when the term of a lease expires (or otherwise terminates in accordance with the provisions of the lease), the Arrival Authorization will revert to the lessor-carrier without the need for any further approval or action by the FAA, as long as the lessor provides notice to the FAA of such expiration or termination. United Air Lines' assumption is correct. When a lease expires in accordance with the agreed upon end date, no further approval or action is required by the FAA, and the Arrival Authorization will revert back to the holder (lessor) of the authorization. If the lease is terminated prior to the scheduled end date (*e.g.*, because of a breach or a recall provision in the lease agreement), the FAA will require consent from both parties before transferring the Arrival Authorization back to the holder.

Lastly, United Air Lines points out that in modifying the Order, the FAA also must amend 14 CFR 93.25 regarding the initial assignment of Arrival Authorizations under the Final Rule. Under this section, Arrival Authorizations subject to the Final Rule to O'Hare are assigned (1) based on published scheduled service during the 7-day period of November 1 through 7, 2004 or (2) if the carrier did not publish a scheduled service during the 7-day period of November 1 through 7, 2004, the scheduled service the carrier is entitled to publish under the August 2004 Order, as long as the carrier is conducting scheduled service at O'Hare on the effective date of the Final Rule.

We recognize § 93.25 raises questions of proper implementation in light of the potential adjustments that carriers may make under this Order, as amended. The FAA will recognize the transfer of holder status among air carriers that may now occur under the Order. The FAA expects this to resolve issues of initial assignment under the rule, and furthermore, if necessary, the FAA could invoke paragraph (e) of § 93.25 to resolve any conflicts that may arise in the assignment of arrivals by carrier at the termination of the Order. Because § 93.25 anticipates a carrier will actually be conducting scheduled operations at O'Hare on October 29, we are amending the final rule to clarify that operations need not begin prior to January 27, 2007 as long as the FAA has approved a transaction under the Order, as amended, prior to expiration of the Order. This change is necessary to fully effectuate the amended Order.

Similarly, because of the amendment to the Order and the ability of carriers to change their holder status of scheduled arrivals prior to the effective date of the rule, the FAA also must clarify that in applying the definitions of ''new entrant,'' ''limited incumbent'' and ''incumbent,'' the FAA will look to any authorizations held or operated by an air carrier during the duration of the Order. Thus, for example, if a carrier held ten scheduled arrivals on October 1, 2006 and sold or transferred four of those arrivals to another carrier on October 15, 2006, the FAA will view that carrier has an incumbent, not as a limited incumbent, because, at one time, the carrier held more than eight authorizations to arrive at O'Hare.

Discussion of Written Submissions: Independence Air's Request To Reclaim Arrival Rights

Independence Air, while supporting the proposed modification of the Order, asked that the FAA revise its proposed language in paragraph 6 of the Order to permit any person previously allocated arrivals at O'Hare to enter into transactions with air carriers operating at O'Hare to sell, trade or lease such authorizations. Independence Air held ten Arrival Authorizations under the Order. Because Independence Air ceased all airline operations on January 5, 2006, it has not been using the Arrival Authorizations. The firm is now being liquidated. Independence Air claims that because the FAA has neither withdrawn its O'Hare authorizations nor reallocated them to another carrier, Independence Air's estate is entitled to the scheduled arrivals allocated to Independence Air in August 2004, and if the FAA were to adopt its proposed amendment of this Order's paragraph 6, the estate could transfer the scheduled arrivals for consideration. American Airlines, in a late filing to the docket, submitted an answer to Independence Air's request which opposes the change proposed by Independence Air.

The change sought by Independence Air is not legally required and would be contrary to the public interest. Independence Air has been unable to use the arrival rights itself, and the Order barred Independence Air from selling or leasing them to any air carrier. As a result, Independence Air's interest in the rights long ago ceased to have any value.[1] Furthermore, in the March 31, 2006 order extending the Order, the FAA indicated that Independence Air's Arrival Authorizations could be reassigned to other carriers if the FAA found that doing so was in the public interest. Independence Air did not object to that determination.

The FAA additionally explained in the March 31, 2006 order that it would not reallocate Independence Air's Arrival Authorizations because they did not represent capacity available for use by other carriers without injuring O'Hare passengers and airlines. The FAA found it necessary to require Independence Air's Arrival Authorizations to remain dormant in order to mitigate congestion that occurred in the overscheduled peak afternoon hours. As we stated under the order to show cause, our primary purpose in proposing to lift the restrictions on transfers and sales of scheduled arrivals for the remaining duration of the Order is to facilitate the most efficient transition from the Order to the Final Rule. Because the Independence Air arrival authorizations were permanently withdrawn from the available pool of Arrival Authorizations over six months ago, the FAA again finds that reallocation of these retired authorizations would, in fact, be detrimental to efficiency. In any event, the Order applies only to air carriers conducting or initiating scheduled operations at O'Hare. Non-carriers are not permitted to hold authorizations under either the Order or the Final Rule. Independence Air ceased operations on January 5, 2006, and is no longer a certificated air carrier.

We therefore reject Independence Air's suggestion that the proposed

[1] While there is no minimum use requirement under the Order, no air carrier is required to surrender its unused arrival authorizations to the FAA. Independence Air's assertion that it failed to do so provides it with a right to now claim the authorizations is therefore without merit. The Order did not contain a minimum use requirement because it did not create a means whereby other carriers could obtain unused Arrival Authorizations did not mean that a carrier not using its rights could nonetheless keep them for the duration of the Order.

language for paragraph 6 should be further revised.[2]

JetBlue Request

JetBlue has filed a request for Arrival Authorizations as a new entrant under the Order. United Air Lines has opposed that request. The FAA will address JetBlue's request in a later order.

Conclusion

The FAA proposed to modify the August 2004 Order temporarily limiting scheduled operations at O'Hare to allow carriers to trade and transfer scheduled arrivals for consideration for the remaining duration of the Order based on our tentative determination that there is merit to allowing carriers to modify their schedules for competitive or operational reasons through various market mechanisms prior to the effective date of the August 29, 2006 Final Rule regulating scheduled arrivals at O'Hare. After considering the responses, the FAA has determined to make this finding final.

Accordingly, with respect to scheduled flight operations at O'Hare under the August 2004 Order, as amended, *it is ordered that paragraph 6 be amended to state:*

6. An air carrier who is currently operating or has committed prior to the expiration of this Order to operate at O'Hare by January 27, 2007, may buy, sell, lease or otherwise transfer or trade any scheduled arrival from 7 a.m. through 8:59 p.m. to or from any other air carrier who is currently operating or has committed prior to the expiration of this Order to operate at O'Hare by January 27, 2007. Transactions permitted by this paragraph must be completed prior to the October 28, 2006 expiration of this Order. Each air carrier must receive advance written approval of the Administrator, or her delegate, of the trade or transfer. All requests to trade or transfer a scheduled arrival must 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 the air carrier.

[2] We additionally reject Independence Air's arguments for the following reasons. First, we do not view the Arrival Authorizations created in the August 2004 Order to be ''property'' within the definition of the Bankruptcy Code. 11 U.S.C. 541(a). These Arrival Authorizations did not provide the opportunity to receive value through a purchase, sale or lease and without a market, had no value. *In re Gull Air,* 890 F. 2d 1255 (1st Cir. 1989). They were merely restrictions on the use of property—airplanes, not property in themselves. *In re Braniff Airways,* 700 F. 2d 935 (5th Cir. 1983).

Issued in Washington, DC, on October 6, 2006.

Marion C. Blakey,

Administrator.

[FR Doc. 06–8658 Filed 10–10–06; 11:49 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: By **Federal Register** notice (See 71 FR 16610; April 3, 2006), the National Park Service (NPS) and the Federal Aviation Administration (FAA), asked interested persons to apply to fill six vacant positions on the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). The vacancies represent general aviation (one vacancy), commercial air tour operators (two vacancies), environmental concerns (two vacancies) and Native American tribes (one vacancy), and invited interested persons to apply to fill the vacancies due to completion (October 9, 2006) of a three-year term appointment. This notice informs the public of the persons selected to fill the vacancies on the NPOAG ARC.

FOR FURTHER INFORMATION CONTACT: Barry Brayer, Executive Resource Staff, Western-Pacific Region Headquarters, 15000 Aviation Blvd., Hawthorne, CA 90250, telephone: (310) 725–3800, e-mail: *Barry.Brayer@faa.gov*, or Karen Trevino, National Park Service, Natural Sounds Program, 1201 Oakridge Dr., Suite 350, Ft. Collins, CO 80525, telephone (970) 225–3563, or *Karen_Trevino@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator and the Director (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Changes in Membership

Current members of the NPOAG ARC are as follows:

Heidi Williams representing general aviation.

Richard Larew, Alan Stephen, and Elling Halvorson representing commercial air tour operations.

Chip Dennerlein, Don Barger, Charles Maynard, and Mark Peterson representing environmental interests.

Rory Majenty and Richard Deertrack representing Native American tribes.

To maintain the balanced representation of the group, the FAA and the NPS recently published a notice in the **Federal Register** (See 71 FR 16610; April 3, 2006) asking interested persons to apply to fill the following vacancies on the NPOAG as follows:

General aviation (one vacancy)

Commercial air tour operators (two vacancies)

Environmental interests (two vacancies)

Native American tribes (one vacancy)

New members beginning October 10, 2006, are Matthew Zuccaro and Dr. Gregory A. Miller, vice Richard Larew and Charles Maynard respectively; returning members selected to fill the vacancies for additional terms are Heidi Williams, Richard Deertrack, Chip Dennerlein, and Alan Stephen.

Issued in Hawthorne, California, on October 4, 2006.

Lynore C. Brekke,

Acting Regional Administrator, Western-Pacific Region.

[FR Doc. E6–17030 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Ninth Meeting: RTCA Special Committee 207/Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 207 Meeting, Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 207, Airport Security Access Control Systems.

DATES: The meeting will be held November 2, 2006, from 9:30 a.m.–4 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., Conference Room, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) 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 (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 207 meeting. The agenda will include:

- November 2:
- Opening Plenary Session (Welcome, Introductions, and Administrative Remarks)
- Review of Meeting Summary
- Workgroup Reports
- Overview
- Workgroup 2: System Performance Requirements
- Workgroup 3: Subsystem Functional Performance Requirements
- Workgroup 4: System Verification and validation
- Workgroup 5: Biometrics
- Workgroup 6: Credentials
- Workgroup 7: Perimeter
- ICAO Update
- Closing Plenary Session (Other Business, Establish Agenda, Date and Place of Following Meetings).

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 October 3, 2006.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 06–8666 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Polk County, IA

AGENCY: Federal Highway Administration (FHWA), DOT, Polk County.

SUMMARY: The FHWA and Iowa DOT are issuing this notice to advise the public an EIS will be prepared for a proposed roadway project in Polk County, Iowa. The planned EIS will evaluate potential transportation improvement alternatives for serving northwest Des Moines and its neighboring communities between IA 415 and Euclid Avenue.

FOR FURTHER INFORMATION CONTACT: Michael La Pietra, Environment and Realty Manager, FHWA Iowa Division Office, 105 Sixth Street, Ames, IA 50010, Phone 515–233–7302; or James P. Rost, Director, Office of Location and Environment, Iowa Department of Transportation, 800 Lincoln Way, Ames, IA 50010, Phone 515–239–1798.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document is available for free download from the Federal Bulletin Board (FBB). The FBB is a free electronic bulletin board service of the Superintendent of Documents, U.S. Government Printing Office (GPO).

The FBB may be accessed in four ways: (1) Via telephone in dial-up mode or via the Internet through (2) telnet, (3) FTP, and (4) the World Wide Web.

For dial-up mode a user needs a personal computer, modem, telecommunications software package, and telephone line. A hard disk is recommended for file transfers.

For Internet access a user needs Internet connectivity. Users can telnet or FTP to: fedbbs.access.gpo.gov. Users can access the FBB via the World Wide Web at *http://fedbbs.access.gpo.gov.*

User assistance for the FBB is available from 7 a.m. until 5 p.m., Eastern Time, Monday through Friday (except federal holidays) by calling the GPO Office of Electronic Information Dissemination Services at 202–512–1530, toll-free at 888–293–6498; sending an e-mail to *gpoaccess@gpo.gov*; or sending a fax to 202–512–1262.

Access to this notice is also available to Internet users through the **Federal Register**'s home page at *http://www.nara.gov/fedreg.*

Background

The FHWA, in cooperation with the Iowa Department of Transportation and Polk County will prepare an EIS for the roadway improvements between IA 415/NW 26th Street and Euclid Avenue/M.L. King Parkway in Des Moines. The proposed project would include an interchange with I–35/80 at NW 26th Street and also provide access to Morningstar Drive.

The purpose of the NW 26th Street extension is to provide increased system continuity between Des Moines, Ankeny, and Polk City, by providing a continuous route between IA 5 and IA 415 via NW 26th Street, M.L. King Parkway, and Fleur Drive. The proposed corridor improvements would relieve north-south traffic congestion on both Merle Hay Road and 2nd Avenue. The improvement of NW 26th Street would also provide direct access via IA 415 to the Saylorville/Big Creek Recreation Area, Polk City, and Ankeny.

Alternatives under consideration include: (1) Taking no action; (2) widening existing roadways; (3) Transportation System Management/Transportation Demand Management (TSM/TDM) strategies; and, (4) constructing a roadway on a new location.

The build alternative will include consideration of various alignments and grades. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in 2006 and 2007. In addition, a public hearing will be held upon completion of the draft EIS. Public notice will be given of the time and place of the public meetings and public hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

A scoping meeting (the initial public meeting) will be held identifying significant issues to be addressed in the environmental impact statement. The date and location of the scoping meeting have not yet been determined but will be advertised in various local media.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or Iowa

Department of Transportation at the address provided in the caption **FOR FURTHER INFORMATION CONTACT**.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 315; 49 CFR 1.48)

Dated: October 5, 2006.

Philip E. Barnes,

Division Administrator, FHWA, Iowa Division.

[FR Doc. E6–17015 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25853]

Medical Review Board Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (DOT).

ACTION: Notice; Medical Review Board (MRB) public meeting.

SUMMARY: FMCSA announces that its MRB will hold a public meeting. The MRB members will continue deliberations about current FMCSA medical standards, as well as consider recommendations for new science-based standards and guidelines to ensure that the physical condition of drivers is adequate to enable them to safely operate commercial motor vehicles (CMVs) in interstate commerce. In accordance with the Federal Advisory Committee Act (FACA), the meeting is open to the public.

DATES: The MRB meeting will be held from 9 a.m. to 3:30 p.m. on November 1, 2006.

ADDRESSES: The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Rooms PL–6244 and 6248, Washington, DC 20590–0001. The public must enter through the Southwest Visitor Entrance and comply with building security procedures, including provision of appropriate identification prior to being accompanied by a Federal employee to the meeting rooms.

You may submit comments identified by DOT Docket Management System (DMS) Docket Number FMCSA–2006–25853 using any of the following methods:

- Web site: *http://dmses.dot.gov/submit.* 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 to http://dms.dot.gov including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket 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. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our 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 union, etc.). You may review the U.S. Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, 202–366–4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

Information on Services for Individuals With Disabilities:

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Kaye Kirby at 202–366–4001.

SUPPLEMENTARY INFORMATION:

The preliminary agenda for the meeting includes:

0900–0920 Call to Order, Agenda Review
0920–1000 Methodology of Meta-Analysis
1000–1200 Evidence Report Consensus Statement Presentation Commercial Driving with Diabetes Mellitus
1200–1245 Lunch Break*
1245–1330 Preliminary Report on Schedule II Medications
1330–1415 Data Sources
1415–1500 Public Comment Period
1500–1530 Agenda Setting-January 10, 2007 Other Business
1530 Adjourn

*Breaks will be announced on meeting day and may be adjusted according to schedule changes, other meeting requirements.

Background

The U.S. Secretary of Transportation announced on March 7, 2006, the five medical experts who will serve on FMCSA's new MRB. Section 4116 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Pub. L. 109–59) requires the Secretary of Transportation with the advice of the MRB to ''establish, review, and revise medical standards for operators of CMVs that will ensure that the physical condition of operators is adequate to enable them operate the vehicles safely.'' FMCSA is planning updates to the physical qualification regulations of commercial motor vehicle (CMV) drivers, and the MRB will provide the necessary science-based guidance to establish realistic and responsible medical standards.

The MRB will operate in accordance with FACA as announced in the **Federal Register** (70 FR 57642, October 3, 2005). The MRB will be charged initially with the review of all current FMCSA medical standards (49 CFR 391.41), as well as proposing new science-based standards and guidelines to ensure that drivers operating CMVs in interstate commerce, as defined in CFR 390.5, are physically capable of doing so.

Meeting Participation

Attendance is open to all interested parties, including the general public, medical professionals, motor carriers, drivers and representatives of associations. Written comments for the MRB meeting are now being accepted and will continue to be accepted until November 16, 2006. Written comments should include the docket number that

is listed in the **ADDRESSES** section. During the meeting, public oral comments will be accepted for 45 minutes (2:15 p.m. to 3 p.m.). Individual comments may be limited depending on the number of persons who wish to comment. Oral comments will be accepted on a first come, first serve basis as requestors register at the meeting. The comments must directly address relevant medical and scientific issues on the MRB meeting agenda. For more information, please view the following Web site: *http://www.fmcsa.dot.gov/mrb.*

Issued on: October 6, 2006.

John H. Hill,

Administrator.

[FR Doc. E6–17031 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–24278]

Qualification of Drivers; Exemption Requests; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from four individuals for exemptions from the prohibition against persons with a clinical diagnosis of epilepsy (or any other condition which is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV)), operating trucks and buses in interstate commerce. If granted, the exemptions would enable these individuals with seizure disorders to operate CMVs in interstate commerce. All records associated with these requests are available in the public docket.

DATES: Comments must be received on or before November 13, 2006.

ADDRESSES: You may submit comments identified by Department of Transportation (DOT) Docket Management System (DMS) Docket Number FMCSA–2006–24278 using any of the following methods:

- *Web site: http://dmses.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 on-line 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 to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket 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. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our 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 union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *maggi.gunnels@dot.gov*, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. The individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers of CMVs in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness, or any loss of ability to control a commercial motor vehicle.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in interstate commerce. Currently, FMCSA's medical advisory criteria includes a recommendation that individuals diagnosed with epilepsy and taking anticonvulsant medication to reduce the likelihood of seizures are at high risk for further episodes and should not be considered for medical certification. Drivers diagnosed with epilepsy and taking anticonvulsant medication which helps them control their seizures may be at low risk, however, these individuals are exposed to conditions which place them at increased risk for loss of consciousness and therefore increased risk for seizure occurrence, and the acquisition of replacement anti-seizure medication if drugs are lost or forgotten, place such individuals at some increase in risk. These individuals should not be authorized to drive commercial vehicles. Drivers diagnosed with epilepsy, seizure free and off medication for 10 years may be medically certified to operate CMVs.

FMCSA further notes that individuals who experience a single unprovoked seizure, but do not have epilepsy, per se, are clearly at a higher risk than the general population to have further seizures. Individuals with a single unprovoked seizure, seizure-free for a 5-year period and off medications, should not be restricted from obtaining a license to operate a CMV. The history of the occurrence of febrile seizures in childhood should not be a restriction to licensing to operate a CMV. Seizures, in the context of a systemic metabolic dysfunction, should not be a primary reason for restriction from medical certification to operate a CMV. Any restriction should be based upon the risk of recurrence of the primary condition. There are several conditions in which the risk for unprovoked seizures is sufficiently high, even in the absence of the occurrence of acute

seizures, that medical certification should be restricted for variable periods following these incidents (head injury, surgical procedures involving dural penetration, cerebrovascular disease and infections of the nervous system).

Summary of Applications

Anthony P. Besch

Mr. Besch has a history of epilepsy since childhood, and he currently uses anti-seizure medications to prevent seizures. Mr. Besch does not currently operate a CMV on public roads. Mr. Besch has stated in his application that ''there would be no negative impacts on safety as I am seizure free, have excellent vision, and reflexes.'' Mr. Besch's physician further states that, ''he does have a history of seizures only in sleep and none during the day; therefore, Tony is legally able to drive due to his seizures being in good control.'' Mr. Besch holds a Class A CDL from Illinois.

Charles D. Gant

Mr. Gant is a hazardous material (HM) CMV driver who experienced slurred speech, drooling and numbness in his left upper extremity for approximately 15 minutes on August 20, 1999. On August 23, 1999, he was examined at a hospital emergency room, and subsequently referred to a neurologist who diagnosed him as having a stroke (cerebrovascular accident). He was prescribed Coumadin which he stopped taking against medical advice of the prescribing physician. On October 1, 2002, his physician reported that Mr. Gant had a left temporal headache with a reduction in left visual field, but no abnormal sensation, numbness, weakness or loss of speech. On June 27, 2004, ''he awakened with involuntary movements of his left upper extremity followed by spastic movements of his left lower extremity lasting for about 20 minutes.'' His family physician stated that this represented his third minor cerebral vascular accident (CVA) or ''quite probably a seizure''. The physician performed Magnetic Resonance Imaging (MRI) on June 30, 2004 which revealed a subacute CVA in the right frontoparietal junction. Mr. Gant was examined by his physician on February 25, 2005 who diagnosed him as follows: controlled hypertension; history of at least three (3) previous CVAs. He was prescribed Coumadin, Dilantin (an anti-seizure medication) and Diovan/Hydrochlorothiazide to prevent seizures.

John W. Morris, Jr.

Mr. Morris is a CMV driver who lost consciousness while driving on March 20, 2004, and was then hospitalized for three days. Mr. Morris was examined by a neurologist while he was hospitalized. The neurologist determined that he had experienced a seizure. Mr. Morris was placed on Carbatrol (an anti-seizure medication) and subsequently, in August 2004, a medical examiner refused to certify him as meeting FMCSA's requirements. On September 23, 2004, Mr. Morris consulted another neurologist and his test results (Electroencephalography and MRI) were normal, and he was told to gradually discontinue the Carbatrol. Mr. Morris states he has had no additional seizures after March 20, 2004, and has not taken Carbatrol since November 1, 2004. Mr. Morris states that two neurologists have concluded that his seizures were likely induced by alcohol. He states that his medical test results are normal and he has been seizure free for one year and three months.

Wayne C. Sorenson

Mr. Sorenson is a CMV driver who completed a commercial driving course to ensure safe operation of a semi tractor-trailer and was awarded a certificate in May 2004. He states that he had seizures 11 years ago while sleeping which was the result of an adverse reaction to medication. He has remained on Tegretol (an anti-seizure medication) for the last 11 years, and has maintained therapeutic levels of the medication and, subsequently, reports that he has had no seizures. Mr. Sorenson states that he has no other diagnosed conditions, physical or psychological impairment, no history of strength, sensory or coordination impairment that would interfere with safe driving. Mr. Sorenson indicated that a medical examiner refused to certify him as meeting FMCSA's physical qualifications requirements because of the seizures he experienced in 1994 and because he continues to take anti-seizure medication.

These four drivers were not granted medical certification based on 49 CFR 391.41(b)(8) which states: ''A person has no established medical history or clinical diagnosis of epilepsy or other condition which is likely to cause loss of consciousness or any loss of ability to control a commercial vehicle.''

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this Notice. We will consider all comments received before the close of business on the closing date indicated earlier in the Notice.

Issued on: October 3, 2006.

John H. Hill,

Administrator.

[FR Doc. E6–17032 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34911]

Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant overhead trackage rights [1] to Montana Rail Link, Inc. (MRL) over BNSF's rail lines extending from approximately milepost 51.07 at or near Garrison, MT, to approximately milepost 21.5, a location south of Warm Springs, MT, a distance of approximately 29.57 miles.

The transaction was scheduled to be consummated on or before October 2, 2006. The purpose of the trackage rights is to allow for the movement of sediment from the Clark Fork River between Garrison and Missoula, MT (Milltown Dam Area), near Bonner, MT, to Opportunity Ponds, MT.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34911, 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 Troy Garris,

[1] On September 25, 2006, MRL filed a petition for exemption in STB Finance Docket No. 34911 (Sub-No. 1), *Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company*, wherein MRL and BNSF request that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on or about December 31, 2010. That petition will be addressed by the Board in a separate decision.

1300 19th Street, NW., Fifth Floor, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: October 5, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–16949 Filed 10–12–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34919]

Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant overhead trackage rights to Montana Rail Link, Inc. (MRL) over two rail segments: (1) From approximately milepost 68.17 to approximately milepost 69.0, a distance of approximately 0.83 miles at or near Spokane, WA; and (2) from approximately milepost 0.74 to approximately milepost 1.0, a distance of approximately 0.26 miles at or near Mossmain, MT. Both segments connect to track over which applicant already operates.

The transaction was scheduled to be consummated on or after October 2, 2006, the effective date of the exemption.

The purpose of the trackage rights is to provide additional operating room to promote better efficiency and service, solely for access to one customer (and any subsequent successor entities to that one customer) relocating from a point on applicant's line to a point on one of the trackage rights segments.

As condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34919, 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: Troy W. Garris, 1300 19th Street, NW., 5th Floor, Washington, DC 20036.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov*.''

Decided: October 5, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–16989 Filed 10–12–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee act) that the Advisory Committee on Women Veterans will meet October 31–November 2, 2006, from 8:30 a.m. to 4 p.m. each day. The meeting will be held in the G.V. ''Sonny'' Montgomery Conference Center, room 230, VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee will make recommendations to the Secretary regarding such programs and activities.

On October 31, the agenda will include briefings and updates presented by the Veterans Health Administration (VHA), highlighting VA research and studies related to women's health issues, a briefing from VHA's Women Veterans Health Program Director, legislative issues related to veterans, presentation of Certificates of Appointment to six new Committee members, and upcoming initiatives of the Center for Women Veterans.

On November 1, the agenda will include briefings and updates presented on VA's polytrauma program, VHA's Office of Seamless Transition, VA's HealthierUS Veterans Initiative, VA Homeless Programs and Initiatives, and an ethics briefing for Committee members.

On November 2, the committee will be briefed and updated on issues in the Veterans Benefits Administration, from the VA Chief of Staff, on VA mental health programs, and from the 2005 Defense Advisory Committee on Women in the Service (DACOWITS) Report.

Any member of the public wishing to attend should contact Ms. Desiree Long, at the Department of Veterans Affairs, Center for Women Veterans (00W), 810 Vermont Avenue, NW., Washington, DC 20420. Ms. Long may be contacted either by phone at (202) 273–6193, fax at (202) 273–7092, or e-mail at *00W@mail.va.gov*. Interested persons may attend, appear before, or file statements with the Committee. Written statements must be filed before the meeting, or within 10 days after the meeting.

Dated: October 5, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–8647 Filed 10–12–06; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 71, No. 198

Friday, October 13, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

Correction

In notice document 06–7971 appearing on page 55477 in the issue of Friday, September 22, 2006, make the following correction:

On page 55477, in the first column, in the last paragraph, in the fourth line, ''1947'' should read ''1948''.

[FR Doc. C6–7971 Filed 10–12–06; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300, 1309, 1310, 1314

[Docket No. DEA-291I]

RIN 1117-AB05

Retail Sales of Scheduled Listed Chemical Products; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products

Correction

In rule document 06–8194 beginning on page 56008 in the issue of Tuesday, September 26, 2006, make the following correction:

On page 56014, in Table 3, the fifth row is corrected to read as follows:

TABLE 3.—SELF-CERTIFICATION COSTS AND FEE CALCULATION

Project detail	2006 *	2007	2008	Total cost
* * * * * * *				
Enhancements [5]	.....	.....	90,861	90,861
* * * * * * *				

[FR Doc. C6–8194 Filed 10–12–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,

October 13, 2006

Part II

Environmental Protection Agency

40 CFR Part 51

Regional Haze Regulations; Revisions to Provisions Governing Alternative to Source-Specific Best Available Retrofit Technology (BART) Determinations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2002–0076; FRL–8230–4]

RIN 2060–AN22

Regional Haze Regulations; Revisions to Provisions Governing Alternative to Source-Specific Best Available Retrofit Technology (BART) Determinations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA promulgated regulations to address a type of visibility impairment known as regional haze in 1999. These regulations have been judicially challenged twice. On May 24, 2002, the U.S. Court of Appeals for the District of Columbia Circuit issued a ruling vacating the Regional Haze Rule in part and sustaining it in part, based on a finding that EPA's prescribed methods for determining best available retrofit technology (BART) were inconsistent with the Clean Air Act (CAA). *American Corn Growers Ass'n* v. *EPA*, 291 F.3d 1 (DC Cir. 2002). We finalized a rule on July 6, 2005 addressing the court's ruling in this case. On February 18, 2005, the U.S. Court of Appeals for the District of Columbia Circuit issued another ruling, in *Center for Energy and Economic Development* v. *EPA*, 398 F.3d 653(DC Cir. 2005), granting a petition challenging provisions of the Regional Haze Rule governing an optional emissions trading program for certain western States and Tribes (the Western Regional Air Partnership (WRAP) Annex Rule). We published proposed regulations to revise the provisions of the Regional Haze Rule governing alternative trading programs, and to provide additional guidance on such programs in August 2005. We received several comments on the August 2005 proposal. This final rule finalizes the proposed revisions, including changes in response to the public comments.

DATES: This rule is effective December 12, 2006.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2002–0076. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the OAR Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air 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 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 status, locations and telephone numbers.

FOR FURTHER INFORMATION CONTACT: Kathy Kaufman, EPA, Air Quality Planning Division, Geographic Strategies Group, C504–02, 919–541–0102 or by e-mail at *kaufman.kathy@epa.gov*, or Todd Hawes, EPA, Air Quality Planning Division, Geographic Strategies Group, C504–02, 919–541–5591 or by e-mail at *hawes.todd@epa.gov*.

SUPPLEMENTARY INFORMATION:

Regulated Entities. This final rule will affect the following: State and local permitting authorities and Indian Tribes containing major stationary sources of pollution affecting visibility in federally-protected scenic areas.

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This list gives examples of the types of entities EPA is now aware could potentially be regulated by this action. Other types of entities not listed could also be affected. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should examine the applicability criteria in section II of this preamble. If you have any questions regarding the applicability of this action to a particular entity, consult the people listed in the preceding section.

Outline. The contents of today's preamble are listed in the following outline.

I. Overview and Background

This rulemaking provides the following changes to the regional haze regulations:

(1) Revised regulatory text in section 51.308(e)(2)(i) in response to the *Center for Energy and Economic Development (CEED)* v. *EPA* court's remand, to remove the requirement that the determination of the BART ''benchmark'' be based on cumulative visibility analyses and to clarify the process for making such determinations;

(2) New regulatory text in § 51.308(e)(2)(vi), to provide minimum elements for cap and trade programs adopted in lieu of BART; and

(3) Revised regulatory text in § 51.309, to reconcile the optional framework for certain western States and Tribes to implement the recommendations of the Grand Canyon Visibility Transport Commission (GCVTC) with the *CEED* v. *EPA* decision.

How This Preamble Is Structured

Section I provides background on the BART requirements of the CAA as codified in the Regional Haze Rule, on the decision in American Corn Growers in which the DC Circuit vacated and remanded parts of the rule addressing the BART requirements, on the June 2005 BART rule, and on the EPA's approval of the WRAP Annex and the

subsequent litigation. Section II discusses specific issues relating to the revisions to § 51.308(e)(2) of the Regional Haze Rule governing alternatives to source-by-source BART. Section III discusses specific issues relating to the revisions to § 51.309 of the Regional Haze Rule pertaining to the optional emissions trading program for certain western States and Tribes. Section IV provides a discussion of how this rulemaking complies with the requirements of Statutory and Executive Order Reviews.

The Regional Haze Rule and BART Guidelines

In 1999, we published the Regional Haze Rule to address visibility impairment produced by a multitude of sources and activities which emit fine particles and their precursors and which are located across a broad geographic area (64 FR 35714). The Regional Haze Rule requires States to submit State implementation plans (SIPs) to address regional haze visibility impairment in 156 federally-protected parks and wilderness areas, such as the Grand Canyon and Yosemite. These 156 scenic areas are called ''mandatory Class I Federal areas'' in the CAA [1] but are referred to simply as ''Class I areas'' in today's rulemaking. The 1999 rule was issued to fulfill a long-standing EPA commitment to address regional haze under the authority and requirements of sections 169A and 169B of the CAA.

As required by the CAA, we included in the final Regional Haze Rule a requirement for BART for certain large stationary sources that were put in place between 1962 and 1977. We discussed these requirements in detail in the preamble to the final rule (64 FR 35737–35743). The regulatory requirements for BART were codified at section 51.308(e) and in definitions that appear in section 51.301.

In the preamble to the Regional Haze Rule, we committed to issuing further guidelines to clarify the requirements of the BART provision. These guidelines were issued on July 6, 2005 in a final rule entitled ''Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations' (''the BART Rule'') (70 FR 39104). The purpose of the BART guidelines is to assist States as they identify which of their BART-eligible sources should undergo a BART analysis (i.e., which are ''sources subject to BART'') and select appropriate controls (''the BART determination'').

We explained in the preamble to the 1999 Regional Haze Rule that the BART requirements in section 169A(b)(2)(A) of the CAA demonstrate Congress' intent to focus attention directly on the problem of pollution from a specific set of existing sources (64 FR 35737). The CAA requires that any of these existing sources ''which, as determined by the State, emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility [in any Class I area],'' shall install the best available retrofit technology for controlling emissions.[2] In determining BART, the CAA requires the State to consider several factors that are set forth in section 169A(g)(2) of the CAA, including the degree of improvement in visibility which may reasonably result from the use of such technology.

Because the problem of regional haze is caused in large part by the long-range transport of emissions from multiple sources, and for certain technical and other reasons explained in that rulemaking, we had adopted in the 1999 rule an approach that required States to look at the contribution of all BART sources to the problem of regional haze in determining both applicability and the appropriate level of control for BART. Specifically, we had concluded that if a source potentially subject to BART is located in an area from which pollutants may be transported to a Class I area, that source ''may reasonably be anticipated to cause or contribute'' to visibility impairment in the Class I area. We had also concluded that in weighing the factors set forth in the statute for determining BART, the States should consider the collective impact of BART sources on visibility. In particular, in considering the degree of visibility improvement that could reasonably be anticipated to result from the use of such technology, we stated that the State should consider the degree of improvement in visibility that would result from the cumulative impact of applying controls to all sources subject to BART. We concluded that the States should use this analysis to determine the appropriate BART emission limitations for specific sources.[3]

The 1999 Regional Haze Rule also included provisions in section 51.309 based on the strategies developed by the GCVTC. Certain western States and Tribes were eligible to submit implementation plans under section 51.309 as an alternative method of achieving reasonable progress for those Class I areas covered by the GCVTC's analysis—i.e., the 16 Class I areas on the Colorado Plateau. In order for States and Tribes to be able to utilize this section, however, the rule provided that EPA must receive an ''Annex'' to the GCVTC's final recommendations. The purpose of the Annex was to provide the specific provisions needed to translate the GCVTC's general recommendations for stationary source sulfur dioxide (SO_2) reductions into an enforceable regulatory program. The rule provided that such an Annex, meeting certain requirements, be submitted to EPA no later than October 1, 2000. *See* section 51.309(d)(4) and (f)(2000).

American Corn Growers v. EPA

In *American Corn Growers*, industry petitioners challenged EPA's interpretation of the BART determination process and raised other challenges to the rule. The court in *American Corn Growers* concluded that the BART provisions in the 1999 Regional Haze Rule were inconsistent with the provisions in the CAA ''giving the states broad authority over BART determinations.'' 291 F.3d at 8. Specifically, with respect to the test for determining whether a source is subject to BART, the court held that the method EPA had prescribed for determining which eligible sources are subject to BART illegally constrained the authority Congress had conferred on the States. Id. The court did not decide whether the general collective contribution approach to determining BART applicability was necessarily inconsistent with the CAA. Id. at 9. Rather, the court stated that

> ''[i]f the [Regional Haze Rule] contained some kind of a mechanism by which a state could exempt a BART-eligible source on the basis of an individualized contribution determination, then perhaps the plain meaning of the Act would not be violated. But the [Regional Haze Rule] contains no such mechanism.''

Id. at 12.

The court in *American Corn Growers* also found that our interpretation of the CAA requiring the States to consider the degree of improvement in visibility that would result from the cumulative impact of applying controls in determining BART was inconsistent with the language of the CAA. 291 F.3d at 8. Based on its review of the statute, the court concluded that the five statutory factors in section 169A(g)(2) ''were meant to be considered together by the states.'' Id. at 6.

The final rule promulgated on July 6, 2005 responded to the *American Corn Growers* court's decision on the BART provisions by amending the Regional Haze Rule at § 51.308 and by finalizing

[1] *See*, e.g. CAA section 169(a)(1).

[2] CAA sections 169A(b)(2) and (g)(7).

[3] *See* 66 FR 35737–35743 for a discussion of the rationale for the BART requirements in the 1999 Regional Haze Rule.

changes to the BART guidelines at part 51, appendix Y (70 FR 39104). These changes eliminate the previous constraint on State discretion and provide States with appropriate techniques and methods for determining which BART-eligible sources ''may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class I Federal area.'' In addition, the revised regulations list the visibility improvement factor with the other statutory BART determination factors in section 51.308(e)(1)(A), so that States will be required to consider all five factors, including visibility impacts, on an individual source basis when making each individual source BART determination, rather than considering the cumulative impacts of all BART sources on visibility (''group BART'').

The Annex Rule

In a rule dated June 5, 2003, EPA approved the WRAP's Annex to the GCVTC report (68 FR 33764). In this action, referred to as the ''Annex rule,'' EPA approved the quantitative SO_2 emission reduction milestones and the detailed provisions of the backstop market trading program developed by the WRAP as meeting the requirements of section 51.309(f), and therefore codified the Annex provisions in section 51.309(h). Subsequently, five States and one local agency submitted SIPs developed to comply with all of section 51.309, including the Annex provisions at section 51.309(h). In accordance with section 51.309(c) these SIPs were submitted prior to December 31, 2003.

Center for Energy and Economic Development v. EPA

The EPA's approval of the Annex rule was challenged by CEED on, among other grounds, that the CAA prohibits EPA from allowing States to adopt alternative measures, such as a trading program, in lieu of BART. The court, in *CEED* v. *EPA*, affirmed our interpretation of section 169A(b)(2) of the CAA as allowing for alternatives to BART where those alternatives are demonstrated to make greater progress than BART. *CEED* v. *EPA*, 398 F.3d at 659–660. The court, however, took issue with the methodology that EPA had required the States to use in that demonstration, pursuant to certain provisions of the Regional Haze Rule. As noted above, § 51.308(e)(2) of the 1999 Regional Haze Rule required that visibility improvements under source-specific BART—the benchmark for comparison to the alternative program—must be estimated based on the application of BART controls to all sources subject to BART. This section was incorporated into the WRAP Annex rule by reference at § 51.309(f). The court held that EPA could not require this type of ''group BART'' approach, which was vacated in *American Corn Growers* in a source-specific BART context, even in an alternative trading program in which State participation was wholly optional.

The BART guidelines as proposed in May 2004 contained a section offering guidance to States choosing to address their BART-eligible sources under the alternative strategy provided for in § 51.308(e)(2). This guidance included a broad overview of the steps in developing an emissions trading program and criteria for demonstrating that such a trading program would achieve greater progress towards eliminating visibility impairment than would BART. In light of the D.C. Circuit's decision in *CEED* v. *EPA* in 2005, we did not include the overview of emissions trading programs in the final BART guidelines. We did note, however, that our authority to address BART through alternative means was upheld in *CEED* v. *EPA* and that we remained committed to providing States with that flexibility. Today's revisions to the Regional Haze Rule, which responds to the holding in *CEED* v. *EPA*, provide the flexibility that States need to implement alternatives to BART.

Overview of Changes to §§ 51.308(e)(2) and 51.309 of the Regional Haze Rule

The EPA continues to support State efforts to develop trading programs and other alternative strategies to fulfill the goals of the CAA. We believe such strategies have the potential to achieve greater progress towards the national visibility goals than more traditional approaches to regulation, and to do so in the most cost-effective manner practicable. In August 2005, we proposed amendments to the Regional Haze Rule to enable States to continue to develop and implement such programs (70 FR 44154, August 1, 2005). Today's rule finalizes these amendments, including changes in response to comments on the proposal.

First, we are amending the generally applicable provisions at § 51.308(e)(2), which prescribe the type of analysis used to determine emissions reductions achievable from source-by-source BART, for purposes of comparing to the alternative program. These amendments reconcile the methodology for determining whether an alternative program is approvable with the court's decision in *CEED* v. *EPA*. Today's rule also establishes the minimum elements of an acceptable cap and trade program and provides for consistent application of the BART guidelines for electric generating units (EGUs) between source-by-source programs and alternative cap and trade programs.

Second, we are amending section 51.309 to enable certain western States and Tribes to continue to utilize the strategies contained in the GCVTC report as an optional means to satisfy reasonable progress requirements for certain Class I areas, for the first long-term planning period. These changes provide States and Tribes with an opportunity to revise and resubmit the backstop SO_2 emissions trading program absent any requirement to assess visibility on a cumulative basis when determining the emissions reductions achievable by source-by-source BART.

II. Revisions to Regional Haze Rule § 51.308(e)(2) Governing Alternatives to Source-by-Source BART

In this section of the preamble, we discuss changes or clarifications to the provisions proposed in August, 2005. Where relevant, we also respond to significant comments received during the comment periods on our earlier BART proposals. For each provision that we are changing or clarifying, where relevant, we provide discussion of comments received on the proposal(s), changes or clarifications we are finalizing, and the reasons for these changes or clarifications.

A. Establishing a BART Benchmark and Demonstrating Greater Reasonable Progress Than BART

The Regional Haze Rule provides States with the authority to implement an emissions trading program or other alternative measures in lieu of meeting the requirements for source-by-source BART. Under this provision of the Regional Haze Rule, States have the flexibility to design programs to reduce emissions from stationary sources in a more cost-effective manner so long as they can demonstrate that the alternative approach will achieve greater reasonable progress towards improving visibility than would have been achieved by implementation of the BART requirements.

As described in the preamble to the August proposal, the 1999 Regional Haze Rule had specified a methodology for comparing an alternative trading or other type program against source-by-source BART. These regulations were challenged following a rulemaking by EPA to revise the Regional Haze Rule to incorporate an optional emissions trading program for certain Western States and Tribes (the Annex rule). The

court in *CEED* v. *EPA*, granted petitioner's challenge to the Annex rule because EPA's regional haze regulations had required the States submitting the Annex to consider ''the impact of all emissions reductions to estimate visibility progress'' in establishing a BART benchmark against which to compare their BART alternative program. In the August proposal, we proposed to revise the method for comparing an alternative trading or other type program against source-by-source BART. Specifically, we proposed to amend the regional haze regulations to provide that States estimate the emission reductions that could be achieved by BART in the same manner as in making source-by-source BART determinations.

Today's final rule revises section 51.308(e)(2) to make clear that the emissions reductions that could be achieved through implementation of the BART provisions at section 51.308(e)(1) serve as the benchmark against which States can compare an alternative program. In short, to demonstrate that a trading program or other alternative program makes greater reasonable progress than BART, the State can develop an estimate of BART emissions reductions using the same approach that it would use to establish source-by-source BART emissions limitations under the BART guidelines. As discussed in more detail below, today's rule also makes clear that where a trading program or other similar alternative program has been designed primarily to meet a Federal or State requirement other than BART, the State can use a more simplified approach to demonstrating that the alternative program will make greater reasonable progress than BART. Such an approach may be appropriate where the State believes the alternative program is clearly superior to BART and a detailed BART analysis is not necessary to assure that the alternative program will result in greater reasonable progress than BART.

Framework for Demonstrating That an Alternative Program Provides for Greater Reasonable Progress

The development of a BART benchmark using the approach for source-by-source BART determinations will require States to identify those existing sources which are BART-eligible, to determine which of those sources are subject to BART, and to then determine the level of control that would be BART for these sources. Once the State has established a BART benchmark, it can then compare the benchmark against the alternative program it has developed. This approach could entail separate visibility analyses in as many as three distinct stages: (1) Determining which BART-eligible sources are subject to BART; (2) determining what BART is for each source subject to BART; and (3) determining the overall visibility improvement anticipated from the application of BART to all sources subject to BART. The following sections discuss the comments received on the visibility analyses in the first two steps, as well as comments on additional issues for determining which sources are subject to BART and the determination of BART for such sources.

Sources Subject to BART

Proposal. In the proposal, we noted that the BART guidelines finalized on July 6, 2005 provide States with guidance on how to determine which BART-eligible sources are reasonably anticipated to cause or contribute to visibility. The Guidelines explain that States may consider all BART-eligible sources to meet this threshold and therefore subject all these sources to review, or, alternatively, that States may determine which BART-eligible sources are subject to BART using the methods for modeling source specific impacts on visibility discussed in the guidance. We noted that by considering all BART-eligible sources to be subject to BART in the context of setting the BART benchmark, States could ease their administrative burden and maximize the number of BART-eligible sources included in the benchmark analysis. Where a State takes this approach, the opportunity for assessing source-by-source visibility impact would still remain at the next step of setting the benchmark—the BART determination analysis.

Comments. Several commenters stated that allowing States to consider all BART-eligible sources to be ''subject to BART'' (*i.e.*, subject to a BART determination analysis) is contrary to the CAA as interpreted by the D.C. Circuit in *American Corn Growers*. Two commenters have indicated that they plan to challenge this provision of the BART guidelines in a petition for review before the D.C. Circuit and are opposed to it in the context of BART alternative programs as well. One of these commenters also stated that it is unclear from the preamble discussion where in the proposed revisions to the regulations this option is authorized.

Final Rule. We are reiterating here, as we pointed out in the proposal, that the language in section 169A(b)(2) of the CAA establishing the threshold for BART review provides a State with the discretion to consider all BART-eligible sources to be subject to BART and to make BART determinations for all its BART-eligible sources. In other words, as noted in the BART guidelines, once a State has identified its BART-eligible sources, it must decide whether (1) to make BART determinations for all of them, or (2) to consider exempting some of them from BART because they may not reasonably be anticipated to cause or contribute to any visibility impairment in any Class I area. As explained in the 1999 Regional Haze Rule, given the nature of regional haze, it would be reasonable for a State to determine that where the State as a whole contributes to visibility impairment at a Class I area, any large stationary source in the State that emits SO_2 or other visibility-impairing pollutants would emit air pollutants that would ''reasonably be anticipated to cause or contribute to any impairment of visibility in [any Class I area].'' CAA Section 169A(b)(2).

This approach is authorized by the regulations through the cross reference to § 51.308(e)(1) in § 51.308(e)(2). By providing that the BART-benchmark should be established by conducting BART determinations in accordance with § 51.308(e)(1), we provide the State with the same options as are available in those provisions for determining source-by-source BART. In the context of subject-to-BART determinations, this includes either considering all BART-eligible sources to be subject to BART or, using the methods described in the BART guidelines or other reasonable approaches, to exempt sources which the State determines are not reasonably anticipated to cause or contribute to any visibility impairment.[4]

The BART Determination

Proposal. The CAA identifies five factors that States are to consider in making BART determinations. One of these factors is ''the degree of improvement in visibility which may reasonably be anticipated to result from

[4] We are also clarifying an unintended ambiguity in the regulatory provisions pertaining to BART determinations under 51.308(e)(1). Specifically, as discussed in the preamble to the BART Rule, consistent with our proposal in 2004, we revised the regional haze regulations to allow States to ''exclude from the BART determination process potential emissions from a source of less than forty tons per year for SO_2 or NO_X, or 15 tons per year for PM_{10}.'' 70 FR at 39117 (emphasis added). The regulatory text at 51.308(e)(1)(ii)(C), however, did not clearly state that the *de minimis* level for PM_{10} should be based on a source's potential to emit. In this rulemaking we are clarifying that States are not required to determine BART for BART-eligible sources with a *potential to emit* less than 15 tons per year of PM_{10}.

the use of [BART].'' Today's rulemaking, in large part, is focused on how States should handle consideration of this factor in establishing a BART benchmark.

In the proposal, we stated that one way to handle the visibility improvement element of the BART determination for all BART sources covered by the program would be to conduct individualized assessments of the visibility improvement expected from each BART source under various control scenarios, as described in the BART guidelines. We noted that such an approach could impose significant resource burdens on the States and solicited recommendations on more streamlined approaches for estimating BART sources' individual impacts that might be appropriate in the context of assessing alternative programs. One area of consideration that we identified is the type of model used. We requested comment on whether regional scale models might be used to consolidate individual source impact analyses into one or a few model runs, and whether this would significantly ease the burden on States.

In the proposal, we also made clear our belief that in determining whether an alternative program provides for greater reasonable progress than would source-by-source BART, States have the discretion to employ a cumulative visibility analysis for purposes of estimating the potential visibility impacts of BART. Based on our analysis of *American Corn Growers and CEED*, we stated that although EPA may not require States to use a cumulative visibility approach to estimating the improvement achievable from BART, States are not barred from using such an approach if they so choose.

Finally, in the proposal preamble, we discussed the situation where emissions reductions at BART-eligible sources are required by CAA requirements other than BART (or to fulfill requirements of a State law or regulation not required by the CAA). We noted that in such cases, a State may wish to evaluate whether the emissions reductions from the program would result in greater reasonable progress towards the national visibility goal than would the installation of BART. We noted that EPA had made such a determination with respect to the Clean Air Interstate Rule (CAIR) for EGUs in States which participate in the CAIR cap and trade program.

We noted that such a situation affects the type of analysis that is permissible to show that the alternative program makes greater reasonable progress than BART. Specifically, where a requirement other than BART determines the level of emissions reductions required from BART-eligible sources (along with other sources), a most-stringent case BART may be used as the BART benchmark. (This most-stringent case BART is essentially a form of ''group BART,'' because is assumes that every BART-eligible source will apply controls). The reason for this is that if it is shown that implementation of another requirement results in greater progress than would the most stringent BART for all the BART-eligible sources, then it can safely be said that this most-stringent-BART benchmark is not the determinative factor in establishing the emission reductions requirement. Therefore, there can be no concern that the group-BART analysis would lead States to adopt an unduly stringent alternative approach.

(1) Types of Models

Comments. The comments submitted supported EPA's proposal that States could use the approach in the Guidelines in making individualized visibility assessments for BART determinations. In response to our request for recommendations for more streamlined approaches to assessing source specific visibility impacts, we received several comments supporting regulations that would allow for this.

One commenter pointed out that streamlined approaches, such as the use of photochemical grid models, would significantly ease the burden on States and Tribes. The commenter also pointed out that § 51.308(e)(1), cross-referenced as the guiding provision for BART determinations in proposed § 51.308(e)(2)(i)(C), does not explicitly recognize streamlined approaches for determining BART. Thus, the commenter believes, EPA should ''take care to ensure that a streamlined approach for the purpose of determining [the BART benchmark] is clear, permissible, and not legally unsound in the final rule.''

Another commenter said that a streamlined approach ''is an appropriate option that should be explicitly recognized and more fully developed in the final rule.'' According to the commenter, either the CMAQ or CAMx regional photochemical models would be suitable for streamlined visibility assessments for BART determinations, but also stated that none of the models is capable of consistently producing unbiased results for all chemical constituents responsible for haze. One State commenter said that States in EPA Region 5 are using the CALPUFF model and it would prefer to continue doing so. The State would not object to allowing other models to be used so long as they are optional.

Another commenter submitted comments detailing the reasons it believes CALPUFF is superior to photochemical grid models for purposes of source-by-source BART analysis. In brief, commenter explained that with grid models, the concentration of pollutants from a point source is automatically diluted evenly across the grid in which the source is located. This dilution effect can be partially redressed by employing smaller grid sizes or by using a hybrid model which employs Lagrangian methods (as used in CALPUFF) close to the source and switches to a grid method farther downstream. However, both of these methods are resource intensive. The commenter therefore believed that CALPUFF, which can use meteorological data bases developed for CMAQ and CAMx, should be the preferred option.

Final Rule. Section 308(e)(1)(ii)(B) requires that, for fossil fuel-fired power plants with a total generating capacity of greater than 750MW, BART determinations be made pursuant to the BART guidelines. With respect to the type of air quality model used for the BART determination, the guidelines instruct States to use CALPUFF or another appropriate dispersion model to determine the visibility improvement expected at a Class I area from the BART control technology being evaluated (70 FR 39170).

We maintain that CALPUFF is the best model currently available for predicting visibility impacts from single sources. The use of regional scale photochemical grid models may have merit, but to date, such models have not been evaluated for single source applications (70 FR 39123). As the science and structure of regional photochemical grid models are improved and demonstrated to successfully predict impacts from single sources (*e.g.* plume in grid or source tagging techniques) at least as well as CALPUFF, such models may become more useful in streamlining the BART benchmark determination. All modeling applications in making BART determinations call for the development of a modeling protocol for all modeling, and States should consult with EPA and the relevant regional planning organization (RPO) before conducting any modeling.

(2) State Discretion to Consider Cumulative Visibility Impacts

Comments. Several commenters said that the Agency's position described in the preamble to the proposed rule—that

States have the discretion to require a cumulative visibility approach in setting the BART benchmark—violates the *American Corn Growers* decision. Most commenters opposed to EPA's proposed interpretation, however, were also careful to point out that this did not indicate opposition to the policy of allowing a ''group BART'' benchmark to be used in the special case of evaluating emissions reductions required by other CAA or State law requirements.

Commenters that objected to EPA's statement that States have the discretion to use ''group BART'' in setting the BART benchmark referenced the courts' opinions in *American Corn Growers* and *CEED* v. *EPA* to argue that such a statement was inconsistent with the CAA. Several commenters cited the *American Corn Growers* court's statement that ''the state must consider the degree of improvement in visibility in national parks and wilderness areas that would result from the source's installing and operating the retrofit technology [in making a BART determination].'' *See American Corn Growers,* 291 F.3d at 7. One commenter emphasized that the court had used the singular noun (''the source's'') rather than the plural as a clear indication that the visibility factor must be assessed on a source-by-source basis. Another commenter pointed to the court's statement, in regard to the approach in the 1999 Regional Haze Rule which separated the visibility factor from the other BART factors, that ''[t]o treat one of the five statutory factors in such a dramatically different fashion distorts the judgment Congress directed the states to make for each BART-eligible source.'' (291 F.3d at 6). No comments were received that explicitly supported EPA's proposed interpretation of the DC Circuit's decisions on this point. Several commenters also claimed that the flexibility to use ''group BART,'' described in the preamble, was not actually provided for in the proposed regulatory text, which cross-referenced to the source-by-source BART determinations prescribed in § 51.308(e)(1). One commenter that strongly opposed EPA's proposed position on this issue noted that ''it is nevertheless true that states can use simplifying assumptions or even apply some type of ''weight of evidence'' test in determining the amount of emissions reductions that BART-eligible sources may be required to undertake as part of a regional trading program'' The commenter did not elaborate on examples of appropriate simplifying assumptions or methods by which weight of evidence could be taken into account.

Where an independent requirement determines the emissions reductions required of BART sources in a trading program or other type of similar program, however, commenters appeared to agree that a BART benchmark can be used that does not depend on source specific visibility assessments. In other words, for BART alternatives that are required by or that satisfy another CAA provision, the BART benchmark to be used in a ''better-than-BART'' test may be established using a group BART approach. In particular, several commenters representing electric utilities and other industries submitted comments agreeing with our interpretation of section 169A of the CAA as allowing other programs to substitute for BART, and agreeing that where an independent requirement determines the emissions reductions required of BART sources, a most-stringent BART benchmark could be used without raising the concerns at issue in the *American Corn Growers* and *CEED* v. *EPA* cases. These commenters particularly agreed with and supported the application of this rationale to the CAIR, as was finalized in the July 6 BART Guidelines rulemaking. One commenter urged EPA to adopt specific regulatory language, as was done in the case of the CAIR, to implement this option both with respect to the WRAP's program and to other programs which may be developed elsewhere.

Final Rule. We have carefully considered the comments on the discussion in the NPRM addressing the discretion of the States in establishing a BART benchmark and concluded that this rulemaking should focus on the type of alternative program that we anticipate that some States may submit in lieu of BART. In providing States with the flexibility to adopt an alternative program, EPA has assumed that States would adopt trading programs, or other substantially similar programs—such as the WRAP's backstop market trading program—as alternatives to source-by-source BART. While it is possible that a State could design a trading program under the authority of section 169A(b)(2)(A) of the CAA (the BART provision), we believe that it is far more likely that a State designing its regional haze plan would adopt a trading program under the broader authority of section 169A(b)(2)(B) (the long-term strategy for making reasonable progress). As such, the regulations promulgated today provide a basic framework for States to demonstrate that any type of alternative program provides greater reasonable progress than BART, but provide greater detail as to how that demonstration might be done for a trading program (or other substantially similar program) designed to fulfill requirements other than BART.

Generally, the comments received criticizing the statement that States have discretion to consider visibility in a cumulative manner in determining whether or not an alternative makes greater reasonable progress than would BART appear to be premised on the argument that any type of program that could be characterized as a BART program—even an alternative program—is bounded by the requirements in section 169A(b)(2)(A). Thus, for example, several commenters cited the *American Corn Growers* court's statement interpreting the definition of BART as grounds for limiting a State's ability to take a different approach in developing an alternative program. In other words, in determining the amount of emissions reductions that sources in a trading program alternative must achieve to demonstrate that the trading program is ''better'' than source-by-source BART, these commenters argued that the States are limited to designing a program that begins with source specific visibility analyses. Applying the same logic, however, States would need to undertake source specific assessments of the other four factors in the BART definition: the costs of control, the energy and nonair quality environmental impacts, any existing pollution control technology in use at the source, and the remaining useful life of the source. Only once the State had ascertained what BART would be at each source subject to BART—based on a thorough source specific analysis of these five factors—could the State then show that its trading program achieves greater reasonable progress. Although the States may certainly adopt such an approach under this final rule, we think it unlikely that States would conduct such an extensive assessment only to then go through the additional, resource intensive steps of establishing a trading program.

The concern underlying these comments appears to be that EPA should not explicitly authorize States to design a program more stringent than required for BART in establishing a BART alternative program under section 169A(b)(2)(A) of the CAA.[5] Obviously,

[5] The comments criticizing the statement by EPA that States have the discretion to require a cumulative visibility analysis do not appear to challenge the general principle that a State may adopt measures in a SIP more stringent than

Continued

under EPA's interpretation of the CAA, upheld by the *CEED* v. *EPA* court, the alternative program must achieve greater reasonable progress than would BART, presumably in most cases by achieving greater emissions reductions over time. However, the commenters opposed to what they label a ''group BART'' approach argue that States must consider source-specific visibility impacts to avoid setting too high a bar for the program. Although the commenters have not suggested that the other simplifying approaches that we have suggested in the past for assessing the costs of control were an inappropriate form of ''group-BART,'' if the CAA requires visibility impacts to be considered on a case-by-case basis, then it would also seem to require that the costs of control and other factors be considered on a case-by-case basis. In other words, these commenters argue that the BART benchmark for an alternative program under section 169A(b)(2)(A) must be based on a case-by-case analysis of what BART would be for each source subject to BART.

The DC Circuit in *CEED* v. *EPA* was not absolutely clear as to whether its decision was based solely on the fact that EPA had required a ''group BART'' approach, or whether the fact the Annex contained such an analysis was in itself a sufficient reason to invalidate the Annex approval. As EPA explained in the proposed rule, we believe that the *CEED* v. *EPA* decision is limited to circumstances where EPA requires or induces States to adopt cumulative approaches that result in programs more stringent than required by the CAA. However, we did not receive comments from any States explicitly supporting our interpretation of the court's holdings, and as we do not anticipate that States will submit plans with trading programs designed only to meet the requirements of section 169A(b)(2), we have concluded that the issue of whether the CAA provides States with the discretion in designing such programs to employ some type of cumulative approach or simplifying assumptions in the process of estimating emissions reductions achievable by source-by-source BART is not relevant to today's rulemaking.

The regulations finalized today provide that as a general matter, States must undertake source specific BART analyses under § 51.308(e)(1) for each source subject to BART in order to estimate the emissions reductions achievable under the source-by-source BART requirements. The use of such a BART benchmark enables a State to design an alternative program that is ''better than BART'' based on a precise estimation of the emissions reductions that could be achieved under BART.

For trading programs where the emissions reductions are required to fulfill CAA requirements other than BART (or to fulfill requirements of a State law or regulation not required by the CAA), we are amending the regulations to make clear that States may establish a BART benchmark based on a simplified BART analysis in such a situation. We agree with commenters that a BART benchmark based on such an analysis raises none of the concerns that were at issue in the *American Corn Growers* and *CEED* v. *EPA* cases. Where a trading program is designed to fulfill other requirements, including the requirement to make reasonable progress, an independent requirement determines the level of reductions achieved and the BART analysis serves only to ensure that the program meets the requirement that a BART alternative make greater reasonable progress than BART. In other words, there is no need to develop a precise estimate of the emissions reductions that could be achieved by BART in order simply to compare two programs. As EPA did in the CAIR, States should have the ability to develop a BART benchmark based on simplifying assumptions as to what the most-stringent BART is likely to achieve. The regulations finalized today therefore provide that where an emissions trading program has been designed to meet a requirement other than BART, including the reasonable progress requirement, the State may establish a BART benchmark based on an analysis that includes simplifying assumptions about BART control levels for sources within a source category.

We do agree with commenters that EPA should issue regulatory language expressly allowing for the use of a BART benchmark based on a simplified BART analysis for demonstrating that emissions reductions required by other provisions also make greater reasonable progress than BART and may be used to substitute for BART. We have finalized such a provision at § 51.308(E)(2)(i)(C). This will help clarify that in such cases, the BART benchmark is not the ''driver'' of emissions reductions and is therefore not subject to the concerns on which the DC Circuit decided *American Corn Growers* and *CEED*.

Role of BART Guidelines for EGUs in Determinations Proposal

The BART guidelines establish control levels or emission rates as presumptive standards for EGUs greater than 200 MW capacity at plants with a total generating capacity in excess of 750 MW. We proposed that the States apply these presumptive standards contained in the final BART guidelines in developing a BART benchmark for a trading program or other alternative that includes such EGUs. In other words, when States are estimating emission reductions achievable from source-by-source BART, they must assume that the EGUs which would otherwise be subject to BART will control at the presumptive level, unless the State demonstrates that such presumptions are not appropriate at particular units. The preamble to the proposed rule explained that this would be accomplished by the cross reference to § 51.308(e)(1) within proposed § 51.308(e)(2)(i)(C), the provision prescribing the method of setting the BART benchmark. Section 51.308(e)(1), in turn, provides that BART determinations for EGUs of greater than 200 MW capacity at plants with a total generating capacity greater than 750 MW must be done in accordance with the BART guidelines in appendix Y to part 51.

Comments. One commenter said that the presumptive standards for EGUs are too lenient and should be lowered before EPA allows States to use them for purposes of a ''better than BART'' demonstration. Another commenter supported the use of the presumptive standards in this context, but contested the preamble statement that the presumptive standards ''apply to certain EGUs on a mandatory basis'' because, according to the commenter, the presumptions are not mandatory in that they are rebuttable. Another commenter argued that the use of presumptive standards would make the installation of controls more likely, without regard to the visibility benefit expected. The commenter believes EPA use of presumptions is incompatible with CAA section 169A as interpreted in American Corn Growers and incompatible with EPA's authority to issue BART guidance for EGUs of 750 MW or greater.

Final Rule. The final rule promulgated on July 6, 2005, addresses the authority of EPA to establish the presumptions in the BART guidelines for certain EGUs, as well as the level of control reflected by those presumptions. In the NPRM, EPA did not request comment on the presumptions established in the Guidelines, but rather whether these presumptions should be

required under the CAA, except where explicitly prohibited. *See Union Electric Co.* v. *EPA,* 427 U.S. 246, 263–264 (1976); *see also Summary of Comments on the Revisions to Provisions Governing Alternative to Source-specific Best Available Retrofit Technology (BART) Determinations,* Docket ID No. EPA–HQ–OAR–2002–0076, *www.regulations.gov.*

used in establishing a BART benchmark for comparing an alternative program to BART.

In today's final rule, the regulations make clear that, with one exception, States must follow the approach for making BART determinations under section 51.308(e)(1) in establishing a BART benchmark. This includes the requirement for States to use the BART guidelines in making BART determinations for EGUs at power plants of a certain size. As discussed above, the one exception to this general approach is where the alternative program has been designed to meet requirements other than BART; in this case, States are not required to make BART determinations under § 51.308(e)(1) and may use simplifying assumptions in establishing a BART benchmark based on an analysis of what BART is likely to be for similar types of sources within a source category. Under either approach to establishing a BART benchmark, we believe that the presumptions for EGUs in the BART guidelines should be used for comparison to a trading program or other alternative measure, unless the State determines that such presumptions are not appropriate for particular EGUs. We note that this limitation on the use of the presumptions is most likely to apply only in a source-by-source determination under § 51.308(e)(1). States establishing a BART benchmark based on simplifying assumptions as to the most-stringent BART for EGUs may rely on the presumptions, as EPA did in the CAIR rule. For States considering the appropriateness of the presumptions in specific cases, the same criteria discussed in the BART guidelines should guide them in reaching a conclusion. Thus, the presumptive standards are ''mandatory'' for the identified EGUs, in that the presumption must be applied to the specified class of EGUs; but the presumptive standards are rebuttable, as explained in the BART guidelines.

We do not agree that EPA should revise the presumptive standards before allowing States to use them for purposes of establishing a BART benchmark. We believe it is appropriate for the States to use the same presumptions in developing the BART benchmark that they would use in making BART determinations.

We determined in the BART final rule that the limits represented by the presumptions are cost effective for large EGUs at the largest power plants. We believe that the presumptions represent a reasonable estimate of a stringent case BART, particularly because in developing a BART benchmark they would be applied across the board to a wide variety of units with varying impacts on visibility, at power plants of varying size and distance from Class I areas.

We do not agree that the use of presumptive standards ignores the visibility benefits to be expected from the control of the EGUs covered by the presumption. In the final BART guidelines establishing the presumptions, EPA took into account the degree of improvement in visibility that would result from the installation of the presumptive level of controls in finding that such controls should generally be found to be BART. As explained in the preamble to the BART guidelines, controlling the type of sources covered by the presumptions at the level of the presumptive standards is likely to result in a substantial degree of visibility improvement based on EPA's modeling analyses.

Minimum Universe of Sources Covered

Proposal. In the 1999 Regional Haze Rule, the provisions for alternative programs to BART at section 51.308(e)(2) contained a requirement that such a program must include, at a minimum, each BART-eligible source within the State. In the August 1, 2005 proposal, we noted that having had the occasion to consider BART alternative programs in more detail, we believed that some categories of BART eligible sources might not be appropriate for inclusion in a cap and trade program. We provided the example of the difficulty in quantifying emissions with sufficient accuracy to participate in a trading program for some source categories. We therefore proposed to allow States to use a trading program or alternative measure to substitute for BART for some source categories, while requiring source-by-source BART for BART-eligible sources in any source categories not covered by the alternative program. We further proposed that for any categories which were included in the alternative program, we would retain the requirement that all BART-eligible sources in the State within that source category must be subject to the program. *See* proposed section 51.308(e)(2)(ii). One reason for this proposed provision was to prevent any shifting of emissions from covered to non-covered BART eligible sources, which could potentially undermine the effectiveness of the emissions cap. In a related provision we proposed, as one of the minimum elements of a cap and trade program, that the applicability provisions must be designed to prevent any significant potential shifting of production and emissions within the State or multi-State region. See proposed section 51.308(e)(2)(vi)(A).

Comments. Several commenters opposed the requirement to include in the alternative program all BART-eligible sources within a source category. Several of these commenters argued that such a requirement is a form of ''group BART'' invalidated by the DC Circuit because it would impose requirements on BART eligible sources without a demonstration that those sources are reasonably anticipated to cause or contribute to visibility impairment. One commenter argued that the requirement was unjustified as a practical matter, at least in the case of the forest products industry, because in order to be economically viable mills must be operated at near capacity. This would leave no leeway for production and emissions shifting. The commenter also argued that the provision is conceptually unjustified, considering that under a conventional source-by-source program, emissions shifting theoretically could occur to BART-eligible sources which were determined to be exempt from BART because they do not cause or contribute to visibility impairment. The commenter argued that it would be illegal to impose ''compensating costs'' on such sources outside the trading program context. The implication of this comment is that it would also be illegal to impose such costs on these BART-eligible sources by requiring them to participate in the alternative program.

In contrast, one State commented that allowing some source categories to add controls while others may avoid controls by buying reductions elsewhere would be contrary to its management principles. This commenter thought that the use of a trading program to address haze for some but not all sources subject to BART might be counter-productive. Similarly, another commenter noted that ''carving out source categories would only shrink the universe of potential participants, the opposite of what is needed for a successful trading program.''

Final Rule. Having carefully considered the comments and the relationship between the requirement for category-wide participation of BART-eligible sources and the requirements for the State to address emissions shifting, we are adopting final provisions that maximize the flexibility of the States while insuring that the BART-eligible sources are addressed in some fashion by the States. As we noted in 1999 in establishing the criteria governing BART alternative trading programs, the legislative history of the

CAA demonstrates Congress' recognition of the need to control emissions from a specific set of sources. We are therefore finalizing in this rule that States must require that each BART-eligible source in the State either participate in a BART alternative program or, alternatively, be subject to the case-by-case BART requirements under section 51.308(e)(1). In other words, States are not required to include each BART-eligible source in a source category in an alternative program; however, any BART-eligible sources not included in an alternative program would remain subject to the general requirements governing BART sources.

For most trading programs, we do not anticipate that this requirement will have a significant impact on the scope of the program. Because trading programs generally include all sources within a source category in a trading region, trading programs designed to meet either reasonable progress goals or other requirements of the CAA are likely to have broad applicability provisions that encompass all BART-eligible sources in the trading region (or at least all BART-eligible sources within certain categories of sources for some trading programs). States have the inherent authority to determine the applicability of their regulations for programs such as those designed to meet reasonable progress requirements, or to attain the National Ambient Air Quality Standard (NAAQS), and are most likely to design programs with applicability provisions that are not dependent on factors such as the age of sources covered by the program. For example, States in the WRAP designed their program to apply to all stationary sources with actual emissions of 100 tons per year or more, regardless of the type of source or the age of the facility.

We disagree that the requirement that States either require BART-eligible sources to participate in a trading program or go through a BART analysis is a form of ''group BART'' that would illegally impose requirements on such sources without a demonstration that those sources emit a pollutant that may reasonably be anticipated to cause or contribute to visibility impairment. As noted above, for programs designed to meet other requirements of the CAA, we would expect that the States would design programs that apply broadly, and nothing in the BART provisions of the CAA limits a States' ability to regulate BART-eligible sources under other provisions in the CAA. Thus, for example, a State need not demonstrate that an EGU built between 1962 and 1977 has a certain measurable impact on visibility before regulating it under the CAIR. Rather, the BART sources would be treated in the same manner as other sources in the State.[6]

In the case of programs designed solely to satisfy BART requirements, which may arguably be limited to BART sources only, the approach set forth in the final rule provides the opportunity for an individual source not to be regulated by a trading program. In particular, rather than participate in a trading program, a source may demonstrate that it does not meet the ''subject to BART'' test or that BART should be ''no control'' in its particular case, seek an exemption from the Administrator under section 51.308(e)(4), or install BART controls. This approach therefore avoids any potential problems involving BART-eligible sources which are not reasonably anticipated to cause or contribute to visibility impairment being illegally subject to program requirements. Rather, section 51.308(e)(2) provides BART-eligible sources which are reasonably anticipated to cause or contribute to visibility the opportunity to participate in a trading program instead of meeting source specific control limits.

Our concerns with emissions shifting will be addressed under the more general requirements applicable to trading programs. These provisions require States to demonstrate that the applicability provisions are designed to prevent any significant, potential shifting within the State of production and emissions from sources in the program to sources outside the program. This provision addresses emissions shifting from sources in the program to those outside the program, irrespective of the BART-eligibility status of the sources. Moreover, this demonstration will enable States to take into account the type of practical and economic factors raised by commenters which may obviate theoretical concerns with emission shifting. We also note that the periodic SIP updates required under § 51.308(g) of the regional haze rule will provide an opportunity to assess whether emissions shifting is in fact a problem.

Comparison of BART and Alternative Scenarios

Proposal. In the NPRM, we proposed several changes to § 51.308(e)(2)(i). As explained in the preamble, the critical revision to that section to bring it into compliance with the decision of the DC Circuit in CEED v. EPA was to remove the requirement of a bifurcated approach to establishing the BART benchmark. We also proposed additional changes in the section which were intended to establish a clear ''framework'' or step-by-step procedure for comparing an alternative program to source-by-source BART. This consisted of a five-step procedure in proposed paragraphs (A)–(E) within § 51.308(e)(2)(i). In brief, those steps were: (A) List all BART-eligible sources, (B) list all BART source categories covered by the program, (C) analyze the degree of visibility improvement at each affected Class I area expected as a result of the application of BART pursuant to paragraph (e)(1) at each source subject to BART in each source category covered by the program, (D) analyze the emissions reductions and associated visibility improvement expected under the trading program or other alternative measure, and (E) compare the results of the steps in paragraphs (C) and (D) using the method prescribed under § 51.308(e)(3).

Section 51.308(e)(3), which was finalized in the BART guidelines rulemaking, establishes criteria for determining whether an alternative program makes greater reasonable progress than source-by-source BART. First, if the distribution of emissions is similar between the two scenarios, the comparison may be made on the basis of emissions alone. In that case, the alternative program may be deemed to make greater reasonable progress than BART if it results in greater emissions reductions than source-by-source BART. If, however, the geographic distribution of emissions reductions is significantly different under the two alternatives, the State must conduct visibility modeling and evaluate the alternative program under a two-pronged test. The first prong is that the alternative program must not cause a decline in visibility at any Class I area. The second prong is that there is an overall improvement in visibility under the alternative program, ''determined by comparing the average differences between BART and the alternative over all affected Class I areas.'' See section 51.308(e)(3).

In proposing the above-described structure of section 51.308(e)(2), we noted that we were proposing to add the term ''affected'' to modify the term ''Class I areas'' in paragraph (C). The purpose of this was to clarify that a State need not evaluate visibility improvement at every Class I area nationwide. We also noted that, as

[6] In theory, a State could design a program to meet the reasonable progress or other requirements of the CAA that does not have sufficiently broad applicability provisions to encompass all BART sources. For example, a State could adopt a program that covers all sources with SO_2 emissions greater than 1000 tons per year. In such a case, the BART sources not subject to the trading program would be subject to the requirements of section 308(e)(1).

described in the preamble to the final BART guidelines, States have discretion in defining an ''affected'' Class I area.

Finally, while noting that section 51.308(e)(3) had been finalized, we sought comment on whether EPA should allow other means of demonstrating that an alternative program makes greater reasonable progress than would BART. Specifically, we solicited comments on whether a weight of evidence approach would be appropriate. We gave the following scenario as an example of a situation where such an approach might be appropriate: ''(1) The alternative program achieves emissions reductions that are within the range believed achievable from source-by-source BART at affected sources, (2) the program imposes a firm cap on emissions that represents meaningful reductions from current levels and, in contrast to BART, would prevent emissions growth from new sources, and (3) the State is unable to perform a sufficiently robust assessment of the programs using the two pronged visibility test due to technical or data limitations.''

Comments. One commenter noted that there was a contradiction between the terms of § 51.308(e)(3) as finalized and § 51.308(e)(2) as proposed. Specifically, whereas under § 51.308(e)(3), dispersion modeling is required only if the distribution of emissions distribution is significantly different, under the alternative measure, in proposed section 51.308(e)(2), dispersion modeling is required as a matter of course in developing the two scenarios to be compared.

Several commenters also supported the ''weight of evidence'' approach to demonstrate that an alterantive makes greater reasonable progress than BART. One commenter specified that the ''regulation should require a weight of evidence demonstration to include emission inventory, monitoring data, meteorology, and various data analysis studies,'' and that modeling should not necessarily be weighted more heavily than the other factors listed.

With respect to the definition of an ''affected'' Class I area, one commenter pointed to possible inconsistent application among States and uncertainty as to which States should make the determination (i.e., only the State which contains the Class I area, or other States as well). The commenter therefore requested that EPA clarify when a Class I area is affected by emissions and the radius from a source within which an analysis should be done.

Another commenter claimed that our discussion of section 51.308(e)(3) re-opened that provision for comment in this rulemaking and created a renewed opportunity for judicial review. The commenter then raised several arguments regarding the legality of section 51.308(e)(3) under the CAA. The commenter argued that the proposed rule was overly broad in failing to specify that only sources participating in a trading program or other alternative measure may satisfy BART for those sources and the specific visibility-impairing pollutant at issue. The commenter also argued that the test is impermissibly vague in providing for dispersion modeling if the distribution of emission is ''substantially different.'' The commenter also claimed that by allowing States to compare ''average differences'' between BART and the alternative over all affected Class I areas was inconsistent with the CAA. Finally, the commenter responded to our request for comment on a weight of evidence test, stating that allowing unspecified ''qualitative factors'' to trump other, more quantitative assessments would dramatically weaken the rule.

Final Rule. We agree with commenters who pointed to the inconsistency between the proposed provisions of section 51.308(e)(2) and the existing terms of section 51.308(e)(3). This conflict was the result of inadvertent error, and we are correcting it in the final rule. Specifically, we have eliminated the clauses within section 51.308(e)(2)(C) and section 51.308(e)(2)(D) which required that visibility improvement be projected at those steps in the process. Instead, these paragraphs call only for an assessment of emissions reductions under BART and alternative scenarios, respectively. We have also clarified in section 51.308(e)(2)(E) that visibility projections are required only if necessary, pursuant to section 51.308(e)(3).

Because we have eliminated the requirement for visibility projections within the analysis prescribed in section 51.308(e)(2), there is no longer a need to define an affected Class I area in the context of this section. Instead, that term is defined in the context of section 51.308(e)(3), at the States' discretion as discussed in the preamble to the final BART rule. *See* 70 FR 39138. The EPA continues to believe that it is not necessary to bound the terms of that discretion upfront through Federal regulation. Any potential problems due to inconsistent application among States can be addressed through the RPO and inter-RPO processes already in place and ultimately through the SIP process. This will allow consideration of the potential effects of local conditions and of particular trading programs as they are developed. It should, therefore, produce more reasoned results than would the establishment of a nationwide, one-size-fits-all radius of influence criterion.

We disagree with comments that EPA reopened section 51.308(e)(3) by discussing the provisions of this section of the rule in the proposal, or that today's rule has impacted the meaning of section 51.308(e)(3).

Notwithstanding the fact that this provision was not reopened, we note that EPA disagrees with the substance of the comments claiming that section 51.308(e)(3) is overly broad and vague. The commenter's concerns regarding the failure of section 51.308(e)(3) to specify that only those sources participating in a trading program may satisfy BART for those sources is addressed in the regulations under section 51.308(e)(2)(i)(B), which provides that each BART-eligible source in a State must be included in an alternative program, have a BART emission limit, or otherwise be addressed under the BART provisions. The commenter's concerns regarding the ''impermissibly vague'' language used in section 51.308(e)(3) that would allow a State to approve alternative measures that are less protective than BART ignore the SIP process. The State's discretion in this area is subject to the condition that it must be reasonably exercised and that its decisions be supported by adequate documentation of its analyses.

We also disagree with the comments criticizing the test finalized in section 51.308(e)(3) for allowing States to consider the average differences between BART and the alternative in determining whether the alternative makes greater reasonable progress. In short, as explained in the response to comments to the BART Guideline rulemaking, EPA believes the test in section 51.308(e)(3) is an appropriate one:

> In addition, within a regional haze context, not every measure taken is required to achieve a visibility improvement at every class I area. BART is one component of long term strategies to make reasonable progress, but it is not the only component. The requirement that the alternative achieves greater progress based on the average improvement at all Class I areas assures that, by definition, the alternative will achieve greater progress overall. Though there may be cases where BART could produce greater improvement at one or more class I areas, the no-degradation prong assures that the alternative will not result in worsened conditions anywhere than would otherwise exist, and the possibility of BART for reasonably attributable visibility protects against any potential ''hot spots.'' Taken

together, the EPA believes these factors make a compelling case that the proposed test properly defines ''greater reasonable progress.'' The EPA anticipates that regional haze implementation plans will also contain measures addressing other sources as necessary to make progress at every mandatory federal Class I area.[7]

With respect to the use of a ''weight of evidence'' approach as an alternative to the methodology of section 51.308(e)(3), we support the use of such a test as an alternative to the methodology set forth in section 51.308(e)(3). ''Weight of evidence'' demonstrations attempt to make use of all available information and data which can inform a decision while recognizing the relative strengths and weaknesses of that information in arriving at the soundest decision possible. Factors which can be used in a weight of evidence determination in this context may include, but not be limited to, future projected emissions levels under the program as compared to under BART, future projected visibility conditions under the two scenarios, the geographic distribution of sources likely to reduce or increase emissions under the program as compared to BART sources, monitoring data and emissions inventories, and sensitivity analyses of any models used. This array of information and other relevant data may be of sufficient quality to inform the comparison of visibility impacts between BART and the alternative program. In showing that an alternative program is better than BART and when there is confidence that the difference in visibility impacts between BART and the alternative scenarios are expected to be large enough, a weight of evidence comparison may be warranted in making the comparison. The EPA will carefully consider the evidence before us in evaluating any SIPs submitted by States employing such an approach.

B. Comments Relating to the Final Determination That CAIR Makes Greater Reasonable Progress Than BART in the July 6, 2005 BART Guideline Rule

In the final BART guidelines rulemaking on July 6, 2005, EPA determined that the CAIR makes greater reasonable progress than BART for certain EGUs and pollutants (70 FR 39138–39143). We did not seek comment on this determination, but we nonetheless received comments related to this final rule.

Comments. Several organizations submitted comments regarding BART relief for non-EGUs in the CAIR region. They assert that the CAIR will achieve more reasonable progress than would BART for all BART-eligible sources in the CAIR region, including non-EGUs. Therefore, they urge EPA to amend its final determination to include BART relief for non-EGUs and to provide supporting analysis for this demonstration.

In contrast, another commenter disagreed with our previous determination that the CAIR will make greater reasonable progress than BART. The commenter acknowledged that that determination was not at issue in this rulemaking. However, this commenter was concerned that there would not be enough BART-eligible sources in non-CAIR States to support an effective BART trading program outside the CAIR region. The commenter was also concerned about the administrative costs that a trading program would impose on non-CAIR States. The commenter therefore urged EPA to establish an alternative mechanism, such as ''an exchange ratio for Acid Rain allowances held, or 'BART' allowances generated by sources located in CAIR states'' in order to allow participation in an effective trading program by sources in non-CAIR States.

One commenter urged EPA to clarify that where another program requires controls of one pollutant at BART-eligible sources, BART applicability for other pollutants is not affected.

One commenter said that it does not believe EPA has the authority to ''circumvent'' CAA requirements for controlling specific BART sources that affect visibility in a Class I area. They believe that EPA should require States to show that all BART sources will be controlled first as part of any showing that an alternative program is ''better than BART.'' This commenter also requested clarification as to which CAA requirements could be included in SIPs to make a ''better than BART'' showing.

Final Rule. The DC Circuit in *CEED* v. *EPA* upheld EPA's interpretation of section 169A of the CAA as allowing for an alternative program, such as an emissions trading program, to be adopted in lieu of source-by-source BART controls. It is EPA's view that emissions reductions required by CAA (or State) provisions other than BART may be used to satisfy BART, so long as the program achieves greater reasonable progress than would BART at the BART-eligible sources affected. The preponderance of comments also supported this position, and the comments in opposition did not raise any arguments that were not addressed either in the course of the CAIR rulemaking or in the final determination that the CAIR may substitute for BART for EGUs in affected States made in the July 6, 2005 rule. As previously explained, ''EPA does not believe that anything in the CAA or relevant case law prohibits a State from considering emissions reductions required to meet other CAA requirements when determining whether source-by-source BART controls are necessary to make reasonable progress.'' (70 FR 39143; *see* also 70 FR 25300–302).

With respect to those comments specifically directed at whether the CAIR makes greater reasonable progress than BART and, if so, what the scope of BART relief should be (i.e., whether it should extend to non-EGUs), it is important to emphasize that the determination that the CAIR makes greater reasonable progress than BART for SO_2 and nitrogen oxides (NO_x) at EGUs in the CAIR region, and thus may substitute for BART for those pollutants and those sources, was finalized in the July 2005 BART rule. Our supporting technical analysis for the determination that the CAIR is ''better than BART'' addressed only the comparative visibility impacts of the CAIR trading programs with respect to EGUs versus BART for EGUs. A determination at this time that the CAIR trading programs for EGUs could substitute for BART at non-EGUs as well as for EGUs is beyond the scope of this rulemaking.

With respect to the request that we clarify that where another program requires controls of one pollutant at BART-eligible sources, BART-eligibility for other pollutants is not affected, we note that EPA agrees with this interpretation of the BART requirements.[8] As a general matter, if a program exists for the control of one pollutant at BART-eligible sources, emissions of other visibility-impairing pollutants merit analysis to determine if visibility impairment is such that additional controls would or would not be warranted. However, it is possible that a State could demonstrate that a trading program that addresses one or two visibility-impairing pollutants under an alternative program would provide greater reasonable progress than would case-by-case BART applied to all visibility-impairing pollutants. With respect to EPA's determination that the CAIR provides for greater reasonable progress than BART for EGUs, EPA found that CAIR States which participate in the EPA-administered

[7] *Summary of Comments and Responses on the 2004 and 2001 Proposed Guidelines for Best Available Retrofit Technology (''BART'') Determinations under the Regional Haze Rule,* Docket Number EPA–HQ–OAR–2002–0076, at 253.

[8] The final BART Guidelines address this general question of applicability. 70 FR at 39161.

CAIR cap-and-trade programs for SO_2 and NO_X would be allowed to treat the participation of EGUs in this program as a substitute for the application of BART controls for these pollutants at affected EGUs. EPA further explained in the preamble to the July 2005 BART rule that a CAIR State that participates in the EPA-administered CAIR seasonal NO_X trading program only, would still need to address BART for SO_2 emissions from EGUs. 70 FR at 39143. In short, EPA's determination that the EPA-administered CAIR trading programs provide for greater reasonable progress than BART was limited to the pollutants covered by the EPA-administered CAIR trading programs in which the State chooses to participate.

Finally, we agree with the comment that EPA should clarify those CAA requirements that a State should include in its implementation plan if it intends to rely on its participation in the CAIR trading programs rather than to require BART for its EGUs. In our July 2005 BART rule, EPA promulgated regulations effectuating our determination that States which adopt the CAIR model trading rules for SO_2 and NO_X would be allowed to treat the participation of EGUs in these programs as a substitute for application of BART controls for these pollutants at affected EGUs. The regulations at 40 CFR 51.308(e)(4) (as established in the July 6, 2005 BART rule) provide the following:

> A State that opts to participate in the Clean Air Interstate Rule cap-and-trade and trade [sic] program under part 96 AAA–EEE need not require affected BART-eligible EGU's [sic] to install, operate, and maintain BART. A State that chooses this option may also include provisions for a geographic enhancement to the program to address the requirement under § 51.302(c) related to BART for reasonably attributable impairment from the pollutants covered by the CAIR cap-and-trade program.

70 FR at 39156. Subparts AAA–EEE of part 96 set forth a portion of the model trading rules (which comprise subparts AAA–III of part 96) that States must incorporate, with some allowed modifications, into their SIPs to participate in the EPA-administered CAIR SO_2 cap-and-trade program. Although the regulations do not specifically address participation in the NO_X cap-and-trade program, EPA fully anticipated that any State choosing to adopt the annual SO_2 model trading rules would also choose to adopt the annual NO_X model trading rules. In addition to numerous practical considerations that would lead States to adopt the model rules for and thus choose to participate in both annual trading programs (as opposed to the SO_2 program only), as noted above, the CAIR substitutes for BART only for those pollutants covered by the EPA-administered CAIR trading programs in which the State chooses to participate. EPA agrees, however, with the comment that the BART requirements for SIPs should be clarified and is revising the regulatory text of the regional haze rule to more closely align with the determination regarding the relationship between CAIR and BART made by EPA in 2005. We are revising the regulations accordingly to make clear that participation in either the annual or seasonal CAIR NO_X cap-and-trade program is a necessary condition for relying on EPA's determination that States can substitute CAIR for BART for NO_X. We are also revising the regulations to clarify that a State that participates only in the ozone season NO_X cap-and-trade program may rely on EPA's determination that CAIR makes greater reasonable progress than BART for NO_X, but, as discussed above, such a State would still need to address BART for SO_2. As noted above, EPA anticipates that all States opting to participate in the annual NO_X cap-and-trade program will also participate in the SO_2 cap-and-trade program.

In addition to clarifying the applicable SIP requirements, we are also revising the regulatory text to account for the rule signed by the Administrator on March 15, 2006 promulgating Federal implementation plans (FIPs) for all jurisdictions covered by the CAIR. These FIPs adopt the model cap-and-trade programs that EPA proposed in the CAIR as a control option for States, with minor adjustments to account for Federal rather than state implementation. Each jurisdiction in the CAIR region will be subject to the requirements set forth in these FIPs when they became effective on June 27, 2006. The EPA intends to withdraw the FIP in a State in coordination with EPA's approval of a SIP for that State that meets the CAIR requirements. However, EPA anticipates that some States may choose to remain subject to the CAIR FIP and either not submit any SIP revisions or submit abbreviated SIP revisions that modify certain limited provisions of the CAIR FIP trading programs. The EPA's determination in the 2005 BART rule that States which adopt the CAIR model trading rules could treat this as a substitute for BART for EGUs was based on our finding that, if the CAIR reductions are achieved through implementation of the EPA-administered trading programs in the model trading rules, CAIR makes greater reasonable progress than BART for these sources. This finding holds true whether a State chooses to submit a SIP under part 96, remain subject to a FIP under part 97, or adopt some combination of the two.

C. Minimum Elements of Cap and Trade Programs

The August proposal discussed a set of minimum elements that any cap and trade program should contain, in order that it be workable and enforceable. We received very little comment on most of the proposed minimum elements. The discussion below focuses only on those provisions on which we received comment. Other elements on which we did not receive comments are finalized as they were proposed, and are not discussed further below.

Penalty Provisions

Proposal. We proposed that the minimum program element for excess emission penalties would be a mandatory deduction, from a source's allowance account, of at least three times the excess emissions. We explained that this allowance deduction must occur automatically upon the State's or Tribe's determination of excess emissions, though it may be reversed if the source successfully appeals that determination. The appeal could be based on the determination of the number of allowances held by the source as of the allowance transfer deadline and available for compliance, the amount of the source's emissions, or the comparison of the amount of the source's emissions and the total tonnage value of the source's allowances held and available for compliance.

Comments. A commenter said that in order to effectively and clearly deter noncompliance and preserve consistency with other cap and trade programs and EPA's economic incentive policies, EPA must require as a minimum element of all cap and trade programs the imposition of monetary penalties for noncompliance, in addition to the automatic allowance deductions prescribed. No other comments were received on this specific issue.

Final Rule. The EPA agrees that cap and trade programs need to have swift and unambiguous penalties to deter noncompliance and to ensure the integrity of the market for allowances. The EPA believes that an automatic allowance deduction penalty of at least three times the amount of excess emissions, which is required under section 51.308(e)(2)(vi)(J), is an effective deterrent for noncompliance. And given that allowances have monetary value, such a deduction would result in an

automatic monetary loss to the entity in question.

The commenter asserted that EPA must require in section 51.308(e)(2)(vi)(J) that a cap and trade program provide for both an automatic offset of any excess emissions (i.e., the automatic deduction of one allowance for each ton of emissions for which an allowance was not held by the source) and an automatic monetary penalty (i.e., the automatic requirement to pay a specified amount of money for each ton of excess emissions). In the proposed regulation, EPA instead took the approach of requiring an automatic allowance deduction of at least three allowances for each ton of excess emissions. This deduction includes both an automatic one-to-one offset and an automatic allowance penalty of at least two-to-one. The commenter failed to explain why giving up allowances in addition to a one-for-one offset provides any less deterrence for noncompliance than paying money in addition to a one-for-one offset. Each allowance has a monetary value on the allowance market, and the source is penalized for noncompliance by having to give up assets whether the assets are in the form of allowances or in the form of money. In short, there is nothing inherent in the nature of an automatic allowance deduction that would make such a deduction any less effective a deterrent than an automatic monetary penalty.

Further, EPA believes that the cost, to a source, of a penalty for excess emissions should be significantly greater than the cost, to a source, of purchasing allowances to be in compliance. The most straight-forward way of ensuring a consistent relationship between the cost of noncompliance (i.e., the excess emissions penalty) and the cost of compliance is to impose an excess emissions penalty in the form of an automatic allowance deductions that are a fixed multiple of the amount of excess emissions. Here, the automatic penalty consists of at least a three-to-one allowance deduction, which includes the one-for-one offset plus an additional two-for-one allowance surrender. The EPA notes that the commenter did not object to this level of penalty, but simply claimed that the penalty should have a portion in the form of money. The EPA believes that the level of the penalty, as well as the form of the penalty, specified in section 51.308(e)(2)(vi)(J) are reasonable.

Finally, the commenter errs in its assertion that EPA's approach in section 51.308(e)(2)(vi)(J) deviates from ''long-standing'' policies in requiring automatic allowance deductions rather than automatic monetary penalties for cap and trade programs. In fact, EPA took the same approach in the NO_X Budget Trading Program regulations promulgated in 1998 (63 FR 57356, 57528) (section 96.54(d)(1))) and in the CAIR trading program regulations recently promulgated in 2005 (70 FR 25162, 25353, 25373–74, and 25396)(section 96.154(d)(1), section 96.254(d)(1), and section 96.354(d)(1)) and Clean Air Mercury Rule (CAMR) trading program regulations promulgated in 2005 (70 FR 28606, 28669) (section 60.4154(d)(1)). The EPA notes that, for any trading program established under the CAA, a source with excess emissions is subject to discretionary monetary penalties under section 113 of the CAA, in addition to the automatic penalties established by the respective trading program. *See*, e.g., 63 FR 57528 (section 96.64(d)(3) (stating that the automatic penalty under NO_X Budget Trading Program does not affect liability for any other penalty under the CAA).

Emissions Monitoring

Proposal. In the NPRM, we proposed a requirement that the monitoring, recordkeeping, and reporting provisions for boilers, combustion turbines, and cement kilns participating in a trading program comply with part 75, and that other sources in the program include monitoring, recordkeeping, and reporting provisions that result in information of the same precision, reliability, accessibility and timeliness as provided for under part 75. This proposed requirement was based on the need for consistent and accurate measurement of emissions to ensure that each allowance actually represents its specified tonnage value of emissions and that reported emissions are fungible across different sources. We also proposed that any sources that are subject to the cap and trade program but prohibited from selling emissions allowances would not be subject to the requirement that the monitoring, recordkeeping, and reporting provisions be consistent with, or equivalent to, part 75.

Comments. Several commenters expressed concerned that the emissions monitoring requirement would be unduly burdensome for small sources which are not currently subject to monitoring requirements. One commenter stated that because the cost of operating continuous emissions monitors (CEMs) tends not to decline proportionally with emissions or output, the costs of CEMs for small industrial sources is much higher than for large EGUs on a per-ton basis. The commenter also argued that the superior accuracy of CEMs compared to other methods such as emission factors, on a percentage basis, was not worth the cost when applied to the total emissions from small sources. The commenter therefore suggested that EPA should allow States to assume, when establishing the BART benchmark, that individual emissions units with annual emission levels less than the *de minimis* levels would not be controlled, and to the extent that such sources are required to participate in a BART trading program, that they not be required to use CEMs. Another commenter, citing similar concerns, suggested that EPA could establish a threshold source size for each affected source category, and provide alternatives to Part 75 monitoring for sources below the threshold. The commmenter also suggested allowing alternatives such as parametric monitoring or periodic sources test, possibly with the use of a conservative adjustment factor to compensate for the greater uncertainty of those methods.

Final Rule. The EPA is aware of the need to balance considerations of the accuracy and reliability of emissions monitoring and reporting with costs considerations, particularly as applicable to small sources. We believe the approach contained in the proposal strikes the proper balance and provides States with adequate flexibility to address sources' concerns with the cost of CEMs monitoring. First, the requirement to comply with part 75 only applies to boilers, combustion turbines and cement kilns. For all other sources, the requirement is that the sources ''provide information with the same precision, reliability, accessibility, and timeliness'' as provided by part 75. Any sources which are prohibited from selling allowances (including boilers, combustion turbines, or cement kilns) are not required either to comply with, or be consistent with, part 75.

Second, even within part 75, there are alternatives to CEMs in appropriate circumstances. As explained in a footnote in the proposal, part 75 establishes requirements for CEMS, as well as other types of monitoring (*e.g.*, low mass emissions monitoring under section 75.19) that may be used in lieu of CEMS under certain circumstances. Part 75 also establishes a process for proposal by owners and operators, and approval by the Administrator, of alternative monitoring systems (under subpart E of part 75) that meet requirements concerning precision, reliability, accessibility, and timeliness. We continue to believe that it is essential to the integrity of any

emissions trading program that those sources that are allowed to sell allowances must either comply with or be consistent with the requirements of part 75 (depending on the source category). Therefore, we are finalizing those requirements as proposed.

Finally, we believe there is some merit to the commenter's point that States should be allowed to assume, when establishing the BART benchmark, that individual emissions units with annual emission levels less than the *de minimis* levels would not be controlled. In the BART Guidelines we indicated that States may choose to set *de minimis* levels for individual pollutants at BART-eligible sources, so long as those *de minimis* levels are set at or below PSD applicability levels for those pollutants. We said that sources with emissions of an individual pollutant below *de minimis* levels could be excluded from BART-eligibility. Similarly, we believe that for the purposes of an alternative program, *de minimis* levels set at or below PSD applicability levels for those pollutants would be appropriate. In other words, States could assume, when establishing the BART benchmark, that they need not include emissions that total less than *de minimis* amounts of an individual pollutant at a BART-eligible source.

III. Revisions to Regional Haze Rule § 51.309

Support for the WRAP Program

Comments. We received very few comments addressing our proposed revisions to section 51.309. One commenter stated that it agreed with EPA's proposed changes to this section of the Regional Haze Rule, but asked for clarification on several points. At the public hearing on the proposed rule, representatives of the WRAP and the State of Utah Division of Air Quality expressed general support for the proposal and appreciation of EPA's efforts to provide an opportunity for affected States and tribes to continue to utilize the extensive work of the GCVTC and the WRAP. The representative of Utah added:

> Any suggestion that EPA has forced Utah into protecting visibility in Utah's protected areas or that EPA is forcing Utah to participate in alternatives to BART is simply untrue * * * Statements that claim this rule usurps state authority are absolutely not true * * * In fact, Section 309 has always been, and continues to be, a state-driven regulation.[9]

[9] *See* Docket EPA–HQ–OAR–2002–0076.

Another commenter requested clarification of the potential geographic scope of the program in § 51.309.

Final Rule. The EPA remains committed to allowing States and Tribes the flexibility to use innovative approaches such as market-based emissions trading programs to meet CAA requirements where appropriate, and agrees that EPA has never attempted to coerce States and Tribes into adopting such alternative programs in lieu of BART. The provisions in the Regional Haze Rule allowing for alternatives to BART generally, and the WRAP backstop trading program in particular, were originally included at the request of the States.[10]

As was the case in 1999 when EPA added section 51.309 to the Regional Haze Rule to recognize to work of the GCVTC, the option set out in section 51.309 is applicable to the States and Tribes of the GCVTC transport region: Arizona, California, Colorado, Oregon, Idaho, Nevada, New Mexico, Utah, and Wyoming, and all federally-recognized Tribes within the exterior boundaries of those States. Section 51.309 establishes the requirements for the first regional haze plans for the 16 Class I areas covered by the GCVTC Report, listed in section 51.309(b)(1). The geographic scope of the program, in terms of the Class I areas for which reasonable progress goals are satisfied, may be expanded upon adequate demonstrations pursuant to section 51.309(g).

The WRAP Program as a Reasonable Progress Measure

Proposal. The requirement in the CAA that States make reasonable progress towards the national visibility goal, while related to the BART requirement, is a separate requirement analogous to the NAAQS-based requirements in the CAIR. For the reasons presented above in this preamble in the discussion of ''independent requirements'' in general, we proposed that for a program designed to meet reasonable progress requirements, the BART benchmark may be based on simplifying assumptions without running afoul of the DC Circuit's decision in *CEED* v. *EPA.* We characterized such a program as one that includes BART sources and has the purpose of satisfying reasonable progress requirements for a larger universe of sources.

Comments. Although the preamble discussion of this issue was not limited to or expressly directed towards the WRAP's program, most of the comments received were in regard to the application of this concept to the WRAP. The WRAP itself submitted comments in agreement with our interpretation and supporting the inclusion of this option in the final rule. In addition, another commenter explicitly supported the use of this approach. In its comments, the UARG stated that the ''[u]se of the group-BART approach for justifying the WRAP Annex would be appropriate because the WRAP Annex would be the SO_2 portion of the section 169A reasonable progress program for the 16 Colorado Plateau Class I areas, and thus would be a BART alternative program that is required under another CAA provision.'' As noted previously in this preamble, this commenter urged EPA to include language within the rule itself, in addition to the preamble discussion, to allow States to use a ''group BART'' approach to derive the BART benchmark when the BART alternative program is required by another provision of law. This commenter also requested that EPA make it clear in regulatory language that this provision applies to the WRAP.

Another commenter said that through the proposed rule, EPA was essentially proposing to repromulgate the WRAP Annex. The commenter, while not disputing the proposition that a program designed to meet reasonable progress could be evaluated against a group-BART benchmark, argued that the previous Annex milestones could not be ''recycled'' under this rationale because they were not developed as reasonable progress measures. Instead, the commenter argued, the milestones were derived directly from BART by the WRAP. The commenter also argued that the milestones cannot be justified as a reasonable progress measure because the modeling submitted with the Annex showed that the stationary source program for SO_2 would achieve no humanly perceptible visibility improvement. Finally, the commenter argued that the milestones cannot be ''restored'' because there is no ''coherent reasonable progress rationale'' underlying them.

After the comment period closed, a commenter submitted supplemental comments which directly responded to the CEED's comments on the WRAP program. The commenter stated that in its view, ''the fact that the WRAP Annex (or, more precisely, its SO_2 milestones) were established based on a group-BART approach does not taint the Annex, *so long as the Annex is required by or satisfies (in whole or in part) the CAA's reasonable progress requirements*

[10] *See* legacy EPA Docket A–95–38, Item number VII–G–76.

(or some other CAA or State requirement.'' (Emphasis in original).

The commenter also opined on the manner in which the WRAP program could be shown to satisfy reasonable progress requirements. First, the commenter cited the EPA's discussion of the purpose of section 309 in the preamble to the 1999 Regional Haze Rule, as meeting the reasonable progress requirements for the 16 Class I areas addressed by the GCVTC (*See* 64 FR 35749–51). Second, the commenter notes that it is the States'', not EPA's, obligation to demonstrate that the program satisfy reasonable progress requirements. In support of this, the commenter points to the provision in the proposed provision at section 51.309(d)(2), requiring a visibility improvement projection in order to demonstrate that section 51.309 as a whole comprises reasonable progress for the 16 Class I areas on the Colorado Plateau. Therefore, the commenter asserts, if a ''State demonstrates to EPA, as part of its section 51.309 SIP submittal, that the WRAP annex satisfies part or all of the reasonable progress requirement, the source-specific BART benchmark to be used in the 'better than BART' test can be established using a group BART approach.''

Final Rule. Today's rule does not ''re-promulgate'' or ''pre-approve'' the stationary source SO_2 trading program addressed by the WRAP Annex. Rather, we are amending the Regional Haze Rule to remove the requirement that States use a ''group BART'' benchmark for evaluating alternative programs and providing western States and tribes the opportunity to reconsider the milestones absent that invalid analytical requirement. The Regional Haze Rule makes clear that the WRAP States have the option of using source-by-source BART determinations to develop a BART benchmark against which to compare their backstop market trading program. Alternatively, if a WRAP State were to demonstrate as part of its SIP submittal that the backstop market trading program satisfies part or all of its reasonable progress requirement for the Class I areas at issue, then the regulations provide that the WRAP States could use a BART benchmark based on category-wide assumptions about control levels which could be expected to result from BART to demonstrate that the trading program makes greater reasonable progress than BART. In either case, a new demonstration is required, based on regulatory requirements and control technology factors as they currently exist, not as they were in 2000. Therefore the ''Annex'' milestones are not being ''recycled.''

We do agree that regulatory certainty and clarity are best served by specifying within the regulatory provisions the circumstances in which a State, including a State submitting a SIP under section 51.309, may use simplifying assumptions to estimate BART emissions reductions in establishing a BART benchmark. As discussed in section II of the preamble, we have amended section 51.308(e)(2)(i)(C) to clarify the methodologies for determining the BART benchmark. The new language codifies the approach, discussed in the proposal preamble, which may be used in the case of an emissions trading or other alternative program designed to meet a Federal or State requirement other than BART. The paragraph specifies that the CAA section 169A requirement to make reasonable progress may be considered such a requirement.

Although a commenter argues that we are ''recycling'' the WRAP Annex, we are not determining at this time that a SIP with a backstop market trading program identical to that approved by EPA in 2003 would meet the requirements of the amended Regional Haze Rule. In other words, it is unnecessary at this time to address the CEED's central argument that the backstop market trading program in the WRAP Annex cannot qualify as a BART alternative program designed to meet another CAA provision. If any SIPs are submitted under section 51.309, EPA will review the plans at that time based on the State's submittal and any additional information adduced during the public comment period.

We do note that EPA disagrees with the commenter that a WRAP State could not show that a stationary source market trading program similar to that in the WRAP Annex was designed to satisfy the reasonable progress requirements. Although, as the commenter pointed out, EPA did not provide an analysis in the proposal of how the milestones from 2003 could contribute to reasonable progress should any States submit SIPs containing a trading program based on these milestones, the history of the program authorized under § 51.309 of the Regional Haze Rule suggests strongly that the stationary source program for SO2 was designed by the States and others in the GCVTC as a measure for obtaining reasonable progress. In the preamble to the 1999 Regional Haze Rule, we stated:

''The EPA finds that the GCVTC actions to date address, or provide a mechanism to address, the statutory factors for assessing reasonable progress required by the CAA. The EPA is satisfied that the GCVTC's strategies as set forth in section 51.309, when supplemented by the annex process discussed below, will provide for 'reasonable progress' toward the national visibility goal for the 16 parks and wilderness areas addressed by the GCVTC.'' [64 FR 35749 emphasis added].

In elaborating on the Annex process, we noted that the haze rule contained a provision calling for the submission of an Annex to the GCVTC report ''for the purpose of completing the program requirements to meet reasonable progress under the CAA, including submission of a complete long-term strategy and addressing the BART requirement for the 16 Class I areas on the Colorado Plateau.'' [64 FR 35756 emphasis added]. Thus, from the beginning of the process, it is clear that EPA believed that satisfying the BART requirement was a subsidiary component of the reasonable progress requirement, but that the purpose of the Annex and of section 309 generally was to satisfy the overall reasonable progress requirements of western States and Tribes with respect to the 16 Class 1 areas on the Colorado Plateau.[11] Based on this, in EPA's opinion, a WRAP State could demonstrate in a SIP submittal that a stationary source program similar to the WRAP Annex was designed to make reasonable progress. However, as one commenter noted, such an obligation belongs to the State, ''and the time for the State to provide that justification is when the State submits a section 51.309 SIP that contains the WRAP Annex's provisions.'' In short, whether any SIPs submitted several years from now under section 51.309 by the WRAP States meet the minimum requirements set forth in EPA's regulations will depend on the submission made by the States at that time.

We also disagree with the comments that EPA's approval of the WRAP Annex in 2003 was not rational as the trading program had not been shown to produce a ''humanly perceptible'' degree of visibility improvement. We determined in the 1999 rule that the analysis conducted by the GCVTC was the functional equivalent of the reasonable progress analysis required under section 51.308. Under section 308, States must establish reasonable progress goals by considering the uniform rate of progress

[11] Section 51.309(a) of the Regional Haze Rule, in requiring submission of an implementation plan for the 16 Class I areas covered by the GCTVC report, states that ''[i]f a transport region State submits an implementation plan which is approved by EPA as meeting the requirements of this section, it will be deemed to comply with the requirements for reasonable progress for the period from approval of the plan to 2018.'' (64 FR 35769).

(in deciviews) to natural conditions in 2064 (*i.e.* the ''glide path''), and the statutory reasonable progress factors contained in CAA 169A(g)(1). If the state adopts a slower rate of progress than the glide path, it must demonstrate that this slower rate is justified based on the statutory factors. In approving the GCVTC analysis as comparable to such an analysis, we found that the GCVTC had demonstrated that a faster rate of progress was not feasible, considering the costs and other factors. This determination does not necessarily reflect what would be expected in other parts of the country, as it is unique to the situation of the Colorado Plateau, in terms of air quality, pollutant concentrations, source location, and meteorology.

In addition, the commenter's argument ignores the fact that there are two elements of national visibility goals established by Congress in CAA 169A(a)(1): Preventing future impairment as well as remedying existing impairment. It cannot be disputed that a program that prevents degradation for the first long-term planning period constitutes reasonable progress towards the goal of preventing any future impairment. In other words, holding the line against visibility degradation for the first 10-year strategy period is reasonable progress towards holding the line indefinitely.

Geographic Enhancements

Proposal. The proposed rule made no mention of ''geographic enhancements'' because no changes were intended for the relevant provisions. The term geographic enhancement refers to a ''method, procedure, or process to allow a broad regional strategy, such as a milestone or backstop market trading program designed to achieve greater reasonable progress than BART for regional haze, to accommodate BART for reasonably attributable impairment.'' *See* 40 CFR 51.301 and 51.309(b)(7). As explained in the preamble to the 1999 Regional Haze Rules, the purpose of this provision is to allow a market-based system to accommodate actions taken under the ''reasonably attributable'' BART provisions at section 51.302 to address ''hot spot'' issues. Section 51.308(e)(2)(v) provides that States may, at their option, include geographic enhancements in an emissions trading program or other alternative measure. We proposed changes to § 51.308(e)(2)(i), (ii), and (vi), but not to paragraph (e)(2)(v). In addition, § 51.309(f)(4) had contained a provision for optional geographic enhancements, similar to that in § 51.308(e)(2)(v). However, as explained in the preamble of the August 1 proposal, the ''Annex'' mechanism embodied in § 309(f) is no longer necessary or appropriate. We therefore proposed to repeal section 309(f), while incorporating certain still-relevant provisions into § 309(d)(4).

Comments. One commenter requested a clarification that the option of geographic enhancements is preserved for the WRAP program through the cross-reference to § 51.308(e)(2) that appeared in proposed § 51.309(d)(4)(i).

Final Rule. We agree with the commenter that geographic enhancements are retained as an option under the WRAP program. The geographic enhancement provision is contained within § 51.308(e)(2), the general requirements for trading programs or other alternative measures in lieu of BART. The geographic enhancement provision within § 51.308(e)(2) provides a mechanism which could affect the milestones. The proposed rule relied upon the fact that § 51.309(d)(4) would require that the WRAP stationary source milestones comply with the provisions of § 51.308(e)(2), which include the geographic enhancement provision. However, for additional clarity, we have added a geographic enhancement provision specific to the WRAP program in § 51.309(d)(4)(v).

Tribal Issues

Proposal. Throughout the preamble to the proposed rule, we referred to Tribes along with States in recognition that tribes may be delegated authority to implement CAA programs, as provided in section 301(d) of the CAA and the Tribal Authority Rule (§§ 49.1 through 49.11). We proposed to retain, in the text of the rule at proposed § 51.309(c), the provision that Indian Tribes may submit implementation plans after the proposed deadline of December 17, 2007.

Comments. One commenter included two issues related to Tribes. First, the commenter stated that participation in a program under this rule would not be ''a trivial exercise for any Tribal program to accomplish given most tribal programs lack the staff and expertise of state air programs,'' and requested that EPA recognize this reality. The second comment was specifically focused on the Tribal allowance set-aside provision of the former ''Annex'' program. The commenter noted that the rule as proposed did not contain a specific requirement for a Tribal set-aside, presumably due to the fact that the Annex rule had been vacated and that EPA was therefore aware of the need to avoid the inclusions of ''provisions of the Annex rule that were directly or indirectly dependent or related to the specific quantitative milestones contained in the Annex.'' The commenter noted that in the 2003 approval of the WRAP Annex, EPA had specified that the Tribal set-aside provision was the one element of the allocation methodology that was appropriate for treatment in the Federal regulation (rather than in SIPs and Tribal implementation plans (TIPs)). The commenter therefore requested that EPA clarify ''what expectations it has regarding the consistency of tribal set aside provisions between the section 309 SIPs submitted by various states, and what role, if any, EPA would play in assuring implementation of such provisions.''

Final Rule. The EPA agrees that regulatory activities such as BART determinations and the development of trading programs is not by any means trivial and would be difficult to perform or participate in with the small staffs and limited resources typical of many nascent Tribal air programs. Fortunately, there are few BART-eligible sources within Indian country across the nation. Also, EPA has provided funding as well as technical and other forms of support to the five RPOs established to serve both State and Tribal needs in regional haze planning. EPA has an ongoing commitment to insure that tribal interests are addressed within the RPO process. Also, EPA is committed to fulfilling its responsibility to implement CAA provisions in Indian country as necessary and appropriate, in consultation with any affected Tribes.

The EPA agrees with the commenter's assessment that the reason a tribal allowance set-aside was not included in the proposal was that the set-aside provision in the Annex was integrally related to the milestones previously submitted. The Tribal set-aside was developed voluntarily by the WRAP and not in response to any CAA requirement. Having been so developed, EPA determined at the time of the Annex rule approval that it was appropriate for inclusion within section 309, in order to provide an efficient mechanism to implement the set-aside. Given that the *CEED* v. *EPA* decision necessitates that States and Tribes be given the opportunity to revisit the milestones, that there is no CAA provision that requires a Tribal set-aside, and that the details of the WRAP's emissions trading program will be developed directly in SIPs and TIPs without the intermediary step of codifying detailed requirements in an Annex-like Federal rule, the EPA believes it would be inappropriate to attempt to mandate a Tribal allowance

set-aside at this time. However, the EPA does continue to encourage States and Tribes in the WRAP as well as elsewhere to develop mechanisms to address Tribal interests and concerns, such as allowance set-asides. We will review SIPs and TIPs submitted under section 309 to insure that the allocation methodologies, including any Tribal provisions, are consistent among jurisdictions and will provide the certainty and regularity necessary for a functioning market. What other role, if any, the EPA will play in assuring the implementation of any Tribal set-aside provisions is dependent in large part upon the nature of the program developed by participating states and Tribes—for example, whether the program would be administered by the EPA, States and Tribes, or a third-party contractor.

Other Comments and Responses

One commenter requested that EPA make explicit in the final rule that backstop trading programs are permissible under both §§ 51.309 and 51.308 for SO_2 and NO_X. The commenter noted that the proposal preamble stated only that ''nothing precludes states outside the 9-state region from incorporating elements of the GCVTC strategies into their SIPs.'' While this would indicate that the section 309 program (including the backstop trading program) could be expanded geographically, it does not address the question of whether the backstop approach could be utilized, either inside or outside the GCVTC region, for NO_X as well as SO_2.

We wish to clarify here that a backstop trading program (i.e., a system of voluntary milestones backed by an automatically required cap and trade program in the event the milestones are exceeded) could qualify as an ''other alternative measure'' under § 51.308(e)(2) as a BART substitute. This could be accomplished for any visibility impairing pollutant, on a pollutant-by-pollutant basis. The key distinction between programs under §§ 51.308 and 51.309 is that under § 51.309, the reasonable progress requirements for SO_2, with respect to the 16 Class I areas on the Colorado plateau, have already been defined by the GCVTC. With respect to SO_2 reductions to meet reasonable progress requirements at other Class I areas, and with respect to other pollutants such as NO_X, the emission reductions requirements remain to be determined. This could be accomplished either according to the reasonable progress requirements of § 51.308(d)(1), in the case of a program designed to meet reasonable progress goals; or through source-by-source BART determinations as described in this rule, for programs designed only to satisfy BART. Provided these requirements are met, it is acceptable for a State to use a backstop trading program under § 51.308.

Finally, we note that there was an obvious omission in the proposed provisions regarding the comparison of actual emissions to the emissions milestones. Specifically, proposed § 51.309(d)(4)(i) provided for the use of a 3-year rolling average of actual emissions for this purpose. This does not account for the fact that it is not possible to generate a 3-year average during the first two years of emission tracking. Therefore, the final rule provides that for the first 2 years, compliance with the milestones may be measured by a methodology of the States' choosing, so long as all States in the program use the same methodology. After the first 2 years of the program, compliance with the annual milestones may be measured by comparing a 3-year rolling average of actual emissions with a rolling average of the emissions milestones for the same 3 years.

IV. 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 novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the EO. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

Today's rule provides States and interested Tribes with optional means, such as emissions trading programs, to comply with CAA requirements for BART. The rule requires that alternatives achieve greater ''reasonable progress'' towards CAA visibility goals than would source-by-source BART. By their nature, emissions trading programs are designed to achieve a given level of environmental improvement in the most cost-effective manner possible. Therefore, today's rule will achieve at least as great a societal benefit as source-by-source BART, at a social cost that is likely to be less than, or at worst equal to, the social costs of source-by-source BART.

In the Regulatory Impact Analysis (RIA) for our recent promulgation of the source-by-source BART guidelines, we determined that the social costs of source-by-source BART for both EGUs and non-EGUs nationwide was between $0.3 and $2.9 billion (1999 dollars), depending on the level of stringency implemented by States and on the interest rate used. The human health benefits of BART, in contrast, ranged from $1.9 to $12 billion (1999 dollars), depending on the same variables. These figures do not include many other human health benefits that could not be quantified or monetized, including all benefits attributable to ozone reduction (the benefits were based on reductions in PM only). In addition, economic benefits due to visibility improvement in the southeastern and southwestern U.S. were estimated to be from $80 million to $420 million. Finally, BART would also produce visibility benefits in other parts of the country, and non-visibility ecosystem benefits, which were also not quantified. Therefore, the social benefits of BART far outweigh the social costs.

It is not possible to perform an economic analysis of today's rule because the actual parameters of any trading programs in lieu of BART will be determined by States and Tribes. However, because trading program alternatives would produce comparable overall benefits (in the course of satisfying the requirement to achieve greater ''reasonable progress'' towards visibility goals) and use market forces to reduce costs, the benefits of today's rule would also far outweigh the costs.

B. Paperwork Reduction Act

This action does not add any new requirements involving the collection of information as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action does not impose any new collections that would require an amendment to the existing approved Information Collection Request (ICR). The OMB has approved the information collection requirements contained in the final Regional Haze regulations (64 FR 35714, July 1, 1999) and has assigned OMB control number 2060–0421 (EPA ICR No. 1813.04). A copy of the OMB approved ICR may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time

needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's proposed rulemaking on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule will not impose any requirements on small entities. This rule revises the provisions of the Regional Haze Rule governing alternative trading programs, and provides additional guidance to States, which are not defined as small entities. In addition, we did not receive any comments relating to potential impacts on small entities as a result of this rulemaking.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) (UMRA), 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, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule that ''includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more * * * in any one year.'' A ''Federal mandate'' is defined under section 421(6), 2 U.S.C. 658(6), to include a ''Federal intergovernmental mandate'' and a ''Federal private sector mandate.'' A ''Federal intergovernmental mandate,'' in turn, is defined to include a regulation that ''would impose an enforceable duty upon State, local, or tribal governments,'' section 421(5)(A)(i), 2 U.S.C. 658(5)(A)(i), except for, among other things, a duty that is ''a condition of Federal assistance,'' section 421(5)(A)(i)(I). A ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector,'' with certain exceptions, section 421(7)(A), 2 U.S.C. 658(7)(A).

Before promulgating an EPA rule for which a written statement is needed under section 202 of the UMRA, section 205, 2 U.S.C. 1535, 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. In addition, 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.

We believe that this rulemaking is not subject to the requirements of UMRA. For regional haze SIPs overall, it is questionable whether a requirement to submit a SIP revision constitutes a Federal mandate, as discussed in the preamble to the Regional Haze Rule (64 FR 35761, July 1, 1999). However, today's rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local or Tribal governments or the private sector. In addition, the program contained in section 51.309, including today's revisions, is an optional program. Because the alternative trading programs under §§ 51.308 and 51.309 are options that each of the States may choose to exercise, these revisions to §§ 51.308 and 51.309 do not establish any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments. The program is not required and, thus is clearly not a ''mandate.'' Moreover, as explained above, today's rule would reduce any regulatory burdens. Accordingly, this rule will not result in expenditures to State, local, and Tribal governments, in the aggregate, or the private sector, of $100 million or more in any given year. Thus, EPA is not obligated, under section 203 of UMRA, to develop a small government agency plan.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6(b) of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing a regulation. Under section 6(c) of Executive Order 13132, EPA may not issue a regulation that has federalism implications and that preempts State law, unless EPA consults with State and local officials early in the process of developing the regulation.

We have concluded that today's rule does not have federalism implications. It does not have substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. As described above, this rule contains revisions to sections 51.308 and 51.309 of the Regional Haze Rule which will reduce any regulatory burden on the States. In addition, these are optional programs for States. These revisions to sections 51.308 and 51.309, accordingly, will not directly impose significant new requirements on State and local governments. Moreover, even if today's revisions did have federalism implications, these revisions would not impose substantial direct compliance costs on State or local governments, nor would they preempt State law. Thus, Executive Order 13132 does not apply to this rule.

Consistent with EPA policy, we nonetheless did consult with representatives of State and local governments in developing this final rule. This rule directly implements specific recommendations from the WRAP, which includes representatives from all the affected States.

In addition, in the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on today's rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 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.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

Tribes who participate in this rule will experience an overall reduction in regulatory burden. Moreover, the §§ 51.308 (e)(2) and 51.309 programs are optional programs for Tribes. Accordingly, this rule would not have Tribal implications. In addition, this rule directly implements specific recommendations from the WRAP, which includes representatives of Tribal governments. Thus, although this rule does not have Tribal implications, representatives of Tribal governments have had the opportunity to provide input into development of the recommendations forming its basis.

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

Executive Order 13045: ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. Similarly to the recently finalized source-specific BART revisions (70 FR 39104, July 6, 2005), this rule is not subject to Executive Order 13045 because it does not establish an environmental standard based on health or safety risks. Therefore, this rule does not involve decisions on environmental health or safety risks that may disproportionately affect children. We believe that the emissions reductions from the control strategies considered in this rulemaking will further improve air quality and will further improve children's health.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This rule is not subject to Executive Order 13211, ''Actions that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule is not a ''significant energy action,'' because it will have less than a 1 percent impact on the cost of energy production and does not exceed other factors described by OMB that may indicate a significant adverse effect. (See, ''Guidance for Implementing E.O. 13211,'' OMB Memorandum 01–27 (July 13, 2001) *www.whitehouse.gov/omb/memoranda/m01–27.html*.)

This rule provides an optional cost-effective and less burdensome alternative to source-by-source BART as recently finalized (70 FR 39104, July 6, 2005); we have already found that source-by-source BART is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The 1999 Regional Haze Rule provides substantial flexibility to the States, allowing them to adopt alternative measures such as a trading program in lieu of requiring the installation and operation of BART on a source-by-source basis. This rule contains provisions governing these alternative measures, which provides an alternative to BART that reduces the overall cost of the regulation and its impact on the energy supply.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. We specifically invited commenters to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation; no commenters responded.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The requirements of Executive Order 12898 have been previously addressed to the extent practicable in the RIA for the Regional Haze Rule (cited above),

particularly in chapters 2 and 9 of the RIA. This rule makes no changes that would have a disproportionately high and adverse human health or environmental effect on minorities and low-income populations.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective December 12, 2006.

IV. Statutory Provisions and Legal Authority

Statutory authority for today's rule comes from sections 169A and 169B of the CAA (42 U.S.C. 7491 and 7492). These sections require EPA to issue regulations that will require States to revise their SIPs to ensure that reasonable progress is made toward the national visibility goals specified in section 169A.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 5, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

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

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

Subpart P—Protection of Visibility

■ 2. Section 51.308 is amended as follows:

■ a. By revising paragraph (e)(1)(ii)(C).

■ b. By revising paragraphs (e)(2) introductory text and (e)(2)(i).

■ c. By removing and reserving paragraph (e)(1)(ii).

■ d. By adding paragraph (e)(2)(vi).

■ e. By revising paragraph (e)(4).

§ 51.308 Regional haze program requirements.

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(C) Exception. A State is not required to make a determination of BART for SO_2 or for NO_X if a BART-eligible source has the potential to emit less than 40 tons per year of such pollutant(s), or for PM_{10} if a BART-eligible source has the potential to emit less than 15 tons per year of such pollutant.

* * * * *

(2) A State may opt to implement or require participation in an emissions trading program or other alternative measure rather than to require sources subject to BART to install, operate, and maintain BART. Such an emissions trading program or other alternative measure must achieve greater reasonable progress than would be achieved through the installation and operation of BART. For all such emission trading programs or other alternative measures, the State must submit an implementation plan containing the following plan elements and include documentation for all required analyses:

(i) A demonstration that the emissions trading program or other alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the State and covered by the alternative program. This demonstration must be based on the following:

(A) A list of all BART-eligible sources within the State.

(B) A list of all BART-eligible sources and all BART source categories covered by the alternative program. The State is not required to include every BART source category or every BART-eligible source within a BART source category in an alternative program, but each BART-eligible source in the State must be subject to the requirements of the alternative program, have a federally enforceable emission limitation determined by the State and approved by EPA as meeting BART in accordance with section 302(c) or paragraph (e)(1) of this section, or otherwise addressed under paragraphs (e)(1) or (e)(4)of this section.

(C) An analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each source within the State subject to BART and covered by the alternative program. This analysis must be conducted by making a determination of BART for each source subject to BART and covered by the alternative program as provided for in paragraph (e)(1) of this section, unless the emissions trading program or other alternative measure has been designed to meet a requirement other than BART (such as the core requirement to have a long-term strategy to achieve the reasonable progress goals established by States). In this case, the State may determine the best system of continuous emission control technology and associated emission reductions for similar types of sources within a source category based on both source-specific and category-wide information, as appropriate.

(D) An analysis of the projected emissions reductions achievable through the trading program or other alternative measure.

(E) A determination under paragraph (e)(3) of this section or otherwise based on the clear weight of evidence that the trading program or other alternative measure achieves greater reasonable progress than would be achieved through the installation and operation of BART at the covered sources.

(ii) [Reserved]

* * * * *

(vi) For plans that include an emissions trading program that establishes a cap on total annual emissions of SO_2 or NO_X from sources subject to the program, requires the owners and operators of sources to hold allowances or authorizations to emit equal to emissions, and allows the owners and operators of sources and other entities to purchase, sell, and transfer allowances, the following elements are required concerning the emissions covered by the cap:

(A) Applicability provisions defining the sources subject to the program. The State must demonstrate that the applicability provisions (including the size criteria for including sources in the program) are designed to prevent any significant potential shifting within the State of production and emissions from sources in the program to sources outside the program. In the case of a program covering sources in multiple States, the States must demonstrate that

the applicability provisions in each State cover essentially the same size facilities and, if source categories are specified, cover the same source categories and prevent any significant, potential shifting within such States of production and emissions to sources outside the program.

(B) Allowance provisions ensuring that the total value of allowances (in tons) issued each year under the program will not exceed the emissions cap (in tons) on total annual emissions from the sources in the program.

(C) Monitoring provisions providing for consistent and accurate measurements of emissions from sources in the program to ensure that each allowance actually represents the same specified tonnage of emissions and that emissions are measured with similar accuracy at all sources in the program. The monitoring provisions must require that boilers, combustion turbines, and cement kilns in the program allowed to sell or transfer allowances must comply with the requirements of part 75 of this chapter. The monitoring provisions must require that other sources in the program allowed to sell or transfer allowances must provide emissions information with the same precision, reliability, accessibility, and timeliness as information provided under part 75 of this chapter.

(D) Recordkeeping provisions that ensure the enforceability of the emissions monitoring provisions and other program requirements. The recordkeeping provisions must require that boilers, combustion turbines, and cement kilns in the program allowed to sell or transfer allowances must comply with the recordkeeping provisions of part 75 of this chapter. The recordkeeping provisions must require that other sources in the program allowed to sell or transfer allowances must comply with recordkeeping requirements that, as compared with the recordkeeping provisions under part 75 of this chapter, are of comparable stringency and require recording of comparable types of information and retention of the records for comparable periods of time.

(E) Reporting provisions requiring timely reporting of monitoring data with sufficient frequency to ensure the enforceability of the emissions monitoring provisions and other program requirements and the ability to audit the program. The reporting provisions must require that boilers, combustion turbines, and cement kilns in the program allowed to sell or transfer allowances must comply with the reporting provisions of part 75 of this chapter, except that, if the Administrator is not the tracking system administrator for the program, emissions may be reported to the tracking system administrator, rather than to the Administrator. The reporting provisions must require that other sources in the program allowed to sell or transfer allowances must comply with reporting requirements that, as compared with the reporting provisions under part 75 of this chapter, are of comparable stringency and require reporting of comparable types of information and require comparable timeliness and frequency of reporting.

(F) Tracking system provisions which provide for a tracking system that is publicly available in a secure, centralized database to track in a consistent manner all allowances and emissions in the program.

(G) Authorized account representative provisions ensuring that the owners and operators of a source designate one individual who is authorized to represent the owners and operators in all matters pertaining to the trading program.

(H) Allowance transfer provisions providing procedures that allow timely transfer and recording of allowances, minimize administrative barriers to the operation of the allowance market, and ensure that such procedures apply uniformly to all sources and other potential participants in the allowance market.

(I) Compliance provisions prohibiting a source from emitting a total tonnage of a pollutant that exceeds the tonnage value of its allowance holdings, including the methods and procedures for determining whether emissions exceed allowance holdings. Such method and procedures shall apply consistently from source to source.

(J) Penalty provisions providing for mandatory allowance deductions for excess emissions that apply consistently from source to source. The tonnage value of the allowances deducted shall equal at least three times the tonnage of the excess emissions.

(K) For a trading program that allows banking of allowances, provisions clarifying any restrictions on the use of these banked allowances.

(L) Program assessment provisions providing for periodic program evaluation to assess whether the program is accomplishing its goals and whether modifications to the program are needed to enhance performance of the program.

* * * * *

(4) A State that chooses to meet the emission reduction requirements of the Clean Air Interstate Rule (CAIR) by participating in one or more of the EPA-administered CAIR trading programs for SO_2 and NO_X need not require BART—eligible EGUs subject to such trading programs in the State to install, operate, and maintain BART for the pollutants covered by such trading programs in the State. A State may choose to participate in the EPA-administered CAIR trading programs either by submitting a State implementation plan that incorporates the CAIR model trading rules in part 96 of this chapter, and is approved, in accordance with § 51.123(o)(1) or (2) (for the NO_X annual program) and (aa)(1) or (2) (for the NO_X ozone season program) and § 51.124(o)(1) or (2) (for the SO_2 program) or by remaining subject to the Federal implementation plan in part 97 of this chapter (which may be modified by a State implementation plan approved in accordance with §§ 51.123(p) and (ee) and 51.124(r)). A State that chooses to participate in such trading programs may also adopt provisions, consistent with such trading programs, for a geographic enhancement to the program to address the requirement under § 51.302(c) related to BART for reasonably attributable impairment from the pollutants covered by the CAIR cap-and-trade programs.

* * * * *

■ 3. 51.309 is amended as follows:
■ a. By revising paragraph (a).
■ b. By revising paragraphs (b)(5) and (b)(7).
■ c. By removing and reserving paragraphs (b)(9) through (b)(12).
■ d. By revising paragraph (c).
■ e. By revising paragraphs (d)(1) and (d)(4)(i) through (d)(4)(v).
■ f. By adding paragraphs (d)(4)(vi) and (d)(4)(vii).
■ g. By revising paragraph (d)(10) introductory text.
■ h. By removing and reserving paragraph (f).
■ i. By revising paragraph (g).
■ j. By removing paragraph (h).

§ 51.309 Requirements related to the Grand Canyon Visibility Transport Commission.

(a) What is the purpose of this section? This section establishes the requirements for the first regional haze implementation plan to address regional haze visibility impairment in the 16 Class I areas covered by the Grand Canyon Visibility Transport Commission Report. For the period through 2018, certain States (defined in paragraph (b) of this section as Transport Region States) may choose to implement the Commission's recommendations within the framework of the national regional haze program

and applicable requirements of the Act by complying with the provisions of this section. If a Transport Region State submits an implementation plan which is approved by EPA as meeting the requirements of this section, it will be deemed to comply with the requirements for reasonable progress with respect to the 16 Class I areas for the period from approval of the plan through 2018. Any Transport Region State electing not to submit an implementation plan under this section is subject to the requirements of § 51.308 in the same manner and to the same extent as any State not included within the Transport Region. Except as provided in paragraph (g) of this section, each Transport Region State is also subject to the requirements of § 51.308 with respect to any other Federal mandatory Class I areas within the State or affected by emissions from the State.

(b) * * *

(5) Milestone means the maximum level of annual regional SO_2 emissions, in tons per year, for a given year, assessed annually, through the year 2018, consistent with paragraph (d)(4) of this section.

* * * * *

(7) Base year means the year for which data for a source included within the program were used by the WRAP to calculate emissions as a starting point for development of the milestone required by paragraph (d)(4)(i) of this section.

* * * * *

(c) Implementation Plan Schedule. Each Transport Region State electing to submit an implementation plan under this section must submit such a plan no later than December 17, 2007. Indian Tribes may submit implementation plans after this deadline.

(d) * * *

(1) Time period covered. The implementation plan must be effective through December 31, 2018 and continue in effect until an implementation plan revision is approved by EPA in accordance with § 51.308(f).

* * * * *

(4) * * *

(i) Provisions for stationary source emissions of SO_2. The plan submission must include a SO_2 program that contains quantitative emissions milestones for stationary source SO_2 emissions for each year through 2018. After the first two years of the program, compliance with the annual milestones may be measured by comparing a three-year rolling average of actual emissions with a rolling average of the emissions milestones for the same three years. During the first two years of the program, compliance with the milestones may be measured by a methodology of the States' choosing, so long as all States in the program use the same methodology. Compliance with the 2018 milestone shall be measured by comparing actual emissions from the year 2018 with the 2018 milestone. The milestones must provide for steady and continuing emissions reductions through 2018 consistent with the Commission's definition of reasonable progress, its goal of 50 to 70 percent reduction in SO_2 emissions from 1990 actual emission levels by 2040, applicable requirements under the CAA, and the timing of implementation plan assessments of progress and identification of any deficiencies which will be due in the years 2013 and 2018. The milestones must be shown to provide for greater reasonable progress than would be achieved by application of BART pursuant to § 51.308(e)(2).

(ii) Documentation of emissions calculation methods for SO_2. The plan submission must include documentation of the specific methodology used to calculate SO_2 emissions during the base year for each emitting unit included in the program. The implementation plan must also provide for documentation of any change to the specific methodology used to calculate emissions at any emitting unit for any year after the base year.

(iii) Monitoring, recordkeeping, and reporting of SO_2 emissions. The plan submission must include provisions requiring the monitoring, recordkeeping, and annual reporting of actual stationary source SO_2 emissions within the State. The monitoring, recordkeeping, and reporting data must be sufficient to determine annually whether the milestone for each year through 2018 is achieved. The plan submission must provide for reporting of these data by the State to the Administrator and to the regional planning organization. The plan must provide for retention of records for at least 10 years from the establishment of the record.

(iv) Criteria and Procedures for a Market Trading Program. The plan must include the criteria and procedures for conducting an annual evaluation of whether the milestone is achieved and, in accordance with paragraph (d)(4)(v) of this section, for activating a market trading program in the event the milestone is not achieved. A draft of the annual report evaluating whether the milestone for each year is achieved shall be completed no later than 12 months from the end of each milestone year. The plan must also provide for assessments of the program in the years 2013 and 2018.

(v) Market Trading Program. The implementation plan must include requirements for a market trading program to be implemented in the event that a milestone is not achieved. The plan shall require that the market trading program be activated beginning no later than 15 months after the end of the first year in which the milestone is not achieved. The plan shall also require that sources comply, as soon as practicable, with the requirement to hold allowances covering their emissions. Such market trading program must be sufficient to achieve the milestones in paragraph (d)(4)(i) of this section, and must be consistent with the elements for such programs outlined in § 51.308(e)(2)(vi). Such a program may include a geographic enhancement to the program to address the requirement under § 51.302(c) related to BART for reasonably attributable impairment from the pollutants covered under the program.

(vi) Provision for the 2018 milestone.

(A) Unless and until a revised implementation plan is submitted in accordance with § 51.308(f) and approved by EPA, the implementation plan shall prohibit emissions from covered stationary sources in any year beginning in 2018 that exceed the year 2018 milestone. In no event shall a market-based program approved under § 51.308(f) allow an emissions cap for SO_2 that is less stringent than the 2018 milestone, unless the milestones are replaced by a different program approved by EPA as meeting the BART and reasonable progress requirements established in § 51.308.

(B) The implementation plan must provide a framework, including financial penalties for excess emissions based on the 2018 milestone, sufficient to ensure that the 2018 milestone will be met even if the implementation of the market trading program in paragraph (d)(4)(v) of this section has not yet been triggered, or the source allowance compliance provision of the trading program is not yet in effect.

(vii) Provisions for stationary source emissions of NO_X and PM. The implementation plan must contain any necessary long term strategies and BART requirements for stationary source PM and NO_X emissions. Any such BART provisions may be submitted pursuant to either § 51.308(e)(1) or '51.308(e)(2).

* * * * *

(10) Periodic implementation plan revisions. Each Transport Region State

must submit to the Administrator periodic reports in the years 2013 and 2018. The progress reports must be in the form of implementation plan revisions that comply with the procedural requirements of §§ 51.102 and 51.103.

* * * * *

(f) [Reserved]

(g) Additional Class I areas. Each Transport Region State implementing the provisions of this section as the basis for demonstrating reasonable progress for mandatory Class I Federal areas other than the 16 Class I areas must include the following provisions in its implementation plan. If a Transport Region State submits an implementation plan which is approved by EPA as meeting the requirements of this section, it will be deemed to comply with the requirements for reasonable progress for the period from approval of the plan to 2018.

(1) A demonstration of expected visibility conditions for the most impaired and least impaired days at the additional mandatory Class I Federal area(s) based on emissions projections from the long-term strategies in the implementation plan. This demonstration may be based on assessments conducted by the States and/or a regional planning body.

(2) Provisions establishing reasonable progress goals and implementing any additional measures necessary to demonstrate reasonable progress for the additional mandatory Federal Class I areas. These provisions must comply with the provisions of § 51.308(d)(1) through (4).

(i) In developing long-term strategies pursuant to § 51.308(d)(3), the State may build upon the strategies implemented under paragraph (d) of this section, and take full credit for the visibility improvement achieved through these strategies.

(ii) The requirement under § 51.308(e) related to Best Available Retrofit Technology for regional haze is deemed to be satisfied for pollutants addressed by the milestones and backstop trading program if, in establishing the emission reductions milestones under paragraph (d)(4) of this section, it is shown that greater reasonable progress will be achieved for these additional Class I areas than would be achieved through the application of source-specific BART emission limitations under § 51.308(e)(1).

(iii) The Transport Region State may consider whether any strategies necessary to achieve the reasonable progress goals required by paragraph (g)(2) of this section are incompatible with the strategies implemented under paragraph (d) of this section to the extent the State adequately demonstrates that the incompatibility is related to the costs of the compliance, the time necessary for compliance, the energy and no air quality environmental impacts of compliance, or the remaining useful life of any existing source subject to such requirements.

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Part III

Securities and Exchange Commission

17 CFR Part 240

Amendments to Rule 15c3–1 and Rule 17a–11 Applicable to Broker-Dealers Also Registered as Futures Commission Merchants; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–54575; File No. S7–16–06]

RIN 3235–AJ72

Amendments to Rule 15c3–1 and Rule 17a–11 Applicable to Broker-Dealers Also Registered as Futures Commission Merchants

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing for comment amendments to conform provisions of its net capital rule to changes to the net capital rule of the Commodity Futures Trading Commission. The proposed amendments would apply to broker-dealers also registered as futures commission merchants with the Commodity Futures Trading Commission. The Securities and Exchange Commission also is proposing to amend certain rules related to subordinated debt agreements to conform those rules to the Commodity Futures Trading Commission's amended net capital rules. Finally, the Securities and Exchange Commission is proposing to amend its early warning provisions to require that it be notified if a broker-dealer also registered as a futures commission merchant must warn the Commodity Futures Trading Commission or a designated self-regulatory organization that its adjusted net capital has fallen below specified levels.

DATES: Comments should be received on or before November 13, 2006.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's *Internet comment form* (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number S7–16–06 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

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 S7–16–06. This file number should be included on the subject line if e-mail is used. To help us 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/proposed.shtml*). Comments also are available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 551–5525; Thomas K. McGowan, Assistant Director, at (202) 551–5521; or Bonnie L. Gauch, Special Counsel, at (202) 551–5524, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

I. Introduction

The Securities and Exchange Commission (''Commission'') is proposing to amend its financial responsibility rules for broker-dealers registered with the Commodity Futures Trading Commission (''CFTC'') under the Commodity Exchange Act (''CEA'') as futures commission merchants (''FCMs''). The Commission's net capital rule, Rule 15c3–1,[1] imposes minimum financial (net capital) requirements on broker-dealers. The CFTC's adjusted net capital rule, Rule 1.17,[2] similarly imposes minimum financial requirements on FCMs. Under Rule 15c3–1(a)(1)(iii), a broker-dealer/FCM must maintain net capital of no less than the greater of its requirements under the applicable provisions of Rule 15c3–1 or four percent of the funds that must be segregated under the CEA and its rules. The requirement to maintain at least four percent of segregated funds was intended to conform Rule 15c3–1 to the CFTC's Rule 1.17.[3]

In 2004, the CFTC amended Rule 1.17 and adopted certain new net capital requirements applicable to FCMs.[4] Before adoption of the amended capital requirements, Rule 1.17(a)(1)(i)(A)–(D) required an FCM to maintain minimum adjusted net capital equal to, or in excess of, the greatest of the following: (1) $250,000; (2) four percent of an amount that equals the total of funds required to be segregated for customer trading on U.S. commodity markets under section 4d(a)(2) of the CEA and the funds required to be secured for customer trading on foreign commodity markets under Rule 30.7 to the CEA, less the market value of options purchased by customers for which the full premiums have been paid (''segregated funds''); (3) the amount of adjusted net capital required by a registered futures association; or (4) for broker-dealer/FCMs, the amount of net capital required under Rule 15c3–1(a).

CFTC Rule 1.17(a)(1)(i)(B), as amended, eliminates the four percent of segregated funds provision. Instead, the amended rule requires an FCM to maintain adjusted net capital equal to a specified percentage of the margin required to be collected under exchange or clearing organization rules. Under amended CFTC Rule 1.17(a)(1)(i)(B), an FCM must maintain adjusted net capital equal to the following: (1) Eight percent of the total risk margin requirement[5] for positions carried by the FCM in customer accounts;[6] plus (2) four percent of the total risk margin requirement for positions carried by the FCM in noncustomer accounts.[7]

The CFTC intended changes to Rule 1.17 to address material limitations on the segregated funds method of computing net capital.[8] For example, the segregated funds method did not reflect fully the extent to which an FCM was exposed to commodity positions carried for both customers and noncustomers. The segregated funds method did not include ''funds held by an FCM on behalf of foreign-domiciled customers trading on foreign commodity markets, nor [did] it include funds held by an FCM on behalf of noncustomers trading on either U.S. or foreign futures and options markets.''[9] This method also did not include ''letters of credit deposited as margin or reflect the additional risks posed by open positions in customer accounts that liquidate to a deficit.''[10] Finally, the segregated funds method of calculating net capital ''subjects an FCM to a higher

[1] 17 CFR 240.15c3–1. Section 15(c)(3) of the Securities Exchange Act of 1934 (the ''Exchange Act'') authorizes the Commission to impose, by regulation, minimum financial requirements on broker-dealers (15 U.S.C. 78o(c)(3)).

[2] 17 CFR 1.17.

[3] *See* Exchange Act Release No. 15898 (Jun. 5, 1979), 44 FR 24884 (Jun. 15, 1979).

[4] The new rules became effective on September 30, 2004. *See* 69 FR 49784 (Aug. 12, 2004).

[5] CFTC Rule 1.17(b)(8) defines ''risk margin'' (17 CFR 1.17(b)(8)).

[6] CFTC Rule 1.17(b)(7) defines ''customer account'' (17 CFR 1.17(b)(7)).

[7] CFTC Rule 1.17(b)(4) defines ''noncustomer account'' (17 CFR 1.17(b)(4)).

[8] *See* 68 FR 40835, 40837 (July 9, 2003).

[9] *Id.*

[10] *Id.*

requirement in situations where the FCM requires additional margin from customers or carries free credit balances for its customers, despite the risk reducing effect of holding higher levels of customer funds.'' [11] The CFTC amended Rule 1.17 to address these concerns and conform its net capital requirement to the net capital requirements implemented by the National Futures Association (''NFA''), two exchanges, and a clearing organization.

The Commission is proposing to amend Rule 15c3–1 to reflect the amendments to CFTC Rule 1.17, and is also proposing to amend paragraph (c) of Rule 17a–11,[12] which generally requires a broker-dealer to notify the Commission and its designated examining authority (''DEA'') if it fails to maintain certain levels of net capital.

II. Proposed Amendments

A. Amendments to Rule 15c3–1

1. Amendments to Rule 15c3–1(a)(1)(iii)

The Commission is proposing to amend Rule 15c3–1(a)(1)(iii) to conform to amended CFTC Rule 1.17. The proposed amendments to Rule 15c3–1(a)(1)(iii) would require a broker-dealer/FCM to maintain net capital of not less than the greater of the following: (1) Its requirement under paragraph (a)(1)(i) or (ii) of Rule 15c3–1; or (2) eight percent of the total risk margin requirement for positions carried by the FCM in customer accounts plus four percent of the total risk margin requirement for positions carried by the FCM in noncustomer accounts (''risk margin-based capital requirement'').

2. Amendments to Rule 15c3–1(e)(2)(ii)

The Commission also is proposing to amend Rule 15c3–1(e)(2)(ii) to conform it to CFTC Rule 1.17(e)(1)(ii). Rule 15c3–1(e)(2)(ii) prohibits a broker-dealer/FCM from withdrawing equity capital if the withdrawal would cause the broker-dealer/FCM's net capital to fall below, among other standards, a specified percentage of its minimum net capital dollar amount or a specified level of aggregate indebtedness, or its ''net capital would be less than 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder'' after the withdrawal. The Commission is proposing to replace the seven percent of segregated funds requirement with the amended CFTC Rule 1.17(e)(1)(ii) requirement of 120 percent of the risk margin-based capital requirement.

B. Amendments to Appendix D to Rule 15c3–1

The Commission also is proposing to amend certain provisions of Appendix D to Rule 15c3–1 (''Rule 15c3–1d''),[13] which contains minimum and non-exclusive requirements for satisfactory broker-dealer subordination agreements. Specifically, the Commission is proposing to amend paragraphs (b)(6)(iii), (b)(7), (b)(8)(i)(A), (b)(10)(ii)(B), (c)(2), (c)(5)(i)(B), (c)(5)(ii)(A), and (c)(7) of Rule 15c3–1d, which relate to repayment and prepayment of subordinated debt. Both Rule 15c3–1 and CFTC Rule 1.17 prohibit a broker-dealer or an FCM, respectively, from repaying or prepaying subordinated debt if the payments would cause the broker-dealer's or FCM's net capital to fall below certain thresholds.

1. Amendments to Rule 15c3–1d(b)(6)(iii)

The Commission is proposing to replace the segregated funds requirement of Rule 15c3–1d(b)(6)(iii) with a risk margin-based capital requirement to conform it to the CFTC's amended Rule 1.17(h)(2)(vi)(C)(*2*). Rule 15c3–1d(b)(6)(iii) permits a subordinated lender to reduce the unpaid principal amount of a secured demand note pledged to a broker-dealer with the consent of the broker-dealer and its DEA. The reduction, however, may not cause the broker-dealer's aggregate indebtedness to exceed a specified level of net capital or its net capital to fall below a specified level of aggregate debit items or, if the broker-dealer also is registered as an FCM, its net capital to fall below seven percent of the funds that must be segregated under the CEA and its rules, if that segregated amount is greater. The proposed amendment to Rule 15c3–1d(b)(6)(iii) would conform to amended CFTC Rule 1.17(h)(2)(vi)(C)(*2*) and replace the seven percent of segregated funds requirement with 120 percent of the risk margin-based capital requirement.

2. Amendments to Rule 15c3–1d(b)(7)

The Commission is proposing to replace the segregated funds requirement of Rule 15c3–1d(b)(7) with a risk margin-based capital requirement to conform it to the CFTC's amended Rule 1.17(h)(2)(vii)(A)(*2*). Rule 15c3–1d(b)(7) permits a broker-dealer to prepay subordinated debt if the prepayment occurs at least one year after the effective date of the subordination agreement and the broker-dealer meets certain other requirements. A broker-dealer/FCM may not prepay subordinated debt, however, if the prepayment would cause its aggregated indebtedness to exceed a specified level of net capital or its net capital to fall below a specified percentage of the minimum net capital dollar amount, fall below a specified level of aggregate debit items or, if the broker-dealer also is registered as an FCM, its net capital to fall below seven percent of the funds that must be segregated under the CEA and its rules, if that amount is greater. The proposed amendment to Rule 15c3–1d(b)(7) would conform to amended CFTC Rule 1.17(h)(2)(vii)(A)(*2*) and replace the seven percent of segregated funds requirement with 120 percent of the risk margin-based capital requirement.

3. Amendments to Rule 15c3–1d(b)(8)(i)(A)

The Commission is proposing to replace the segregated funds requirement of Rule 15c3–1d(b)(8)(i)(A) with a risk margin-based capital requirement to conform it to the CFTC's amended Rule 1.17(h)(2)(viii)(A)(*2*). Rule 15c3–1d(b)(8)(i)(A) requires a broker-dealer/FCM to suspend repayment of subordinated debt if the repayment would cause its aggregated indebtedness to exceed a specified level of net capital or its net capital to fall below a specified level of aggregate debit items or, if the broker-dealer also is registered as an FCM, its net capital to fall below six percent of the funds required to be segregated under the CEA and its rules, if that amount is greater. The proposed amendment to Rule 15c3–1d(b)(8)(i)(A) would conform to amended CFTC Rule 1.17(h)(2)(viii)(A)(*2*) and replace the six percent of segregated funds requirement with 120 percent of the risk margin-based capital requirement.

4. Amendments to Rule 15c3–1d(b)(10)(ii)(B)

The Commission also is proposing to replace the segregated funds requirement of Rule 15c3–1d(b)(10)(ii)(B) to reflect the CFTC's risk margin-based capital requirements. Rule 15c3–1d(b)(10)(ii)(B) limits the events of default that may accelerate a broker-dealer/FCM's obligation to repay subordinated debt. Those events of default occur if a broker-dealer/FCM's aggregate indebtedness exceeds 1500 percent of its net capital, its net capital computed under Rule 15c3–1(a)(1)(ii) is less than two percent of aggregate debit

[11] *Id.*

[12] 17 CFR 240.17a–11(c).

[13] 17CFR 240.15c3–1d.

items as computed under Rule 15c3–3a, or its net capital is less than four percent of the funds required to be segregated under the CEA and its rules, if that amount is greater. The proposed amendment to Rule 15c3–1(b)(10)(ii)(B) would replace the four percent of segregated funds requirement with the risk margin-based capital requirements of proposed Rule 15c3–1(a)(1)(iii).

5. Amendments to Rule 15c3–1d(c)(2)

Furthermore, the Commission is proposing to replace the segregated funds requirement of Rule 15c3–1d(c)(2) with a risk margin-based capital requirement to conform it to the CFTC's amended Rule 1.17(h)(3)(ii)(B). Rule 15c3–1d(c)(2) requires a broker-dealer/FCM to notify its DEA if repayment of its subordinated debt would cause its aggregate indebtedness to exceed 1200 percent of its net capital; its net capital to be less than 120 percent of the minimum dollar amount required by Rule 15c3–1; less than five percent of aggregate debit items computed in accordance with Rule 15c3–3a; or its net capital to be less than six percent of the funds required to be segregated under the CEA and its rules, if that amount is greater. The proposed amendment to Rule 15c3–1d(c)(2) would conform to amended CFTC Rule 1.17(h)(3)(ii)(B) and replace the six percent of segregated funds requirement with 120 percent of the risk margin-based capital requirement.

6. Amendments to Rule 15c3–1d(c)(5)(i)(B)

The Commission also is proposing to replace the segregated funds requirement of Rule 15c3–1d(c)(5)(i)(B) with a risk margin-based capital requirement to conform it to the CFTC's amended Rule 1.17(h)(3)(v)(B). Rule 15c3–1d(5)(i)(B) permits a broker-dealer to enter into temporary subordination agreements (terms of no more than 45 days), subject to specified conditions, so that the broker-dealer may engage in securities underwriting and other extraordinary activities. A broker-dealer/FCM operating under Rule 15c3–1(a)(1)(ii) may not enter into a temporary subordination agreement, however, if its net capital is less than five percent of its aggregate debit items computed under Rule 15c3–3a or seven percent of the funds required to be segregated under the CEA or its rules, if that amount is greater. The proposed amendment to Rule 15c3–1d(c)(5)(i)(B) would conform to amended CFTC Rule 1.17(h)(3)(v)(B) and replace the seven percent of segregated funds requirement with 120 percent of the risk margin-based capital requirement.

7. Amendments to Rule 15c3–1d(c)(5)(ii)(A)

Finally, the Commission is proposing to replace the segregated funds requirement of Rule 15c3–1d(c)(5)(ii)(A) with a risk margin-based capital requirement to conform it to the CFTC's amended Rule 1.17(h)(2)(vii)(B)(*2*). Rule 15c3–1d(c)(5)(ii)(A) permits a broker-dealer to enter into a revolving subordinated loan agreement that provides for prepayment within less than one year. A broker-dealer/FCM may not prepay subordinated debt, however, if, as a result of the prepayment, its aggregate indebtedness would exceed 900 percent of its net capital; its net capital would be less than 200 percent of the minimum dollar amount required under Rule 15c3–1; its net capital would be less than six percent of aggregate debit items computed under Rule 15c3–3a (for broker-dealer operating under Rule 15c3–1(a)(1)(ii)); or its net capital would be less than ten percent of the funds required to be segregated under the CEA or its rules, if that amount is greater. The proposed amendment to Rule 15c3–1d(c)(5)(ii)(A) would conform to amended CFTC Rule 1.17(h)(2)(vii)(B)(*2*) and replace the ten percent of segregated funds requirement with 125 percent of the risk margin-based capital requirement.

8. Applicability of Amendments to Rule 15c3–1d to Existing Subordination Agreements

Under the proposed amendments to Rule 15c3–1d(c)(7), satisfactory subordination agreements that comply with Rule 15c3–1d, as in effect before adoption of these proposed amendments to that rule, would continue to be deemed satisfactory until their maturity date, if the agreements are not amended or renewed. However, all subordination agreements would be required to meet the requirements of amended Rule 15c3–1d within five years of adoption of these proposed amendments to that rule. Amendments to, or renewals of, subordination agreements would be required to comply with the proposed amendments to Rule 15c3–1d, as would any new subordination agreements. This proposed ''grandfathering'' provision is intended to allow broker-dealer/FCMs sufficient time to comply with the proposed amendments to subordinated debt rules in a manner that is not unduly burdensome on either the broker-dealer/FCMs or their DEAs, which must approve subordinated debt agreements under Appendix D.

C. Rationale for the Amendments to Rules 15c3–1 and 15c3–1d

The Commission believes that the proposed amendments to Rules 15c3–1 and 15c3–1d are necessary and appropriate. First, compliance with both the current Commission and the amended CFTC rules could impose duplicative or conflicting obligations on a broker-dealer/FCM because the rules may apply different standards. Under current Rule 15c3–1(a)(1)(iii) and amended CFTC Rule 1.17, a broker-dealer/FCM must maintain net capital equal to at least the greatest of its requirements under Rule 15c3–1(a)(1)(i) or (ii), four percent of the funds required to be segregated under the CEA and its applicable rules, or the risk margin-based capital requirement under amended CFTC Rule 1.17. That is, a broker-dealer/FCM must maintain net capital equal to at least the Commission minimum applicable to broker-dealers, the now-eliminated CFTC segregated funds minimum, or the new CFTC minimum applicable to FCMs. Section 15 of the Exchange Act requires the Commission to issue those rules, in consultation with the CFTC, that are necessary to avoid imposing duplicative or conflicting financial responsibility regulations on broker-dealer/FCMs.[14] The proposed amendments to Rules 15c3–1 and 15c3–1d are intended to avoid imposing potentially duplicative or conflicting regulations on broker-dealer/FCMs by eliminating the four percent of segregated funds requirement and replacing it with a risk margin-based capital requirement identical to that contained in amended CFTC Rule 1.17.

Second, the risk margin-based capital requirement applicable to FCMs should be an adequate substitute for the previous segregated funds standard. The risk margin-based requirement has been in place at futures exchanges for a number of years without significant problems.

Third, the proposed amendments to Rule 15c3–1 also are necessary to avoid potentially placing a broker-dealer/FCM at a competitive disadvantage with respect to entities registered solely as broker-dealers or FCMs. Sole registrants might be subject to lower regulatory

[14] Section 15 of the Exchange Act requires the Commission, in consultation with the CFTC, to: issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to any broker or dealer registered with the Commission pursuant to section 15(b) (except paragraph (11) thereof), that is also registered with the Commodity Futures Trading Commission pursuant to section 4f(a) of the Commodity Exchange Act * * * with respect to application of * * * financial responsibility rules. 15 U.S.C. 78o(c)(3)(B).

costs than a combined broker-dealer/FCM, which could be required to maintain higher capital than either the broker-dealer or FCM net capital rules would require a sole registrant to maintain.

Fourth, the proposed amendments should provide the Commission with enhanced ability to monitor the financial position of broker-dealer/FCMs. The proposed amendments to Rule 15c3–1 would permit the Commission to oversee a broker-dealer/FCM for capital problems arising from the firm's futures business. A broker-dealer/FCM might be in a financial position in which its net capital otherwise is sufficient for the securities aspect of Rule 15c3–1, but is insufficient for purposes of the risk margin-based capital requirement for its futures business. Under the proposed amendments to Rule 15c3–1, a broker-dealer's failure to maintain sufficient risk margin-based capital, which is a violation of CFTC Rule 1.17, also would be a violation of the Commission's net capital rule. The Commission, therefore, could force the broker-dealer/FCM to take corrective action (or require it to cease conducting business), an ability the Commission would not have without the proposed amendments.

D. Amendments to Rule 17a–11, Notification Provisions for Brokers and Dealers

We are proposing to amend paragraph (c) of Rule 17a–11,[15] which generally requires a broker-dealer to notify the Commission and its DEA if it fails to maintain certain levels of net capital. Specifically, the Commission is proposing to amend paragraph (c) of Rule 17a–11 to redesignate existing paragraph (c)(4) as paragraph (c)(5); and add a new paragraph (c)(4).

Proposed new paragraph (c)(4) would require a broker-dealer/FCM to notify the Commission and its DEA under circumstances in which the CFTC's rules would require an FCM to provide notification to the CFTC that its adjusted net capital had fallen below a particular threshold. We are proposing these amendments to help protect customers from broker-dealer failures. Current Rule 17a–11 does not require a broker-dealer/FCM to notify the Commission if its adjusted net capital under the CFTC's net capital rule falls below specified requirements. The proposed notification requirement should provide an early warning to the Commission that a broker-dealer/FCM may be experiencing financial difficulties whatever the source and allow the Commission to take corrective action with respect to the firm, if necessary. The proposed amendments to Rule 17a–11 also are consistent with amended CFTC Rule 1.12(b)(2),[16] which requires an FCM to notify the CFTC and its designated self-regulatory organization if its adjusted net capital falls below 110% of its risk margin-based requirements under 1.17(a)(1)(i)(B).

[15] 17 CFR 240.17a–11(c).

III. Request for Comments

We invite interested persons to submit written comments on all aspects of the proposed amendments. Further, we invite comment on other matters that might have an effect on the proposals contained in the release.

IV. Paperwork Reduction Act

Certain provisions of the proposed amendments to Rule 17a–11 [17] contain ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995.[18] The Commission has submitted the proposed amendments to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The Commission is revising the collection of information entitled, ''Rule 17a–11 (17 CFR 240.17a–11) Notification Provision for Brokers and Dealers,'' OMB Control Number 3235–0085. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

A. Collection of Information under these Amendments

As discussed, the Commission is proposing to amend Rule 17a–11 to provide the Commission with an early warning of a broker-dealer/FCM's low capital level, which should help protect customers from broker-dealer failures. The proposed amendments to paragraph 17a–11(c)(4) would require a broker-dealer/FCM to notify the Commission and its DEA under circumstances in which the CFTC's rules would require an FCM to provide notification that its adjusted net capital had fallen below a particular threshold.

[16] 17 CFR 1.12(b)(2).

[17] There is no new collection of information imposed on broker-dealer/FCMs under the amendments to Rules 15c3–1 and 15c3–1d. The Commission's and CFTC's rules, both in previous form and as amended, require broker-dealer/FCMs to comply with the net capital rules of both agencies. Accordingly, the proposed amendments to Rules 15c3–1 and 15c3–1d do not impose any new requirements on broker-dealer/FCMs.

[18] 44 U.S.C. 3501 *et seq.*

B. Proposed Use of Information

The Commission would use the information collected under the proposed amendments to Rule 17a–11 to determine if a broker-dealer is in compliance with financial responsibility rules. Specifically, the Commission would use the information to monitor whether broker-dealer/FCMs are complying with the net capital rule and relevant notification requirements.

C. Respondents

The proposed amendments to Rule 17a–11 would apply only to broker-dealer/FCMs. As of July 31, 2006, there were approximately 67 broker-dealer/FCMs.[19] A broker-dealer/FCM would be required to notify the Commission and its DEA under circumstances in which the CFTC's rules would require an FCM to provide notification that its adjusted net capital had fallen below a particular threshold.

D. Total Annual Reporting and Recordkeeping Burden

Under the proposed amendment to Rule 17a–11(c)(4), a broker-dealer/FCM would be required to notify the Commission and its DEA under circumstances in which the CFTC's rules would require an FCM to provide notification that its adjusted net capital had fallen below a particular threshold. The Commission staff estimates that 5 out of 67 broker-dealer/FCMs will file Rule 17a–11 notifications annually.[20] The staff further estimates that these broker-dealer/FCMs would spend annually approximately 1.25 hours (or .25 hours each × 5 broker-dealer/FCMs) to send the notifications.[21]

E. Collection of Information Is Mandatory

The collection of information under the proposed amendments to Rule 17a–11 is mandatory if a broker-dealer/FCM's net capital falls below the Commission's or the CFTC's early warning thresholds.

[19] Selected FCM Financial Data as of July 31, 2006, CFTC Division of Clearing and Intermediary Oversight.

[20] There were approximately 5,980 registered broker-dealers as of December 31, 2005. Approximately 450, or 7.5% (450/5,980), of those firms filed early warning notices under Rule 17a–11. The Commission, therefore, expects that 5 broker-dealer/FCMs (approximately 7.5% of 67 broker-dealer/FCMs) would file early warning notices annually under Rule 17a–11.

[21] A broker-dealer/FCM is already required to draft and send these notifications to the CFTC or DSROs pursuant to CFTC Rules. Consequently, the only additional cost relates to the additional time it would take the broker-dealer/FCM's staff to send the notification to the Commission and its DEA. The Staff estimates, based on its experience, that it would take an individual 15 minutes to send these additional notifications.

F. Confidentiality

The collection of information under the proposed amendments to Rule 17a–11(c)(4) would be provided to the Commission and to a broker-dealer/FCM's DEA, but would not be subject to public availability.

G. Record Retention Period

Rule 17a–4(b)(4) requires a broker-dealer to preserve copies of all communications sent relating to its business as such for no less than three years, the first two years in an accessible place.

H. Request for Comment

Under 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility;

(ii) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information;

(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 required to respond, including through the use of automated collection techniques or other forms of information technology.

Persons who desire to submit comments on the collection of information requirements should direct them to OMB, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090, and refer to File No. S7–16–06. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this document in the **Federal Register**; therefore, comments to OMB are best assured of having full effect if OMB receives them within 30 days of this publication. The Commission has submitted the proposed collections of information to OMB for approval. Requests for the materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–16–06, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 100 F Street, NE., Washington, DC 20549.

V. Costs and Benefits of the Proposed Amendments

A. Introduction

As discussed, the Commission is proposing to amend Exchange Act Rules 15c3–1(a)(1)(iii) and (e)(2)(ii); 15c3–1d(b)(6)(iii), (b)(7), (b)(8)(i)(A), (b)(10)(ii)(B), (c)(2), (c)(5)(i)(B), (c)(5)(ii)(A), and (c)(7); and 17a–11(c)(3), (c)(4), and (c)(5). The CFTC amended Rules 1.17 and 1.12 to adopt certain new net capital requirements applicable to FCMs.[22] Broker-dealer/FCMs must comply with both the CFTC's and the Commission's net capital rules under Rule 15c3–1(a)(1)(iii). Accordingly, the Commission is amending Rules 15c3–1 and 15c3–1d to conform those rules to the CFTC's amendments. Finally, the Commission is amending Rule 17a–11 to provide itself with an early warning that a broker-dealer/FCM may be experiencing financial difficulties.

The Commission has identified below certain costs and benefits associated with its proposed amendments. We encourage commenters to discuss, analyze, and supply relevant data regarding any additional costs or benefits.

B. Benefits

We believe that the proposed amendments to Rules 15c3–1 and 15c3–1d will benefit both broker-dealer/FCMs and investors. As discussed, the Commission is proposing to amend Rule 15c3–1(a)(1)(iii) by eliminating the rule's segregated funds requirement and replacing it with the risk margin-based capital requirement. Rule 15c3–1(a)(1)(iii) requires a broker-dealer/FCM to maintain net capital of not less than the greater of its requirement under Rule 15c3–1 or four percent of the funds required to be segregated under the CEA and its rules. The four percent of segregated funds requirement was intended to conform Rule 15c3–1(a)(1)(iii) to Rule 1.17, the CFTC's adjusted net capital rule, and ensure that a broker-dealer/FCM complied with the net capital rules of both the CFTC and the Commission. Rule 1.17, as amended, eliminates the four percent of segregated funds requirement and replaces it with a new risk margin-based capital requirement. Proposed Rule 15c3–1(a)(1)(iii) would require a broker-dealer/FCM to maintain net capital of not less than the greater of its requirement under Rule 15c3–1 or a risk margin-based capital requirement identical to the one contained in CFTC Rule 1.17, as amended.

We also are proposing to amend Rule 15c3–1(e)(2)(ii) to conform it to the CFTC's new risk margin-based capital requirement. Rule 15c3–1(e)(2)(ii) prohibits a broker-dealer/FCM from withdrawing equity capital if the withdrawal would cause the broker-dealer/FCM's net capital to fall below, among other standards, a specified percentage of its minimum net capital dollar amount, a specified level of aggregate indebtedness, or a specified percentage of the funds required to be segregated under the CEA. CFTC Rule 1.17(e)(1)(ii), as amended, prohibits an FCM from withdrawing equity capital if the withdrawal would cause the FCM's adjusted net capital to fall below a specified percentage of risk margin-based capital, rather than a specified percentage of segregated funds. The proposed amendments would substitute the segregated funds requirement in Rule 15c3–1(e)(2)(ii) with a risk margin-based requirement calculated under Rule 15c3–1(a)(1)(iii).

Furthermore, the Commission is proposing amendments to various provisions of Rule 15c3–1d, which contains minimum and non-exclusive requirements for satisfactory subordination agreement involving broker-dealers. Repayment and prepayment of subordinated debt under Rule 15c3–1d generally is permissible only if the broker-dealer/FCM maintains net capital equal to at least a specified percentage of net capital calculated under Rule 15c3–1 and a specified percentage of segregated funds. Rather than permitting repayment or prepayment of subordinated debt if an FCM maintains a specified percentage of segregated funds, the CFTC's Rule 1.17, as amended, permits repayment or prepayment if the FCM maintains net capital equal to at least a specified percentage of its risk margin-based capital requirement. Accordingly, the Commission is proposing to amend Rule 15c3–1d by substituting the risk margin-based capital requirement for the segregated funds requirement to avoid subjecting broker-dealer/FCMs to conflicting or duplicative regulation.

The Commission believes that the risk margin-based capital requirement is appropriate. Each of the amendments to Rules 15c3–1 and 15c3–1d substitutes the risk margin-based capital requirement for the segregated funds standard. The risk margin-based capital requirement should be an adequate substitute for the segregated funds standard based on its implementation and use by the futures exchanges and FCMs' comfort level with the requirement.

[22] *See supra*, note 4.

As noted, the Commission also believes that the amendments to Rules 15c3–1 and 15c3–1d would benefit both broker-dealer/FCMs and investors. First, the proposed amendments would prevent the imposition of potentially conflicting or duplicative regulation on a broker-dealer/FCM. Current Rule 15c3–1(a)(1)(iii) requires a broker-dealer/FCM to maintain net capital equal to the greater of its net capital requirement under Rule 15c3–1 or four percent of the funds required to be segregated under the CEA and its rules. The four percent of segregated funds requirement reflects the previous version of CFTC Rule 1.17 and has been substituted in current CFTC Rule 1.17 with the risk margin-based capital requirement. The proposed amendments would substitute the risk margin-based capital requirement for the segregated funds requirement in Rules 15c3–1 and 15c3–1d and, therefore, free a broker-dealer/FCM from complying with a capital requirement no longer applicable to FCMs that are sole registrants.

Second, the proposed amendments would help to avoid potentially placing a broker-dealer/FCM at a competitive disadvantage with respect to an entity registered solely as a broker-dealer or FCM. Neither a broker-dealer nor an FCM is subject to the four percent of segregated funds requirement; a broker-dealer/FCM is subject to such a requirement unless the proposed amendments are adopted. Accordingly, the proposed amendments could free a broker-dealer/FCM from making three separate capital computations (one based on Rule 15c3–1(a)(1)(i) or (ii), one based on CFTC Rule 1.17, and one based on the four percent of segregated requirement under current Rule 15c3–1(a)(1)(iii)) and holding unnecessarily more net capital than its sole registrant competitors.

Third, the proposed amendments would enhance the Commission's ability to monitor the financial condition of a broker-dealer/FCM. Under the proposed amendments to Rule 15c3–1, a broker-dealer's failure to maintain sufficient risk margin-based capital, which is a violation of CFTC Rule 1.17, also would be a violation of the Commission's net capital rule. The Commission, therefore, could force the broker-dealer/FCM to take corrective action (or require it to cease conducting business), an ability the Commission would not have without the proposed amendments.

Finally, the proposed amendments to Rule 17a–11 would help protect customers from broker-dealer failures. Current Rule 17a–11 does not require a broker-dealer/FCM to notify the Commission if its adjusted net capital falls below specified requirements. The proposed amendments to Rule 17a–11 would require a broker-dealer/FCM to notify the Commission if its net capital falls below certain thresholds determined in accordance with Rule 15c3–1 or if the CFTC's rules would require it to notify the CFTC or a DSRO that its adjusted net capital had breached certain thresholds. This notification requirement should provide an early warning to the Commission that a broker-dealer/FCM may be experiencing financial difficulties.

C. Costs

There would be no costs associated with the proposed amendments to Rules 15c3–1 and 15c3–1d. A broker-dealer/FCM already must comply with the net capital rules of both the Commission and the CFTC. Likewise, a broker-dealer/FCM already must comply with Rule 15c3–1d and comparable CFTC subordinated debt rules.

The proposed amendments would help ensure that broker-dealer/FCMs are not subject to inconsistent or duplicative regulation under Rules 15c3–1 and 15c3–1d by eliminating the four percent of segregated funds standard in those rules and replacing it with the risk margin-based capital requirement. With respect to 15c3–1d, the applicable thresholds no longer will be calculated based upon a segregated funds, but upon risk margin-based, capital, which the broker-dealer/FCM already calculates under CFTC Rule 1.17.

As discussed, proposed Rule 17a–11(c)(4) would require a broker-dealer/FCM to notify the Commission and its DEA under circumstances in which the CFTC's rules would require an FCM to notify the CFTC or a DRSO that its adjusted net capital had fallen below a particular threshold. The cost of notification in these circumstances should be minimal because the broker-dealer/FCM already must notify the CFTC.[23] We estimate the annual cost of notification under Rule 17a–11(c)(4) would be $331 (.25 hours × $265 per hour for a financial reporting manager[24] × 5 broker-dealer/FCMs).[25]

[23] *See supra*, note 21.

[24] A financial reporting manager is a person at a broker-dealer with responsibility for helping to ensure that the broker-dealer complies with its financial reporting requirements with respect to the Commission, other federal or state agencies and SROs.

[25] Security Industry Association's (''SIA'') *Report on Management & Professional Earnings in the Securities Industry 2005*, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. The amount also reflects the average between New York City salaries and Non-New York City salaries. This is the latest report on financial industry salaries that is available from the SIA.

VI. Consideration of Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

Section 3(f) of the Exchange Act[26] requires the Commission, whenever it engages in rulemaking and must consider or determine if an action is necessary or appropriate in the public interest, to consider if the action will promote efficiency, competition, and capital formation. Under section 23(a)(2) of the Exchange Act,[27] the Commission must consider the impact of its rulemaking on competition. It also prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

We preliminarily believe that the amendments to Rules 15c3–1, 15c3–1d, and 17a–11 would promote efficiency, competition, and capital formation. The amendments to Rules 15c3–1 and 15c3–1d should promote efficiency because they would help to ensure that broker-dealer/FCMs are not subject to net capital requirements beyond those that the Commission already imposes on broker-dealers and those that the CFTC already imposes on FCMs. That is, the amendments would not subject broker-dealer/FCMs to any new requirements and, consequently, would not impose any new costs. Furthermore, the proposed amendments to Rule 17a–11(c)(4) should promote efficiency because they would require a broker-dealer/FCM to notify the Commission that it has fallen below a specified percentage of its adjusted net capital requirement under CFTC rules, a notification that it already must provide to the CFTC. This notification should help the Commission address potential financial difficulties at a broker-dealer/FCM before a liquidation becomes necessary and, therefore, should help protect customers. Each of these provisions also should help foster competition because they would allow firms to function jointly as broker-dealer/FCMs without imposing regulatory requirements beyond those already applicable to broker-dealers and FCMs individually.

We preliminarily believe that the proposed amendments to Rules 15c3–1, 15c3–1d and 17a–11would promote capital formation. By eliminating potentially duplicative or conflicting regulation, the proposed amendments to

[26] 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78w(a)(2).

Rules 15c3–1 and 15c3–1d should help to ensure that a broker-dealer/FCM does not unnecessarily use its assets to meet regulatory capital requirements, freeing those assets for business uses. Similarly, the proposed amendments to Rule 17a–11 should help the Commission to identify a broker-dealer/FCM that faces potential financial difficulties and allow the Commission to take corrective action to help that broker-dealer/FCM preserve its capital which, in turn, should help protect the broker-dealer/FCM's customers.

Finally, we preliminarily believe that the proposed amendments do not impose any competitive burden that is not necessary and appropriate in furtherance of the purposes of the Exchange Act. As discussed, the Commission is proposing amendments to Rules 15c3–1 and 15c3–1d to conform those rules to the CFTC's amended net capital rule. The proposed rules are intended to eliminate inconsistent and duplicative regulation on broker-dealer/FCMs. Furthermore, we preliminarily believe that the proposed amendments to Rule 17a–11 are necessary to provide the Commission with an early warning of potential capital insufficiencies at broker-dealer/FCMs. This early warning should help the Commission to protect customers and the integrity of the markets. The amendments to Rule 17a–11(c)(4), moreover, would require only that a broker-dealer/FCM forward to the Commission a notice that it already must provide to the CFTC.

VII. Regulatory Flexibility Act Certification

The Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed amendments to Rule 15c3–1, Rule 15c3–1d, and Rule 17a–11, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed amendments would apply only to broker-dealers also registered as FCMs. As of July 31, 2006, there were approximately 67 broker-dealer/FCMs.[28] Only one of those broker-dealers would qualify as a small entity.[29] Accordingly, we do not believe that the proposed amendments would have a significant economic impact on a substantial number of small entities.

We encourage written comments regarding this certification. We request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VIII. Consideration of Impact on The Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,'' [30] we must advise OMB as to whether the proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' if, upon adoption, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effect on competition, investment or innovation.

If a rule is ''major,'' its effectiveness will generally be delayed for 60 days pending Congressional review. We request comment on the potential impact of the proposed regulation on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their view to the extent possible.

IX. Statutory Authority

The Commission is proposing amendments to Rule 15c3–1, Rule 15c3–1d, and Rule 17a–11 under the Exchange Act pursuant to the authority conferred by the Exchange Act, including Sections 15, 17 and 23(a).[31]

Text of Proposed Rule Amendments

List of Subjects in 17 CFR Part 240

Brokers, Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, the Commission hereby proposes that Title 17, Chapter II of the Code of Federal Regulation be amended as follows.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–l, 78k, 78k–1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

2. Section 240.15c3–1 is amended by revising paragraphs (a)(1)(iii) and (e)(2)(ii) to read as follows:

§ 240.15c3–1 Net capital requirements for brokers or dealers.

(a) * * *

(1) * * *

(iii) No broker or dealer registered as a futures commission merchant shall permit its net capital to be less than the greater of its requirement under paragraph (a)(1)(i) or (ii) of this section, or eight percent of the total risk margin requirement for positions carried by the futures commission merchant in customer accounts plus four percent of the total risk margin requirement for positions carried by the futures commission merchant in noncustomer accounts, as defined in the Commodity Exchange Act (7 U.S.C. 1 *et seq.*) and the rules thereunder.

* * * * *

(e) * * *

(2) * * *

(ii) The broker-dealer is registered as a futures commission merchant, its net capital would be less than 120 percent of the aggregate amount of its total risk margin requirements for positions carried in customer and noncustomer accounts under paragraph (a)(1)(iii) of this section;

* * * * *

3. Section 240.15c3–1d is amended by removing the authority citation at the end of the section and revising paragraphs (b)(6)(iii), (b)(7), (b)(8)(i)(A), (b)(10)(ii)(B), (c)(2), (c)(5)(i)(B), (c)(5)(ii)(A), and (c)(7) to read as follows:

§ 240.15c3–1d Satisfactory Subordination Agreements (Appendix D to 17 CFR 240.15c3–1).

* * * * *

(b) * * *

(6) * * *

(iii) The secured demand note agreement also may provide that, in lieu of the procedures specified in the provisions required by paragraph (b)(6)(ii) of this section, the lender, with the prior written consent of the broker or dealer and the Examining Authority for the broker or dealer, may reduce the unpaid principal amount of the secured demand note. After giving effect to such reduction, the aggregate indebtedness of the broker or dealer may not exceed 1000 percent of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3–1, net capital may not be less than 5 percent of aggregate debit items computed in accordance with § 240.15c3–3a, or, if registered as a futures commission merchant, 120

[28] Selected FCM Financial Data as of July 31, 2006, CFTC Division of Clearing and Intermediary Oversight.

[29] *See* 17 CFR 240.0–10.

[30] Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

[31] 15 U.S.C. 78o, 78q and 78w(a).

percent of the aggregate amount of its total risk margin requirements for positions carried in customer and noncustomer accounts under paragraph (a)(1)(iii) of § 240.15c3–1, if greater. No single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No Examining Authority shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3–1.

Permissive Prepayments

(7) A broker or dealer at its option, but not at the option of the lender may, if the subordination agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the scheduled maturity date of such Payment Obligation (hereinafter referred to as a ''Prepayment''), but in no event may any Prepayment be made before the expiration of one year from the date such subordination agreement became effective. This restriction shall not apply to temporary subordination agreements that comply with the provisions of paragraph (c)(5) of this Appendix D. No Prepayment shall be made, if, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 1000 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3–1 or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3–1, its net capital would be less than 5 percent of its aggregate debit items computed in accordance with § 240.15c3–3a, or if registered as a futures commission merchant, 120 percent of the aggregate amount of its total risk margin requirements for positions carried in customer and noncustomer accounts under paragraph (a)(1)(iii) of § 240.15c3–1, if greater, or its net capital would be less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of § 240.15c3–1. Notwithstanding the provisions of this paragraph, no Prepayment shall occur without the prior written approval of the Examining Authority for such broker or dealer.

Suspended Repayment

(8)(i) * * *

(A) The aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital, or in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3–1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with § 240.15c3–3a or, if registered as a futures commission merchant, 120 percent of the aggregate amount of its total risk margin requirements for positions carried in customer and noncustomer accounts under paragraph (a)(1)(iii) of § 240.15c3–1, if greater, or

* * * * *

(10) * * *

(ii) * * *

(B) The aggregate indebtedness of the broker or dealer exceeding 1500 percent of its net capital or, in the case of a broker or dealer that has elected to operate under paragraph (a)(1)(ii) of § 240.15c3–1, its net capital is less than 2 percent of its aggregate debit items computed in accordance with § 240.15c3–3a or, if registered as a futures commission merchant, the aggregate amount of its total risk margin requirements for positions carried in customer and noncustomer accounts under paragraph (a)(1)(iii) of § 240.15c3–1, if greater, throughout a period of 15 consecutive business days, commencing on the day the broker or dealer first determines and notifies the Examining Authority for the broker or dealer, or the Examining Authority or the Commission first determines and notifies the broker or dealer of such fact;

* * * * *

(c) * * *

(2) Every broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations under subordination agreements then outstanding that are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer either the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3–1, or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3–1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with § 240.15c3–3a, or, if registered as a futures commission merchant, 120 percent of the aggregate amount of its total risk margin requirements for positions carried in customer and noncustomer accounts under paragraph (a)(1)(iii) of § 240.15c3–1, if greater, or less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of § 240.15c3–1.

* * * * *

(5) * * *

(i) * * *

(B) In the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3–1, its net capital is less than 5 percent of aggregate debits computed in accordance with § 240.15c3–3a, or, if registered as a futures commission merchant, less than 120 percent of the aggregate amount of its total risk margin requirements for positions carried in customer and noncustomer accounts under paragraph (a)(1)(iii) of § 240.15c3–1, if greater, or less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of this section, or

* * * * *

(ii) * * *

(A) After giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 900 percent of its net capital or its net capital would be less than 200 percent of the minimum dollar amount required by § 240.15c3–1 or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3–1, its net capital would be less than 6 percent of aggregate debit items computed in accordance with § 240.15c3–3a, or, if registered as a futures commission merchant, 125 percent of the aggregate amount of its total risk margin requirements for positions carried in customer and noncustomer accounts under paragraph (a)(1)(iii) of § 240.15c3–1, if greater, or its net capital

would be less than 200 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of this section or

* * * * *

(7) *Subordination agreements in effect before adoption.* Any subordination agreement that incorporates the net capital requirements in paragraphs (b)(6)(iii), (b)(7), (b)(8)(i), (b)(10)(ii)(B), (c)(2), (c)(5)(i)(B), and (c)(5)(ii)(A) of this section, as in effect before adoption of the amendments incorporating the risk margin-based capital requirement in those paragraphs, and that has been deemed to be satisfactorily subordinated pursuant to § 240.15c3–1 as in effect before adoption of those amendments, shall continue to be deemed a satisfactory subordination agreement until the maturity of the agreement. *Provided,* That if the agreement is amended or renewed for any reason, then the agreement shall not be deemed a satisfactory subordination agreement unless the amended or renewed agreement meets the requirements of this Appendix D. *Provided, further,* That all subordination agreements must meet the requirements of this Appendix D within 5 years of the adoption of the amendments incorporating the risk margin-based capital requirements.

4. Section 240.17a–11 is amended by:

a. Revising the introductory text of paragraph (c);

b. In paragraph (c)(3) remove the period at the end of the paragraph and in its place add ''; or'';

c. Redesignating paragraph (c)(4) as paragraph (c)(5); and

d. Adding new paragraph (c)(4) to read as follows:

§ 240.17a–11 Notification provisions for brokers and dealers.

* * * * *

(c) Every broker or dealer shall send notice promptly (but within 24 hours) after the occurrence of the events specified in paragraph (c)(1), (c)(2), (c)(3), (c)(4) or (c)(5) of this section in accordance with paragraph (g) of this section:

* * * * *

(4) For a broker or dealer registered as a futures commission merchant, if the Commodity Exchange Act (7 U.S.C. 1 *et seq.*) and the rules promulgated under the Commodity Exchange Act would require a futures commission merchant to provide notification to the Commodity Futures Trading Commission or a designated self-regulatory organization that its adjusted net capital has fallen below a specified threshold; or

* * * * *

Dated: October 5, 2006.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–16956 Filed 10–12–06; 8:45 am]

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Federal Register

Friday,
October 13, 2006

Part IV

The President

Federal Register
Vol. 71, No. 198
Friday, October 13, 2006

Presidential Documents

Title 3—

The President

Proclamation 8066 of October 11, 2006

General Pulaski Memorial Day, 2006

By the President of the United States of America

A Proclamation

On General Pulaski Memorial Day, we remember Casimir Pulaski, a Polish-born hero of the American Revolution who fought and died for the freedom and independence our country enjoys today.

General Casimir Pulaski entered into a campaign against tyranny in Poland in 1768, bravely fighting for the freedom of his native land. This patriotic spirit and thirst for freedom remained with Pulaski throughout his life and influenced his success in the American Revolutionary War. After meeting Benjamin Franklin in Paris, Pulaski traveled to America to join forces with General George Washington and assist in the fight for American independence. He was quickly commissioned as a Brigadier General and demonstrated such skill on the battlefield that he became known as the ''Father of the American Cavalry.'' In 1779, General Pulaski was mortally wounded at the siege of Savannah. By giving his life for our country, General Pulaski inspired many Americans and helped ensure a future of freedom for our citizens.

Through his service and dedication to liberty, General Pulaski demonstrated the strong will and patriotism that made our freedom possible, and the ties between the United States and Poland are strengthened by these common values. On General Pulaski Memorial Day, we honor the courage and sacrifice of this great hero of the American Revolution, recognize the many contributions of Polish Americans to our country, and celebrate the lasting friendship between our two great nations.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 11, 2006, as General Pulaski Memorial Day. I encourage Americans to commemorate this occasion with appropriate programs and activities honoring General Casimir Pulaski and all those who defend our freedom.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 06–8714
Filed 10–12–06; 8:46 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8067 of October 11, 2006

To Modify Rules of Origin Under the North American Free Trade Agreement

By the President of the United States of America

A Proclamation

1. Presidential Proclamation 6641 of December 15, 1993, implemented the North American Free Trade Agreement (the ''NAFTA'') with respect to the United States and, pursuant to the North American Free Trade Agreement Implementation Act (Public Law 103–182) (the ''NAFTA Implementation Act''), incorporated in the Harmonized Tariff Schedule of the United States (the ''HTS'') the tariff modifications and rules of origin necessary or appropriate to carry out the NAFTA.

2. Section 202 of the NAFTA Implementation Act (19 U.S.C. 3332) provides rules for determining whether goods imported into the United States originate in the territory of a NAFTA party and thus are eligible for the tariff and other treatment contemplated under the NAFTA. Section 202(q) of the NAFTA Implementation Act (19 U.S.C. 3332(q)) authorizes the President to proclaim, as a part of the HTS, the rules of origin set out in the NAFTA and to proclaim modifications to such previously proclaimed rules of origin, subject to the consultation and layover requirements of section 103(a) of the NAFTA Implementation Act (19 U.S.C. 3313(a)).

3. The United States, Canada, and Mexico have agreed to modifications to certain NAFTA rules of origin. Modifications to the NAFTA rules of origin reflected in general note 12 to the HTS are therefore necessary.

4. Section 604 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

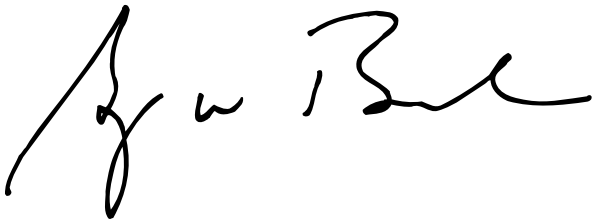
NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including section 604 of the 1974 Act and section 202 of the NAFTA Implementation Act, do hereby proclaim:

(1) In order to reflect in the HTS modifications to the rules of origin under the NAFTA, general note 12 to the HTS is modified as provided in the Annex to this proclamation.

(2) The modifications made by this proclamation shall be effective with respect to goods of Canada or of Mexico, under the terms of general note 12 to the HTS, that are entered, or withdrawn from warehouse for consumption, on or after July 1, 2006.

(3) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.



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ANNEX

MODIFICATIONS TO THE RULES OF ORIGIN FOR THE NORTH AMERICAN FREE TRADE AGREEMENT, AS REFLECTED IN THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods of Canada or of Mexico, under the terms of general note 12 to the Harmonized Tariff Schedule of the United States (HTS), that are entered, or withdrawn from warehouse for consumption, on or after July 1, 2006, general note 12(t) to the HTS is modified as follows:

1. Tariff classification rules (TCRs) 5 through 7 to chapter 18 are deleted and the following new TCR is inserted:

"5. A change to subheadings 1806.31 through 1806.90 from any other subheading, including another subheading within that group."

2. TCR 7 to chapter 20 is deleted and the following new TCR is inserted:

"7. (A) A change to subheading 2009.90 from any other chapter;

(B) A change to cranberry juice mixtures of subheading 2009.90 from any other subheading within chapter 20, except from subheadings 2009.11 through 2009.39 or cranberry juice of subheading 2009.80, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used; or

(C) A change to any other good of subheading 2009.90 from any other subheading within chapter 20, whether or not there is also a change from any other chapter, provided that a single juice ingredient, or juice ingredients from a single non-Party, constitute in single strength form no more than 60 percent by volume of the good."

3. The TCR to chapter 26, set forth following the chapter designation, is deleted and the following new TCR is inserted:

"A change to headings 2601 through 2621 from any other heading, including another heading within that group."

4. TCRs 2 through 8, inclusive, to chapter 41 are deleted and the following new TCRs are inserted:

"2. A change to heading 4104 from any other heading, except from heading 4107.

3. A change to subheading 4105.10 from heading 4102 or any other chapter.

4. A change to subheading 4105.30 from heading 4102, subheading 4105.10 or any other chapter.

5. A change to subheading 4106.21 from subheading 4103.10 or any other chapter.

6. A change to subheading 4106.22 from subheadings 4103.10 or 4106.21 or any other chapter.

7. A change to subheading 4106.31 from subheading 4103.30 or any other chapter.

8. A change to subheading 4106.32 from subheadings 4103.30 or 4106.31 or any other chapter.

9. (A) A change to tanned hides or skins in the wet state (including wet-blue) of subheading 4106.40 from subheading 4103.20 or any other chapter; or

(B) A change to crust hides or skins of subheading 4106.40 from subheading 4103.20 or tanned hides or skins in the wet state (including wet-blue) of subheading 4106.40 or any other chapter.

10. A change to subheading 4106.91 from subheading 4103.90 or any other chapter.

11. A change to subheading 4106.92 from subheadings 4103.90 or 4106.91 or any other chapter.

12. A change to heading 4107 from heading 4101 or any other chapter.

13. A change to heading 4112 from heading 4102, subheading 4105.10 or any other chapter.

14. A change to heading 4113 from heading 4103, subheadings 4106.21 or 4106.31, tanned hides or skins in the wet state (including wet-blue) of subheading 4106.40, subheading 4106.91 or any other chapter.

15. A change to heading 4114 from headings 4101 through 4103 or any other chapter, except from hides or skins of headings 4101 through 4103 which have undergone a tanning (including pre-tanning) process which is reversible.

16. A change to subheadings 4115.10 through 4115.20 from headings 4101 through 4103 or any other chapter."

5. TCRs 1 and 2 to chapter 45 are deleted and the following new TCR is inserted immediately after the designation "Chapter 45."

"A change to headings 4501 through 4504 from any other heading, including another heading within that group."

6. TCRs 4 and 4A and the immediately superior Note to chapter 54 are deleted and the following new TCR is inserted immediately below TCR 3:

"4. A change to heading 5408 from filament yarns of viscose rayon of heading 5403 or any other chapter, except from headings 5106 through 5110, 5205 through 5206 or 5509 through 5510."

7. TCRs 1 through 3 and the accompanying Note and Heading rule to chapter 56 are deleted and the following new TCRs and Heading rule are inserted:

"1. (A) A change to sanitary towels or tampons of subheading 5601.10 from tri-lobal rayon staple fiber (38 mm, 3.3 decitex) of subheading 5504.10 or any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55; or

(B) A change to any other good of heading 5601 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.

2. A change to headings 5602 through 5605 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.

Heading rule: For the purposes of TCR 3 to this chapter, the term "flat yarns" means 7.8 decitex/5 filament, 11.1 decitex/7 filament or 13.3 decitex/5 filament, all of nylon 66, untextured (flat) semi-dull yarns, multifilament, untwisted or with a twist not exceeding 50 turns per meter, of subheading 5402.41.

3. A change to heading 5606 from flat yarns of subheading 5402.41 or any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.

4. A change to headings 5607 through 5609 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55."

8. TCRs 1 through 5 to chapter 67 are deleted and the following new TCRs are inserted:

"1. (A) A change to heading 6701 from any other heading; or

(B) A change to a good of feathers or down of heading 6701from within that heading or any other heading.

2. A change to headings 6702 through 6704 from any other heading, including another heading within that group."

9. TCR 1 to chapter 70 is deleted and the following new TCRs are inserted:

"1. A change to heading 7001 from any other heading.

1A. A change to subheading 7002.10 from any other heading.

1B. A change to subheading 7002.20 from any other chapter.

1C. A change to subheading 7002.31 from any other heading.

1D. A change to subheadings 7002.32 through 7002.39 from any other chapter."

10. TCRs 1 and 2 to chapter 74 are deleted and the following new TCR is inserted:

"1. (A) A change to headings 7401 through 7403 from any other heading, including another heading within that group, except from heading 7404; or

(B) A change to headings 7401 through 7403 from heading 7404 whether or not there is also a change from any other heading, including another heading within that group, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

11. TCR 2 to chapter 78 is deleted and the following new TCRs are inserted:

"2. (A) A change to heading 7803 from any other heading; or

(B) A change to wire of heading 7803 from within that heading, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.

3. (A) A change to subheadings 7804.11 through 7804.20 from any other subheading, including another subheading within that group; or

(B) A change to foil of a thickness not exceeding 0.15 mm (excluding backing) of subheading 7804.11 from within that subheading, whether or not there is also a change from any other subheading.

4. A change to headings 7805 through 7806 from any other heading, including another heading within that group."

12. TCRs 1 and 2 to chapter 79 are deleted and the following new TCRs are inserted:

"1. A change to headings 7901 through 7902 from any other chapter.

2. A change to subheading 7903.10 from any other chapter.

3. A change to subheading 7903.90 from any other heading.

4. (A) A change to heading 7904 from any other heading; or

(B) A change to wire of heading 7904 from within that heading, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.

5. (A) A change to heading 7905 from any other heading; or

(B) A change to foil of a thickness not exceeding 0.15 mm (excluding backing) of heading 7905 from within that heading, whether or not there is also a change from any other heading.

6. A change to headings 7906 through 7907 from any other heading, including another heading within that group."

13. TCRs 2 and 3 to chapter 80 are deleted and the following new TCRs are inserted:

"2. (A) A change to heading 8003 from any other heading; or

(B) A change to wire of heading 8003 from within that heading, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.

3. A change to headings 8004 through 8007 from any other heading, including another heading within that group."

14. TCRs 1 through 25, inclusive, to chapter 81 are deleted and the following new TCRs are inserted:

"1. A change to subheadings 8101.10 through 8110.90 from any other subheading, including another subheading within that group.

2. (A) A change to manganese powders or articles of manganese of heading 8111 from any other good of heading 8111; or

(B) A change to any other good of heading 8111 from any other heading.

3. A change to subheadings 8112.12 through 8113.00 from any other subheading, including another subheading within that group."

15. TCR 85 to chapter 85 and the tariff item rule appearing immediately below it (applicable through the close of December 31, 1998) are deleted.

16. TCRs 90 and 92 to chapter 85 are deleted and the following new TCR is inserted:

"92. A change to subheading 8528.12 from tariff items 8528.12.04 or 8528.12.08 or any other heading."

17. TCR 92A to chapter 85 is deleted and the following new TCR is inserted:

"92A. A change to subheading 8528.13 from any other heading."

18. TCR 92C to chapter 85 is modified by deleting the tariff item rule and the TCR text (applicable through the close of December 31, 1998) immediately above it.

19. TCRs 92H and 92J to chapter 85 are deleted and the following new TCR is inserted:

"92J. A change to subheading 8528.21 from tariff items 8528.21.05 or 8528.21.10 or any other heading."

20. TCR 92K to chapter 85 is deleted and the following new TCR is inserted:

"92K. A change to subheading 8528.22 from any other heading."

21. TCRs 92O and 92Q to chapter 85 are deleted and the following new TCR is inserted:

"92Q. A change to subheading 8528.30 from tariff items 8528.30.10 or 8528.30.20 or any other heading."

22. TCR 78A to chapter 90 is deleted and the following new TCR is inserted:

"78A. (A) A change to subheadings 9032.20 through 9032.89 from any other heading; or

(B) A change to subheadings 9032.20 through 9032.89 from subheading 9032.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 45 percent where the transaction value method is used, or

(2) 35 percent where the net cost method is used."

Conforming change: The subheading rule immediately above TCR 78 to chapter 90 is modified by deleting "subdivision 78 pertains" and inserting in lieu thereof "tariff classification rules 78 and 78A pertain."

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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 "PLUS" (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. 683/P.L. 109–312

Trademark Dilution Revision Act of 2006 (Oct. 6, 2006; 120 Stat. 1730)

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General Services Administration Modernization Act (Oct. 6, 2006; 120 Stat. 1734)

H.R. 2107/P.L. 109–314

National Law Enforcement Officers Memorial Maintenance Fund Act of 2005 (Oct. 6, 2006; 120 Stat. 1739)

H.R. 5664/P.L. 109–315

To designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the "Jacob Samuel Fletcher Post Office Building". (Oct. 10, 2006; 120 Stat. 1741)

H.R. 6159/P.L. 109–316

To extend temporarily certain authorities of the Small Business Administration. (Oct. 10, 2006; 120 Stat. 1742)

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